

(2006) 01 AHC CK 0183
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 31886 of 2004

Shri Bhagwan Kaushik

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 30-01-2006

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16A(7)

Citation : (2006) 5 AWC 4997 : (2006) 2 UPLBEC 1372

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : Ashok Khare, B.K. Sharma, S.D. Shukla and R.K. Sharma, for the Appellant; G.K. Singh, Vinod Singh and S.P. Singh and C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Vineet Saran, J.—The petitioner claims himself to be a life member of the General Body of the society in question. By means of this writ petition, the petitioner has challenged an order dated 24.4.2004 passed by the District Inspector of Schools, whereby the signature of the Respondent no. 5 has been attested as Manager of the Committee of Management in pursuance of the approval accorded by the Regional Committee on 19.4.2004 whereby the elections dated 19.10.2003, in which Respondent no. 5 was elected as Manager, had been recognized.

2. A preliminary objection has been raised by Sri G.K. Singh, learned Counsel for the contesting Respondent no. 5, that the petitioner, who is merely a life member of the general body of the Society, would have no locus to maintain this writ petition.

3. I have heard Sri S.D. Shukla, learned Counsel for the petitioner as well as learned Standing Counsel appearing the State-respondents and Sri G.K. Singh, learned Counsel appearing for the Respondent no. 5. Counter and rejoinder affidavits have been exchanged between the contesting parties and with the

consent of the learned Counsel for the parties, this writ petition is being disposed of at the admission stage itself.

4. In pursuance of the Government Order dated 19.12.2000, the District Inspector of Schools had forwarded the papers with regard to the election of the Committee of Management held on 19.10.2003 to the Regional Committee headed by the Regional Joint Director of Education, Respondent no. 2. By order dated 19.4.2004 the Regional Committee recognized the election and consequently the District Inspector of Schools attested the signature of the Respondent no. 5. It is not the case that there was any dispute between two rival committees with regard to the said elections. The petitioner is merely an individual member of the general body of the society who has challenged the orders recognizing the elections and attestation of signature of Respondent No. 5 as Manager.

5. A learned Single judge of this Court in the case of Committee of Management Janta Inter College v. Joint Director of Education 1999(1) UPLBEC 170 has, while considering a case u/s 16-A (7) of the U.P. Intermediate Education Act, 1921, observed that "In case such dispute is stretched or extended to the right of each individual member, in that event, if any member raised such dispute then the whole administration is expected to collapse since the Joint Director would remain busy and pre-occupied with deciding such disputes which may be raised by any individual."

6. A Division Bench of this Court in the case of Dr. P.P. Rastogi and Others Vs. Meerut University and Another, has in a case filed by an individual member of the Committee of Management, held that "an individual member of the Committee of Management has no locus standi in such cases and it is only the Committee, of Management alone which can appear as a party in the case. To permit individual members of the Committee of Management to appear before us would create a lot of problems because any individual member or several members may file applications at any time through his/their own separate counsel, resulting in confusion....

7. In the present case, the petitioner is also an individual member of the general body of the society and has challenged the decision of the District Inspector of Schools whereby the signature of Respondent no. 5 has been attested, after the approval has been granted by the Regional Committee. In such facts, this writ petition would not be maintainable on the ground that the petitioner does not have the locus standi to file this writ petition. In my view, if each individual member of the general body is allowed to file writ petitions, without the law recognizing their right to raise such dispute, the same would open a flood gate of litigation, adding further confusion to the already existing situation where very often separate petitions are filed by different parties relating to the same election of the Committee of Management.

8. The decision of the Division Bench in the case of Yogendra Nath Singh v. State

of U.P. 1997 (2) E.S.C. 851 relied upon by the learned Counsel for the petitioner would not be applicable to the facts of the present case. In the said case, this Court has held that a teacher of the institution would have locus standi to question the order declaring the institution as minority institution, which is not so here. In the case in hand the approval to the election of the Committee of Management is involved, in which individual members of the society cannot be permitted to raise disputes and file writ. petitions.

9. Accordingly, this writ petition is dismissed as not maintainable. However, this order shall not debar the petitioner from availing such other remedy which may be available to him in law.