

(1995) 10 AHC CK 0042

In the Allahabad High Court

Case No : Civil Miscellaneous W. P. No. 2319 of 1995, connected with C. M. W P No. 40710 of 1994

Shyam Narain Mishra and Another

APPELLANT

Vs

Dy. Director of Education, B. areilly and Others

RESPONDENT

Date of Decision : 11-10-1995

Acts Referred:

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

Citation : (1995) 10 AHC CK 0042

Hon'ble Judges : R.H. Zaidi, J

Final Decision : Dismissed

Judgement

R.H. Zaidi, J.

1. The writ petition No. 2319 of 1995 filed under Article 226 of the Constitution of India arises out of the dispute with regard to the election of the Committee of Management of Mahatma Gandhi Higher Secondary School, Usawan, District Budaun. The petitioner challenges the order passed by the District Inspector of Schools, Budaun dated 321995.

2. The brief facts are, that the election of the office bearers and members of the committee of the management was held on 731991 in which one Smt. Jaidevi was elected as manager of the committee of management of the institution, thereafter, the election of the office bearers and members of the committee of management is alleged to have been held on 18121994, papers relating to the said election were submitted before the District Inspector of Schools by two sets of persons, one represented by Shri Dinesh Singh and other by Shri Subedar Singh. Each of them claimed to have been elected as manager of the institution, along with other persons named by them in the election held on 18121994. In the papers submitted before the District Inspector of Schools names of office bearers and members of the committee of management were disclosed by both sets. The District Inspector of Schools vide his impugned order dated 321995 has attested the signatures of Shri Dinesh Singh, respondent No. 3. Aggrieved, by

the impugned order dated 321995, the petitioners who are the life members of the institution have approached this Court and prayed for the relief mentioned above. The writ petition was filed on 2411995.

3. Shri Y.S. Saxena, Advocate has filed his caveat on behalf of respondent No. 3 on 24121994 but has not filed any counteraffidavit in reply to the fact stated in the writ petition till today. Respondents No. 1 and 2 has also not filed their counteraffidavit. Thus, facts stated in the writ petition remained uncontroverted.

4. List was revised, I have heard learned counsel for the petitioners and learned standing counsel, none appeared for respondent No. 3.

5. It has been contended on behalf of the petitioners that admittedly, there was dispute between two rival committees of management, therefore, in view of the provision of Section 16A (7) of the U.P. Intermediate Education Act (hereinafter referred to as the Act) it was obligatory upon the District Inspector of Schools to refer the matter/dispute to the Deputy Director of Education for decision. The District Inspector of Schools instead of making reference of the dispute and without mentioning the fact that there was dispute with regard to the election and constitution of committee of management arbitrarily and in excess of his jurisdiction attested the signatures of Shri Dinesh Singh and the order passed by the District Inspector of Schools attesting the signatures of Shri Dinesh Singh was thus, wholly illegal and without jurisdiction.

6. Under the facts and circumstances of the present case I do not consider it necessary to issue notice to respondent No. 3 as he is already represented by Shri Y.S. Saxena, Advocate. Notices meant for respondents No. 1 and 2 have been accepted by the learned standing counsel.

7. It is wellsettled in law that in case of dispute between two rival committees the District Inspector of Schools has got no jurisdiction to pass orders and he is bound to refer the matter to the Deputy Director of Education. A reference in this regard may be made to the following decisions:

(1) Committee of Management v. Regional Deputy Director of Education, Agra, 1988 UPLBEC 402;

(2) Committee of Management v. The District Inspector of Schools, Kanpur, Dehat, 1989 UPLBEC 178;

(3) Committee of Management v. The Deputy Director of Education, 1991 ALJ 964;

(4) Raj Narain Singh v. The District Inspector of Schools Jaunpur, 1993 (2) ACJ 755.

8. In view of the aforesaid decision, I have got no option but to quash the order passed by the District Inspector of Schools dated 321995 and to send back the matter to the District Inspector of Schools who after following the procedure under law shall refer the matter to the Deputy Director of Education for decision

under Section 16A (7) of the Act.

9. In the result the writ petition is allowed. The order dated 321995 is quashed. The District Inspector of Schools is directed to refer the dispute to the Deputy Director of Education, IIIRD Region, Bareilly who on receipt of the papers after affording full opportunity to the parties concerned shall decide the same in accordance with law within a period of three months from the date the papers are received in his office.

10. The Writ Petition No. 40710 of 1994 was filed by the petitioners for a writ, order or direction in the nature of mandamus commanding the respondent No. 1 to take steps himself to constitute new committee of management as per terms of scheme of administration.

11. Since, as stated above, the election of office bearer and members of committee of management was held on 18121994 therefore, the said petition has become infructuous and the same is accordingly dismissed. It is further directed that in the meantime till the dispute is decided by the Deputy Director of Education the District Inspector of Schools will look after the affairs of the institution.

(Petition dismissed)