

(2009) 12 AHC CK 0276

In the Allahabad High Court

Case No : Special Appeal Nos. 911 and 912 of 2009

Sunil Kumar Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 22-12-2009

Acts Referred:

Citation : (2009) 12 AHC CK 0276

Hon'ble Judges : Pradeep Kant, J and Ritu Raj Awasthi, J

Final Decision : Dismissed

Judgement

These are two special appeals, one filed by Sunil Kumar Singh, claiming himself to be the Manager of the Committee of Management and another by the alleged Committee of Management.

In Special Appeal No. 911 of 2009, challenge has been made to the order passed by the learned Single Judge, by means of which, he has found that the respondent Sundar Lal Dixit was competent to file the writ petition challenging the elections said to have been conducted by the present appellant under the directions of the District Inspector of Schools on 30.6.09. The learned Single Judge has also found that the elections so held were not validly held elections. Consequently, the learned Single Judge has issued direction to the District Inspector of Schools to complete the exercise of election within two months.

In reaching to the aforesaid conclusion, the learned Single Judge also observed that the respondent's elections held in the year 2003 were duly recognized and, therefore, he has a right to hold the elections and the District Inspector of Schools could not have ordered for holding the elections otherwise.

In Special Appeal No. 912 of 2009, the writ petition was filed by the Committee of Management, assailing the order passed by the District Inspector of Schools, cancelling attestation of signatures made in favour of Sunil Kumar Singh as Manager vide order dated 31.7.09. The signatures were attested on 20.7.09 in pursuance of the elections held on 30.6.09, but later on by the impugned order,

the same was cancelled. This writ petition has been dismissed by the learned Single Judge.

Sri Sharad Kumar Srivastava, appearing for the respondents has placed various grounds in support of the judgment passed by the learned Single Judge and has urged that the District Inspector of Schools himself vide order 14.5.09 has requested the Deputy Registrar to verify the list of members, as submitted by Sunil Kumar Singh and to provide the list of validly enrolled members after such determination, obviously for holding the elections. In this order, it was also mentioned that the elections be held by the District Inspector of Schools, in pursuance of the directions issued by the High Court in Writ Petition No. 1910 (MS) of 2003. The District Inspector of Schools, however, held the elections by issuing an election programme on 15.6.09 after publication in the news paper and after giving the list of sixty members therein without waiting for the list of valid members, being provided by the Deputy Registrar. It is these elections, on the basis of which, Sunil Kumar Singh claimed to be the member, whose signatures were attested, which were later on cancelled.

The respondents' counsel has brought to the notice of the Court that in pursuance of the request made by the District Inspector of Schools on 14.5.09, the matter was considered by the Deputy Registrar and vide order dated 7.8.09, the list of verified members was also forwarded and apart from that, the renewal certificate of the Society was also renewed in favour of the respondents for a further period of five years.

Sri Manish Kumar, learned counsel for the appellant, submits that this order of renewal was obtained by concealing the fact that in the writ petition, there was a stay order continuing and the writ petition was got dismissed as withdrawn, when this order was passed, whereas Sri Sharad Kumar Srivastava says that the stay order was not extended after a particular date and it was not in force, when this matter was considered by the Deputy Registrar.

However, since an application for recall of the said order has been filed by the appellant before the Deputy Registrar, we do not intend to enter into the controversy regarding the legality of the order so passed, as it is being considered by the Deputy Registrar.

Sri Manish Kumar has also argued that the list of members, which has been verified by the Deputy Registrar is not the list, which has been furnished by the appellant or which was earlier verified by the District Inspector of Schools and has been shown in the election programme dated 15.6.09.

We have considered the aforesaid arguments and the various lists of membership, which have been produced before us and the manner in which the verification of these lists has been made, which does not leave any doubt that there is a serious dispute of membership and unless the same is verified by the competent authority, fresh elections cannot be held.

Sri Sharad Kumar Srivastava, learned counsel for the respondents, during the course of argument submitted that let fresh elections be held after verification of the list of members afresh by the Registrar/Deputy Registrar, to which Sri Manish Kumar has also agreed.

We have considered the aforesaid suggestion and we feel that it is in the interest of the institution itself that this litigation, which is going on for such a long time should come to an end and a duly constituted elected body should be formed, so that the management of the institution could be properly done and there is no loss to the students and also there is no inconvenience to the teachers and parents.

Under the circumstances, we dispose of the Special Appeal No. 911 of 2009 with the direction that both the parties shall furnish their list of members to the Deputy Registrar within 15 days, who shall examine and verify the list of validly enrolled members after giving opportunity to the parties concerned and after such finalization of the list of members, the same shall be forwarded to the District Inspector of Schools for holding the elections. The Registrar shall verify and submit the list so prepared within a maximum period of next four weeks and the District Inspector of Schools shall thereafter hold the elections at the earliest in the presence of the observer appointed by him. The elections shall be held within a period of six weeks thereafter. Till the elections are held, the management of the institution shall be looked after by the District Inspector of Schools himself.

This order has been passed without prejudice to the rights of either parties with respect to their claim of membership or renewal of certificate, as the case may be.

So far as Special Appeal No. 912 is concerned, the same has thus, lost its significance, which is hereby dismissed.