
(2008) 07 AHC CK 0067
In the Allahabad High Court

Tej Narain Singh	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 21-07-2008

Acts Referred:

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

Citation : (2008) 4 AWC 3542 Supp : (2008) 4 AWC 3542

Hon'ble Judges : Ashok Bhushan, J;Arun Tandon, J

Bench : Division Bench

Judgement

Ashok Bhushan and Arun Tandon, JJ.—With the consent of the parties the records of Writ Petition No. 25963 of 2008 were called for. This appeal as well as the writ petition is being disposed of at this stage without calling for any further affidavit.

2. Tej Narain Singh, the appellant before this Court is working as officiating Principal in Kisan Inter College, Rajgarh, Mirzapur (hereinafter referred to as "Institution"). The institution is recognized and aided under the provisions of the Intermediate Education Act. Committee of Management of the Institution by means of a resolution dated 17.02.2008 resolved to place the Principal of the institution Tej Narain Singh under suspension pending enquiry into the charges, as per the charge-sheet dated 01st March, 2008 (copy whereof has been enclosed at page 59 of the paper book of the special appeal). With reference to the provision of Section 16-G(7) the relevant papers for approval of the suspension of the Principal, so effected, were forwarded to the District Inspector of Schools. The District Inspector of Schools by means of the order dated 24th April, 2008 decided to disapprove the order so passed by the Committee of Management of the institution.

3. Not being satisfied with the order of the District Inspector of Schools dated 24th April, 2008, the Committee of Management filed Writ Petition No. 25963 of 2008. In the said writ petition an interim order has been granted by the learned Single Judge on 02nd July, 2008, whereby the operation of the order dated 24th

April, 2008 has been stayed. Against the aforesaid order of the learned Single Judge the present Special Appeal No. 830 of 2008 has been preferred.

4. Counsel for the appellant contends that the period of 60 days from the date of suspension of the petitioner had expired in the month of June, 2008 itself and, therefore, the learned Single Judge was not justified in staying the order of the District Inspector of Schools disapproving the suspension of the Principal concerned. Reliance has been placed upon the Full Bench judgment of this Court in the case of Chandra Bhushan Misra v. District Inspector of Schools, Deoria and Ors. (1995) 1 UPLBEC 460 wherein it has been held that the order of suspension would lose its life automatically after expiry of sixty days from the communication of the same unless it is approved in writing by the District Inspector of Schools. However, it has been clarified that the District Inspector of Schools does not lose the power to approve the suspension even thereafter.

5. However, in the facts of the present case since decision to suspend the Principal has been disapproved by the District Inspector of Schools, it logically follows that there is no order in writing by the District Inspector of Schools approving the order of suspension till date. Consequently, the suspension order has lost its life by operation of law.

6. In view of the aforesaid, the order of the learned Single Judge staying operation of the order of the District Inspector of Schools disapproving the suspension virtually has the effect negating the provision of Section 16-G(7) and restoring an order, which has already lost its life, by an interim order.

7. In our opinion the order passed by the learned Single Judge dated 02.07,2007 is legally not justified in the facts of the case inasmuch as the Principal/teacher after expiry of sixty days from the date of suspension becomes entitled to be reinstated, unless suspension is approved by the District Inspector of Schools, in terms of the Full Bench judgment of this Court in the case of Chandra Bhushan Misra (supra).

8. At this stage of proceedings Sri Ashok Khare, Senior Advocate assisted by Sri Devesh Vikram Advocate, contended that the power of High Court to pass suitable interim direction, where the order passed by the District Inspector of Schools disapproving the suspension is legally not justified, has been recognized by the Full Bench in the case of Chandra Bhushan Misra (supra).

9. We are not required to enter into the aforesaid aspect of the matter, as no such direction has been issued under the interim order under challenge by the learned Single Judge.

10. Sri Ashok Khare then contended that the order of the District Inspector of Schools disapproving the suspension of Principal proceeds on misconception of facts that District Inspector of Schools while examining the legality of the resolution passed by the Committee of Management, can enter into the merits of the individual charges, which have resulted in the suspension of the Principal. He

submits that the District Inspector of Schools was not justified in recording a finding that the charges are baseless and are not made out, he specifically refers to the finding so arrived by the District Inspector of Schools in the order dated 24.04.2008. It is explained that the District inspector of Schools has no jurisdiction to enter into the merits of the charges and to record conclusive finding qua the correctness or otherwise of the charges, which have to be examined during the departmental enquiry initiated against the Principal of the institution.

11. Faced with the aforesaid contention Sri R.K. Ojha fairly conceded that such findings of the District Inspector of Schools can only be prima facie conclusions. However, he submits that in the facts of the case wholly vague charge sheet has been submitted and absolutely no material has been placed before the District Inspector of Schools, which could establish that the charges as levelled had any substance. He submits that the order of the District Inspector of Schools be not interfered with.

12. It is no doubt true that the powers to suspend the Principal is vested in the Committee of Management. The power to conduct the departmental enquiry is also with the Committee of Management subject to statutory provision applicable.

13. The question is as to whether pending departmental enquiry into the charges can the District Inspector of Schools, while exercising powers u/s 16-G(7), record conclusive findings qua the charges being established or not.

14. We are of the considered opinion that the District Inspector of Schools, while exercising the power u/s 16-G(7), has only to examine on prima facie basis as to whether the charges have any substance and as to whether there is material available in support of the charges. He is not required to enter into any disputed issue as to whether charge would be finally made out or not. The issue in that regard has to be examined in departmental enquiry to be held against the Principal.

15. District Inspector of Schools was therefore not justified in recording conclusive findings on the charges, as has been done in the facts of this case vide order dated 24.04.2008, to the effect that the charges have not been made out. Such a conclusion would adversely effect the departmental enquiry which has been initiated against the Principal of the institution.

16. We, therefore, have no hesitation to hold that the last paragraph of the order of the District Inspector of Schools dated 24.04.2008, in so far as it records that the charges have not been made out, is legally unsustainable and is hereby quashed.

17. We may record that the charge sheet as served upon the Principal dated 01.03.2008 contains allegation which are general in nature and in respect of which the evidence proposed to be relied upon has not been mentioned at all. Therefore, on this ground alone the order of the District Inspector of Schools

disapproving the suspension could have been upheld.

18. We, however, clarify that this order shall not prevent the Committee of Management to serve a fresh charge sheet or supplementary charge sheet and to hold such enquiry into the charges, as may be permissible under law, as well as to pass a fresh resolution against the Principal of the Institution.

19. Subject to the aforesaid observations special appeal as well as the writ petition are disposed of.

20. We make it clear that if the Committee of Management seeks certain records from the Principal of the Institution, the same shall be supplied by the Principal without, demur.