
(2009) 08 AHC CK 0085
In the Allahabad High Court

Vagish Chandra Sharma and Another	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 12-08-2009

Acts Referred:

Citation : (2010) 1 AWC 130

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Judgement

Tarun Agarwala, J.—This petition has been filed at the instance of the life members, who allege that the election conducted by the Committee of Management, respondent No. 5 was wholly illegal, inasmuch as, the said election was conducted after the expiry of four years and one month, as contemplated in the Scheme of Administration of the Society. This Court, by an interim order dated 16.7.2009 had directed the Regional Joint Director of Education to appoint an authorized controller. The learned standing counsel, Sri S.S. Sharma has submitted that an Associate District Inspector of Schools has been appointed as the authorised controller and that he has taken the charge of the institution.

2. The Committee of Management, respondent No. 5 was granted two weeks" and no more time to file a counter-affidavit, in spite of which, no counter-affidavit has been filed.

3. In Rajendra Singh Vs. State of U.P. and Others, a Division Bench has held that the Committee of Management cannot hold an election after its term had expired.

4. The record indicates that the term of the Committee of Management had expired on 13.9.2005 and the election was held after the expiry of almost five months on 28.2.2006. Consequently, the election of the Committee of Management could not have been conducted after the expiry of the period. The election so conducted was a void election.

5. This Court also finds that the petitioners had no locus standi to file the present writ petition. In Committee of Management, Kisan Shiksha Sadan, Banksah,

District Basti and Anr. v. Assistant Registrar, Firms, Societies and Chits, Gorakhpur Region, Gorakhpur and Anr. 1995 UPLBEC 1242; Dr. P.P. Rastogi and Ors. v. Meerut University, Meerut and Anr. 1997 (1) UPLBEC 415 : 1997 (2) AWC 2.190 (NOC); Committee of Management, Sri Kachcha Baha Inter College, Varanasi and Ors. v. Regional Committee, Pancham Mandal, Varanasi and Ors. 2007 (7) ADJ 414 and in Writ Petition No. 3328 of 2008, Committee of Management and Anr. v. Regional Education Committee, Meerut Region, Meerut and Ors. decided on 4.8.2008, it has been held that a writ petition at the instance of a member of the Committee of Management or at the instance of life member was not maintainable. However, since this writ petition was entertained and the Court has noticed that the election conducted by the Committee of Management, was a void election coupled with the fact that the authorized controller has already taken charge, this Court allows the writ petition and quashes the election conducted by the Committee of Management held in the year 2006. The Court, further directs the authorised controller to hold the election within three months from the date of the production of a certified copy of this order.