

Muslim Educational Society, Shahjahanpur and Others Vs. District Inspector of Schools, Shahjahanpur and Others

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Court : Allahabad

Decided On : Feb-19-1999

Reported in : 1999(2)AWC1175

Judge : N.K. Mitra, C.J. and;D.K. Seth, J.

Acts : Uttar Pradesh Intermediate Education Act, 1921 - Sections 16A; Uttar Pradesh High Schools and Intermediate Colleges (Payment of Salaries of Teachers and other Employees) Act, 1971 - Sections 4

Appeal No. : Special Appeal No. 843 of 1998

Appellant : Muslim Educational Society, Shahjahanpur and Others

Respondent : District Inspector of Schools, Shahjahanpur and Others

Advocate for Def. : R. Asthana and ;Pipersenia, Adv.

Advocate for Pet/Ap. : A.P. Sahi, ;G.K. Singh and ;R.N. Singh, Adv.

Judgement :

N.K. Mitra, C.J. and D.K. Seth,J.

1. Respondent No. 2 is alleged to have held an election of the Committee of Management, pursuant to which one Haji Jameel Uddin Khanis alleged to have been elected as Manager of the Committee of Management of the Institution, which is a minority one. The D.I.O.S. had attested the signatures of the said Manager despite the fact that erstwhile Committee of Management which was admittedly running the Institution, had intimated the D.I.O.S. that they should be given an opportunity before accepting the claim of anyone else for constituting the Committee of Management.

2. We have heard Mr. R. N. Singh assisted by Mr. A. P. Shahi for the appellants. Mr. R. Asthana for respondent No. 2 to 5 and Mr. Pipersenia, learned standing counsel for respondent No. 1.

3. Mr. R. N. Singh, learned counsel for the appellants submits that the appellants' committee is still surviving and, therefore, there cannot be any constitution of the Committee of Management during the lifetime of the said Committee.

4. It is an admitted position that signatures of respondent No. 2 Haji Jameel Uddin Khan was attested without giving opportunity of the appellants.

5. The facts being disputed, we do not propose to enter into the same, and the appeal is being decided on a short question as to whether any opportunity is to be given to the existing Committee of Management before attesting signatures of alleged newly constituted Committee of Management. When it is disputed that

erstwhile Committee of Management is continuing, in the interest of justice, it is necessary that before attesting signatures of the manager or before granting recognition to the newly elected committee, the D.I.O.S. has to ascertain the fact as to whether prima facie there is something to show that an election had been held and that the claimant had been elected as Manager. Thus, before granting recognition or attesting signatures of the Manager of newly elected Committee of Management, the D.I.O.S. has to satisfy himself that there are sufficient materials to arrive at a conclusion that election had taken place and a new Committee had been constituted. In the present case, since it was intimated to the D.I.O.S. by the appellants that they apprehend constitution of a Committee of Management during the lifetime of erstwhile Committee. It was incumbent upon the D.I.O.S. to ascertain the said fact. Thus, in our view, there was violation of the principle of natural justice in the matter of granting recognition to the newly elected committee and attesting signatures of the Manager without giving opportunity to the erstwhile Committee of Management. On this short point, we are unable to agree with the view taken by learned single Judge to the extent that for the purpose of granting recognition or attestation of signatures, there is no scope for natural justice for giving opportunity to the erstwhile Committee of Management.

6. The appeal, therefore, succeeds and is allowed to the extent that the question should be decided by the D.I.O.S. afresh after giving opportunity to both the parties, as early as possible preferably within a period of six weeks from date. Both the parties will be at liberty to support their contention by filing adequate documents before the D.I.O.S., if it is so necessary. Since we have not entered into the merits of the case, we have kept all the questions open. It will be open to the D.I.O.S. to make alternative arrangement, if the circumstances so require and till then, status quo be maintained. The order dated 13.7.1998 shall be subject to the result of decision that might be taken by the D.I.O.S. afresh.

7. There will be no order as to costs.

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