

Committee of Management, Inter College and anr. Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Aug-23-2004

Reported in : (2004)3UPLBEC3001

Judge : Arun Tandon, J.

Appeal No. : Civil Misc. Writ Petition No. 20745 of 2004

Appellant : Committee of Management, Inter College and anr.

Respondent : State of U.P. and ors.

Advocate for Def. : P.C. Pathak, Adv. and ;S.C.

Advocate for Pet/Ap. : S.D. Shukla, Adv.

Judgement :

Arun Tandon, J.

1. Heard Sri S.D. Shukla, Advocate on behalf of the petitioners, Sri P.C. Pathak, Advocate on behalf of respondent No. 6 and learned Standing Counsel on behalf of respondent Nos. 1 to 5.

2. Committee of Management, Inter College, Bhokerheri, Muzaffar Nagar through its alleged Manager has filed this writ petition against the order of the Regional Joint Director of Education dated 29th April, 2004, whereby the Regional Joint

Director of Education has been pleased to hold that the elections which are alleged to have taken place on 19th March, 2004 are illegal and as such cannot be recognized. He has further directed that since the term of the earlier Committee of Management had expired, the Principal of Government Inter College, Kandela, Muzaffar Nagar may take over the charge of the institution as Prabandh Sanchalak and hold fresh elections within three months.

3. This Court, while entertaining the present writ petition on 26th May, 2004 granted an interim order in favour of the petitioner and as a result whereof fresh elections have not taken place till date.

4. On behalf of the petitioner, it is contended that the impugned order dated 29th April, 2004, passed by the Regional Joint Director of Education, is wholly without jurisdiction inasmuch as the dispute with regards to the recognition to the Committee of Management, elections whereof had taken place on 19th March, 2004, should have been placed before the Regional Level Committee, constituted under the Government Order dated 19th December, 2000 of which the Regional Joint Director of Education is only one of the Member. It is further submitted that under the provisions of approved scheme of administration there is no provision for appointment of Prabandh Sanchalak for holding fresh elections even where the term of the Committee of Management has expired.

5. In respect of the alleged elections dated 19th March, 2004 it is submitted that said elections have taken place strictly in accordance with law after following the procedure prescribed and therefore, the order of the Joint Director of Education is liable to be set aside and the elected Committee may be put in effective control of the institution.

6. On behalf of the newly added respondent it is submitted that the alleged elections set up by the petitioner are not valid inasmuch as they are in manifest non-compliance of the order passed by the Joint Director of Education dated 13.1.2004, Annexure-5 to the writ petition.

7. On behalf of the respondent it is submitted that under the order dated 13.1.2004, it was specifically provided that the fresh elections of the Committee of

Management shall be held by the Manager of the Institution under the control of the District Inspector of Schools, within one month strictly in accordance with the scheme of administration and from amongst the list of members which had been approved by the District Inspector of Schools, under earlier order of the Joint Director of Education dated 15.3.2003. That under the earlier order dated 15.3.2003, a list of 334 members submitted by the petitioner was disapproved and it was provided that a fresh elections shall be held only from amongst the list of members which shall be approved by the District Inspector of Schools. The operative portion of the order passed by the Joint Director of Education dated 15.3.2003, reads as follows: . .

^vr% 'kklukns'k fnukad19-12w-2000 ds izkfo/kkukuqlkj xfBr lfevr }kjk mDr izdj.k dh foospuk ds vk/kkjij Jh yVwj flag] izca/kd] b.Vj dkyst] HksdjgSMh eq- uxj }kjk fo|ky; dhiz'kkluk;kstuk dh /kkjk&5 ds fo:) cuk;s x;s 344 u;s lnL;ksa ds vk/kkj ijfo|ky; izca/kd ds fo:) yk;s x;s fo'okl izLoko ,oa fo|ky; iz'kklu ;kstuk dhd /kkjk&5ds fo:) cuk;s x;s 344 u;s lnL;ksa dsk vekU; djrs gq, izca/kd dks funsZf'kr fd;ktrk gS fd Hkfo'; esa fo|ky; dh Lohfr@vuqeksfnriz'kklu ;kstuk esa cuk;s x;s izkfo/kkukas ds vUrxZr gh izca/k lfevr ds izca/kudh leLr dk;Zokgh djuk lqfuf'pr djsa rFkk fo|ky; lk/kkj.k IHkk lnL;ksa dhlwph fujh{k d }kjk fof/kor~ vuqeksfnr dj;sa A**

8. It is, therefore, submitted that according to the petitioner himself, the term of the earlier Committee had expired, fresh elections set up by the petitioner are illegal and cannot be recognized. This Court may not, therefore, interfere with the order of the Joint Director of Education appointing Prabandh Sanchalak to hold fresh elections in accordance with law, even if there is no such provision in the scheme of administration.

9. I have heard Counsel for the parties and have gone through the records of the writ petition.

10. It is not in dispute between the parties that on 15th March, 2003 as per the decision of the Regional Level Committee, constituted under the Government Order dated 19th December, 2000, it was decided that the list of 344 new members submitted by the Manager (Latoor Singh) was illegal and it was directed that fresh elections of the Committee of Management may be held from amongst

the valid members of the general body, list whereof shall be approved by the District Inspector of Schools. The said order dated 15.3.2003 was not challenged by Sri Latoor Singh.

11. In compliance of the order of the Regional Level Committee dated 15.3.2003, it is on record that a list of 143 members was approved by the District Inspector of Schools; vide order dated 25.3.2003. The said order of the District Inspector of Schools dated 25.3.2003 was also not challenged by the petitioner, although, it is contended on his behalf that another list of 217 members was submitted by the Manager before the District Inspector of Schools on 25.4.2003 on which no action was taken by the District Inspector of Schools.

12. From the order passed by the Regional Level Committee dated 13.1.2004 in compliance of the order passed by this Court dated 7th July, 2003 in Civil Misc. Writ Petition No. 28184 of 2003, it is apparent that fresh elections were directed to be held by the Manager Latoor Singh within one month in accordance with the scheme of administration under the control of the District Inspector of Schools from the list of members as finalized under earlier order of the Regional Level Committee dated 15.3.2003, referred to above.

13. As already noticed above, under the order dated 15.3.2003, the list of members was required to be approved by the District Inspector of Schools as a condition precedent for holding fresh elections. From the record it is apparent that there is only one order of the District Inspector of Schools, approving the list of members of the general body, dated 25.3.2004, whereby the list of 143 members, submitted by the newly added respondent Brijveer Singh who was the earlier President of the Committee of Management, had been approved. It is further an admitted position that the elections set up by the petitioner dated 21.3.2004 have not taken place in accordance with the list of members approved by the District Inspector of Schools. The petitioner has failed to bring on record any approved list of members of the general body on the basis whereof elections dated 21.7.2004 have been held. Even if any list of members was submitted by the Manager of the Institution (containing name of 217 persons) on 25.4.2003, before the District Inspector of Schools, it is admitted position that the said list was not approved by

the District Inspector of Schools and therefore, the petitioner, without approval of the list of members by the District Inspector of Schools, could not have held fresh elections.

14. From the order dated 11th June, 2003, which is subject matter of challenge by Latoor Singh himself in Writ Petition No. 33606 of 2003, it is apparently clear that the District inspector of Schools, had disapproved the inclusion of 98 persons as new members by the petitioner, Sri Latoor Singh and has decided his objection dated 25.4.2003, accordingly. In the said writ petition, no interim order was granted by this Court as a result whereof the petitioner could not have held the elections after inclusion of the aforesaid 98 members specifically in light of the order dated 11th June, 2003.

15. In view of the aforesaid, the elections set up by the petitioner are rendered illegal on the face of it without any further investigation into the procedure followed inasmuch as the persons who have participated in the said election have not been approved as valid member by the District inspector of Schools.

16. No relief as such can be granted to petitioner with regards to recognition of his alleged elections dated 21.4.2004. So far as the contention raised by the petitioner that the impugned order has been passed by the Joint Director of Education on his own without referring the dispute to the Regional Level Committee is concerned, the same is well founded. Under the Government Order dated 19th December, 2000 the papers pertaining to the elections of the Committee of Management for the purposes of recognition must necessarily be placed before the Regional Level Committee of which the Joint Director of Education is only one member. This Court would have normally set aside the order passed by the Joint Director of Education and remanded the matter before the Regional Level Committee. However, since the elections set up by the petitioner are on the face of it illegal, no purpose would be served by remitting the matter to the Regional Level Committee. Further, in view of the aforesaid findings, it is now established beyond doubt that the terms of the earlier Committee of Management has expired and no valid fresh elections have taken place, in such circumstances this Court is not inclined to interfere with appointment of the Prabandh Sanchalak in the institution, although

the same may not be strictly in accordance with the scheme of administration. In the interest of the institution, the position as prevailing on date is permitted to continue till fresh elections takes place in accordance with the orders passed by the Regional Level Committee dated 13.1.2004 and dated 15.3.2003, Prabandh Sanchalak has not hold any election nor shall be take any policy decision during this period.

17. Accordingly, it is provided that fresh elections of the Committee of Management may be held by the petitioner (Latoor Singh), under the control and supervision of District Inspector of Schools within one month from the date a certified copy of this order is filed before the District Inspector of Schools. The Election Officer, to be appointed for supervising the aforesaid elections, shall be approved by the District Inspector of Schools and he shall ensure that an independent person is appointed as Election Officer.

18. However, having regard to the order passed by this Court in Civil Misc. Writ Petition No. 51416 of 2003, it is provided that the District Inspector of Schools, shall approve the list of members of the general body afresh after affording opportunity of hearing to the parties concerned and elections shall taken place strictly in accordance with the list of members as approved by the District Inspector of Schools in pursuance of the order of the Regional Level Committee dated 15th March, 2003.

19. In view of the aforesaid, writ petition stands disposed of.