

(2012) 06 AHC CK 0030

Allahabad High Court

Case No: None

Khemraj Smarak Rashtriya Vidya
Peth Inter College & Anr.

APPELLANT

Vs

State of U.P. Thru. Secy.
Secondary Education & Ors.

RESPONDENT

Date of Decision: June 26, 2012

Hon'ble Judges: Satyendra Singh Chauhan, J

Final Decision: Allowed

Judgement

Satyendra Singh Chauhan, J.

Heard learned counsel for the petitioners and learned counsel for the opposite parties.

2. Through this petition, the petitioners have challenged the order dated 5.5.2012 whereby the signatures of opposite party no.5 were attested by the District Inspector of Schools in pursuance of the order passed in Writ Petition No. 1804 (MS) of 2012 by this Court.

3. The facts, in short, are that the dispute regarding the Society, namely, Khemraj Smarak Rashtriya Vidya Peth Sangh Khemapur, Faizabad was pending in Writ Petition No. 2816 (MS) of 2011 before this Court and this Court passed an order on 9.1.2012. Thereafter, the President and Secretary of the Society filed a review petition bearing no. 46 of 2012, which is still pending before this Court and a recall application is also pending in respect of the order dated 17.1.2012 passed in Writ Petition No. 2816 (MS) of 2011. During the pendency of review petition, the Deputy Registrar, Firms, Societies and Chits, Faizabad Region, Faizabad passed an order on 17.3.2012 and in pursuance thereof, the opposite party no. 2 on 27.3.2012, declared the election of the Society on 2.4.2012, which was challenged in pending Writ Petition No. 1804 (MS) of 2012 before this Court. In Writ Petition No. 1804 (MS) of 2012, this Court passed an order on 10.4.2012, directing the Deputy Registrar, Firms, Societies and Chits, Faizabad Region, Faizabad to consider and decide the

application which was moved by the President of the Society within 15 days. The aforesaid order was challenged in Special Appeal no. 199 of 2012 and the said order was set aside with the direction that the preliminary objection be disposed of first. The District Inspector of Schools in pursuance of the order dated 10.4.2012 passed in Writ Petition No. 1804 (MS) of 2012, attested the signatures of opposite party no.5, which is under challenge in this petition.

4. Submission of learned counsel for the petitioners is that the last elections were held in 2009 i.e. on 30.11.2009 and the signatures of petitioner no.2 were attested as Manager of the College and his term was to continue upto 30.1.2012 and it was the outgoing Committee of Management who held the elections. The Committee of Management became time barred and as such, neither the petitioners nor opposite party were having any right to hold the elections and the elections held by the opposite party cannot be given any recognition, as the order, by virtue of which the signatures were attested already stood set aside in special appeal.

5. Learned counsel for the opposite parties could not justify the aforesaid argument that the Committee of Management became time barred and, therefore, the outgoing Committee of Management was having no right to hold the elections. The elections were held by the opposite party no.5 on 26.4.2012, but the said elections were never held within the statutory period.

6. I have heard learned counsel for the parties and perused the record.

7. It is to be noted that the last elections which were held by the opposite party no.5 on 26.4.2012 were never held within time. The term of Committee of Management has come to an end on 30.1.2012 and the elections were held on 26.4.2012. The opposite party no.5 has also not held any election within the statutory period. In the absence of any election being held within the statutory period, the Registrar has the only authority to hold the elections as contemplated under Section 25(2) of the Societies Registration Act and the election held by either of the parties cannot be given any recognition in the eyes of law.

8. Since the opposite party as well as the petitioner both have failed to hold the election within the stipulated period, the Court has no option but to direct the Deputy Registrar to hold the election as contemplated under Section 25(2) of the Societies Registration Act within a period of three months in accordance with law.

9. Accordingly, the writ petition is allowed and the order dated 5.5.2012 is hereby set aside and the Deputy Registrar is directed to hold the elections of the Society, by appointing an Observer, within a period of three months, in accordance with law.