

(1978) 08 AHC CK 0041

Allahabad High Court

Case No: Civil Misc. Writ Petition No. 1533 of 1978

Committee of Management,
Shahampal Smarak Junior High
School, Bijrol and Another

APPELLANT

Vs

Dist. Inspector of Schools,
Meerut and Others

RESPONDENT

Date of Decision: Aug. 18, 1978

Acts Referred:

- Societies Registration Act, 1860 - Section 3A, 3A(1), 3A(5)

Citation: AIR 1979 All 68

Hon'ble Judges: R.R. Rastogi, J; N.D. Ojha, J

Bench: Division Bench

Advocate: V.K. Khanna, for the Appellant; S.S. Bhatnagar, K.N. Upadhyaya and Standing Counsel, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. Shahampal Smarak Junior High School, Bijrol, district Meerut is an institution duly recognised under the U. P. Intermediate Education Act (hereinafter referred to as the Act). It is being run in pursuance of a scheme of administration approved u/s 16-A of the Act. The general body of the society, which runs the aforesaid institution, was said to have elected its managing committee in a meeting held on 7th Aug. 1977. A letter was sent to the District Inspector of Schools informing him about the said election. A request was made that he may verify the signature of the new Manager. A further request was made to the District Inspector of Schools to recognise the new committee of management for purposes of dealing with the affairs of the institution. Before the District Inspector of Schools a dispute was raised by some office bearers of the old committee of management in regard to the

election said to have been held on 7th Aug. 1977. The District Inspector of Schools by his order dated 7th Sept. 1977, declined to decide the dispute raised before him on the ground that the matter could appropriately be decided only either by a competent court or amicably by the contestants. He passed a further order that till this was done the old committee of management will continue to function. Against that order Civil Misc. Writ No. 3565 of 1977 was instituted in this Court. It was allowed on 14th Dec. 1977. The order of the District Inspector of Schools dated 7th Sept. 1977 was quashed and he was directed to pass fresh orders after hearing the parties and making an enquiry in the matter on an administrative level to satisfy himself as to who, according to him, are the validly elected office bearers of the committee of management. When the matter went back to the District Inspector of schools three sets of persons claimed to have been elected as office bearers of the committee of management. The District Inspector of Schools, however, in place of deciding as to who were the validly elected office bearers of the committee of management took the view that since the society which was running the institution had not got its certificate of registration renewed as contemplated by Section 3-A of the Societies Registration Act, as inserted by the State of U. P. by Act, No. 52 of 1975, the elections of the Committee of management said to have taken place could not be held to be valid. Accordingly, he declined to recognise any of the three rival contender's as members of the committee of management. This order of the District Inspector of Schools is dated 4th Feb., 1978 and is sought to be quashed in the present writ petition.

2. Having heard counsel for the parties we are of the opinion that the impugned order of the District Inspector of Schools cannot be sustained. It is not disputed and indeed is apparent from the impugned order itself that the said order has been passed only on the ground that since the society had failed to get its certificate of registration renewed as contemplated by Section 3-A of the aforesaid Act the elections held to constitute the committee of management were invalid. Sub-sections (1) and (5) of Section 3-A are relevant for the disposal of the present writ petition. They are as follows:--

"3-A. Renewal of certificate of registration:-- (1) Subject to the provisions of Sub-section (2), a certificate of registration issued u/s 3 shall remain in force for a period of two years from the date of issue:

Provided that a certificate issued before the commencement of the Societies Registration (Uttar Pradesh Amendment) Act, 1974 (hereinafter in this section referred to as the said Act), shall remain in force for period of two years from the date of such commencement.

(2) to (4)

(5) A society which fails to get its certificate of registration renewed in accordance with this section within one year from the expiration of the period for which the

certificate was operative shall become an unregistered society :

Provided that the Registrar may, for sufficient cause, allow an application for renewal more than one year after the expiration of the period for which the certificate was operative on payment of a fee of fifty rupees,

(6)"

U. P. Act No. 52 of 1975 by which Section 3-A aforesaid was inserted in the Societies Registration Act received the assent of President on 6th Oct. 1975 and was published in the official gazette on 10th Oct. 1975. In view of Clause (b) of Section 5 (1) of the U. P. General Clauses Act, this Act would accordingly be deemed to have come into force on 10th Oct. 1975. Since the certificate of registration in respect of the society in question had been issued prior to the commencement of Section 3-A aforesaid the proviso to Section 3-A (1) would be applicable to the instant case. In view of the aforesaid proviso the certificate issued before the commencement of U. P. Act No, 52 of 1975 was to remain in force for a period of two years from the date of such commencement. The certificate, consequently, was to remain in force till 10th Oct. 1977. The society, however, even after the expiration of the aforesaid period of two years did not become an unregistered society in view of Sub-section (5) of Section 3-A which contemplates that a society shall become an unregistered society only if it fails to get its certificate of registration renewed in accordance with Section 3-A within one year from the expiration of the period for which a certificate was operative. The proviso to Sub-section (1) of Section 3-A made the certificate of registration in respect of the society in question operative till 10th of Oct. 1977. In view of Sub-section (5) of Section 3-A the society could become an unregistered society only after 10th of Oct. 1978. That period has not so far expired. Even though the District Inspector of Schools has specifically referred to in his order Section 3-A of the aforesaid Act and has passed the said order on its basis, he completely failed to notice the provisions referred to above of the said Section 3-A. The error committed by him is thus one of law which is manifest on the face of the record. The impugned order, therefore, cannot be sustained.

3. In the result the writ petition succeeds and is allowed. The impugned order passed by the District Inspector of Schools on 4th Feb 1978 is accordingly quashed and he is directed to pass fresh orders after hearing the parties and making an enquiry on administrative level to satisfy himself as to who according to him are the validly elected office bearers of the committee of management of the aforesaid institution. Counsel for the parties are agreed that their respective clients, who were parties to the proceedings culminating in the impugned order dated 4th Feb. 1978 would appear before the District Inspector of Schools to put forward their case on 4th Sept. 1978. Counsel for the parties are further agreed that It will not be necessary for the District Inspector of Schools to issue any fresh notices to any of the parties concerned and if any of the parties fails to appear before him on 4th of Sept. 1978 he will be doing so at his own risk. The District Inspector of Schools will

thereafter dispose of the matter as expeditiously as possible. In the circumstances of the case the parties will bear their own costs. A copy of this order may be supplied to the counsel for the parties within three days on payment of usual charges so that the same may be produced before the District Inspector of Schools on 4th Sept 1978. Till fresh orders are passed by the District Inspector of Schools he will, as already directed by this Court by its order dated 14-2-1978 not permit the respondent No. 2 to operate the account of the institution and will operate that account singly. Subject to this order of the account being operated singly, the old committee of management, which was elected on 30th June, 1974, shall be allowed to continue, till fresh orders are passed by him in pursuance of this order.