

(2004) 08 AHC CK 0329

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 34708 of 2004

Ram Pal Singh Yadav

APPELLANT

Vs

State of U.P. and District
Inspector of Schools

RESPONDENT

Date of Decision: Aug. 25, 2004

Hon'ble Judges: Arun Tandon, J

Bench: Single Bench

Advocate: D.K. Srivastava, for the Appellant;

Final Decision: Dismissed

Judgement

Arun Tandon, J.

Heard Sri D.K. Srivastava on behalf of the petitioner and Standing Counsel on behalf of respondents 1, 2 and 3. The petitioner, Ram Pal Singh Yadav, who claims himself to be the Manager of the parent body / governing body of the registered society, namely Netaji Subhash Smarak Inter College, Burhsaini, district Baghpat, has filed this writ petition against the order of the Regional Joint Director of Education,, Meerut Region, dated 12.07.2004 whereby a Prabandh Sanchalak has been appointed in the institution with a direction to hold fresh elections of the Committee of Management.

2. It is contended on behalf of the petitioner that this Court while passing interim order in writ petition No. 34528 of 1999 dated 16.08.1999 directed that since the term of the Committee of Management has expired and further since the District Inspector of Schools has failed to appoint Prabandh Sanchalak for conducting the elections as contemplated under clause 8 of the scheme of administration of the college, and the Executive /Governing body of the registered society was permitted to conduct the institution as Receiver and hold fresh elections.

3. On the strength of the aforesaid interim order the petitioner was recognized as the Manager and his signature were accordingly attested. The aforesaid writ

petition No. 34528 of 1999 has finally been decided by this Court on 16.10.2003. The operative portion of the judgment of this Court passed in writ petition No. 34528 of 1999 reads as follows:--

"In these circumstances the petition is allowed. The impugned order is quashed. No order as to costs.

However, election may be held in accordance with law under the supervision of the D.I.O.S. within a period of 2 months."

4. It is not in dispute that pursuance to the aforesaid final, judgment of this Court two rival set of elections are alleged i.e. first set of elections which claim to have taken place on 11.01.2004 in which Sri Giri Raj Singh is elected as Manager; the second set of elections which are also alleged to have taken place on the same date i.e. 11.01.2004, wherein it is claimed that one Sri Dharam Pal Singh was elected as Manager. Both the set of elections were submitted for approval before the Regional Joint Director of Education. The Regional Joint Director of Education by means of a reasoned order dated 24.04.2004 held that both the set of elections are patently illegal and directed that fresh elections be held strictly in accordance with the order of this Court dated 16.10.2003 whereby writ petition No. 34528 of 1999 was finally decided, and directed the District Inspector of Schools to ensure that the elections are held strictly in accordance with the scheme of administration of the society. The said order of the Regional Joint Director of Education was challenged by only one set of the Committee of Management, namely the Committee of Management headed by Sri Giri Raj Singh by filing writ petition No. 18290 of 2004. The said writ petition has been dismissed by means of judgment and order dated 12.05.2004 and this Court has directed as follows :-

"It is, however, observed that process of election as directed by the Joint Director of Education vide impugned order dated 24.04.2004 be completed expeditiously, preferably, within a period of four months from the date of production of a certified copy of this order."

5. Against the said judgment a Special Appeal No. 879 of 2004 has been filed wherein no interim order has been granted.

6. By means of order dated 12.07.2004 the Regional Joint Director of Education has appointed the District Inspector of Schools as Prabandh Sanchalak with a direction to conduct the fresh elections of the Committee of Management. The said order is under challenge in the present writ petition.

7. It is contended on behalf of the petitioner that under the interim order passed by this Court in writ petition No. 34528 of 1999 dated 16.08.1999 since the Executive / Governing Body of the society was appointed as the "Receiver" and signature of the petitioner in that capacity were attested as Manager of the institution, the appointment of the Prabandh Sanchalak even after holding that the elections held

on 11.01.2004 were illegal, cannot be sustained inasmuch as the petitioner is entitled to continue as "Receiver" of the institution in view of the interim order of this Court dated 16.08.1999 referred to above.

8. The contention raised on behalf of the petitioner is totally misconceived. Any interim order passed by this Court in writ petition No. 34528 of 1999 merged with the final judgment of this Court dated 16.10.2003 and the interim arrangement "made thereunder cannot survive. Thereafter the legal position with regard to the status of the interim order granted during the pendency of the writ petition has been finally settled by the Hon"ble Supreme Court in the case of Shree Chamudi Mopeds Ltd. v. Church of South India Trust reported in Judgment Today 1992 (3) S.C. 98 wherein it has been held that if the writ petition is finally decided all the interim orders merge in the final order. Since under the interim order of this Court passed in writ petition No. 34528 of 1999 the petitioner was allowed to continue as "Receiver" and further since in pursuance of the judgment of this Court passed in the aforesaid writ petition, fresh elections were admittedly held and the same have been found to be illegal / invalid, the petitioner cannot claim any right to continue as "Receiver" of the institution. It is admitted position that under clause 8 of the scheme of administration the term of the elected Committee of Management has expired. The Regional Joint Director of Education has power to appoint Prabandh Sanchalak to ensure that the elections of the Committee of Management are held in accordance with the scheme of administration. The order dated 12.08.2004 passed by the Regional Joint Director of Education for the said purposes cannot be faulted with.

9. The writ petition is dismissed.