

Court No. - 10

Case :- WRIT - C No. - 18674 of 2023

Petitioner :- Hirdesh Bihari Yadav And 13 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Vineet Kumar Singh

Counsel for Respondent :- C.S.C., Vashishtha Dhar Shukla

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Vineet Kumar Singh, learned counsel for the petitioners, Shri I.P. Srivastava, learned Additional Chief Standing Counsel for respondent nos.1 and 2, Shri V.D. Shukla for respondent nos.3 and 4 and perused the record.
2. Counter and rejoinder affidavits in between the petitioners and private respondents have been exchanged.
3. Considering the nature of proceedings, it is not necessary to invite written response from the State as I have heard Shri I.P. Srivastava on the basis of material appended with the affidavits.
4. By means of the present writ petition, the order impugned dated 02.03.2023 has been challenged, by which, the District Inspector of Schools has permitted the respondent no.3-Committee of Management to operate the salary account of the Institution after placing reliance upon an order dated 31.05.2022 passed by this Court in Writ C No.13859 of 2022 (Hirdesh Bihari Yadav v. State of U.P. & 3 Ors.), the elections dated 27.09.2020 and the letter dated 16.03.2020 issued by the Deputy Registrar, Firms, Societies and Chits, Agra, Region Agra.
5. The dispute has come up before this Court on numerous occasions and this much has to be seen by this Court as to what is

the effect of all the orders passed by this Court in the previous rounds of litigation.

6. There is no dispute about the fact that last elections of the Committee of Management were held on 27.09.2020, however, there is a dispute with regard to valid Electoral College on the basis whereof, the said elections were held. Admittedly, the respondent no.3-Committee was elected pursuant to the said elections.

7. It appears that pursuant to the aforesaid elections, the signatures of respondent no.3 were attested by the District Inspector of Schools on 01.12.2020. The said order was quashed by this Court on 21.01.2021 in Writ C No.249 of 2021 (Prabhat Kumar & 15 Ors. v. State of U.P. & 6 Ors.) and the matter was remanded to the District Inspector of Schools who, by order dated 09.07.2021, declared the elections dated 27.09.2020 as invalid and also set aside his own order dated 01.12.2020 which was already set aside by the High Court and a direction was issued by the D.I.O.S. to the effect that parties may get the validity of membership decided under Section 4-B of the Societies Registration Act, 1860.

8. The respondent no.3 filed Writ C No.19784 of 2021 (C/M Janta Vidhyalaya Inter College And 2 Others v. State of U.P. And 20 Others) challenging the order dated 09.07.2021. The said petition was disposed off on 19.08.2021 directing the District Inspector of Schools to take a fresh decision and the order dated 09.07.2021 was set aside. It appears that the District Inspector of Schools passed an order dated 21.09.2021 invalidating his order dated 09.07.2021 which was already set aside by this Court, however, in view of the clarification contained in the order dated 19.08.2021, the D.I.O.S. permitted the respondent no.3-Committee to function.

The said clarification is to the following effect:-

"It is clarified that this order would not mean that petitioner-committee of management has been restrained from functioning as committee of management of the institution."

9. Later on, the petitioners filed Writ C No.13859 of 2022 with a grievance that the respondent no.3-Committee had not been recognized and the recognition earlier granted to it having been set aside by this Court, they should not operate the accounts. The said writ petition was disposed off by order dated 31.05.2022 with the following operative directions:-

"(A). Pending dispute of the validity of election of the Committee of Management of the institution shall be disposed of by the District Inspector of Schools within a period of two months from the date of receipt of certified copy of this order, giving full opportunity of hearing to the parties so as to comply with the mandate of the order reported on 19th August, 2021 passed in Writ C No.- 19784 of 2021; and

(B). The Committee of Management if at all is functioning and operating the account of institution may operate the account of the institution for only salary purposes and no policy decision in respect of the institution as well as no further expenditure will be incurred by the Committee of Management until a final decision is taken by the District Inspector of Schools.

With the aforesaid observations and directions, this petition stands disposed of."

10. This Court also took note of the order dated 21.01.2021 passed in Writ C No.249 of 2021 and also clarification issued by this Court in the order dated 19.08.2021 passed in Writ C No.19784 of 2021 and observed that no Committee of Management can be said to be validly continuing its operation until and unless approval to the elections of Committee of Management is granted.

11. I find that order dated 31.05.2022 contained direction about the functioning of respondent no.3 to operate the accounts only for salary purposes but that too was made operative until the final decision is taken by the District Inspector of Schools.

12. It appears that on 16.03.2020, the Deputy Registrar, Firms, Societies and Chits, Agra, Region Agra had dislodged the claim of the petitioners and had finalized 30 members list placed by the respondent no.3 but with an observation that its validity would be determined by the Civil Court. The said order dated 16.03.2020 was, later on, set aside by this Court by order dated 27.03.2023 passed in Writ C No.1753 of 2023 (Hirdesh Bihari Yadav And 8 Others v. State of U.P. And 3 Others) alongwith the connected matter being Writ C No.14090 of 2020 (C/M Sri Baburam Vidyalay Samiti Alinagar Kenjra Firozabad And Another v. State of U.P. And 4 Others) and the following directions were issued:-

"(1). The parties shall submit their pleadings, supporting evidences as well as original documents before the certified authority within a period of two weeks from today.

(2). The Deputy Registrar, Firms, Societies and Chits, Agra Region, Agra shall record its satisfaction in the ordersheet that the parties have exchanged pleadings and also the documents in support of their respective cases.

(3). The Deputy Registrar, Firms, Societies and Chits, Agra Region, Agra shall give an opportunity of hearing to both the parties before deciding the controversy by a reasoned order in accordance with law.

(4). The entire exercise shall be completed preferably within a period of three months from the date of receipt of a certified copy of this order.

With the aforesaid observations, both the writ petitions are disposed of finally. "

13. There is no dispute about the fact that the directions issued under the order dated 27.03.2023 have not yet been complied with and the matter is still pending before the Deputy Registrar, Firms, Societies and Chits, Agra, Region Agra.

14. In the meantime, the impugned order has been passed on 02.03.2023 which, though has been termed as "ante-dated" by the petitioners, even ignoring the said argument, I find that the impugned order was passed before this Court had issued directions dated 27.03.2023. In the light of the said directions, I proceed to examine the order dated 02.03.2023 and I find that it is solely based upon the Deputy Registrar's letter dated 16.03.2020 and the elections dated 27.09.2020. Both the said proceedings have already been set aside by this Court and the necessary corollary of various proceedings decided up to this Court is that until and unless the valid electoral list is finalized by the Deputy Registrar under the order dated 27.03.2023, no directions can be issued to any of the parties to operate the accounts of the Institution.

15. Whether the order impugned was ante-dated or not, the Court cannot ignore the effect of the orders dated 27.03.2023 and 31.05.2022 passed by this Court. In case, the order impugned is given effect to, it would mean that the Committee which has not been recognized and, even absence of attestation of signatures of the Manager of a validly elected Committee, accounts would be operated. This cannot be the interpretation of any of the orders passed by this Court in previous rounds of litigation.

16. I also find that the District Inspector of Schools, in the order impugned itself, has observed that none of the parties had produced valid documents in relation to their membership and such dispute can only be decided by the Deputy Registrar and

parties have been set at liberty to approach the Deputy Registrar who is already seized up with the matter pursuant to the directions issued on 27.03.2023.

17. After hearing the parties at length and after perusing all the orders, I find that no policy decision was allowed to be taken by this Court by any Committee under order dated 31.05.2022 and insofar as the directions to operate accounts for salary purposes is concerned, the same have to be read in the light of other observations made in the order dated 31.05.2022 and even that was until the final decision to be taken by the District Inspector of Schools, which has already been taken by him by relying upon all those proceedings which have already been set aside by this Court. The consequence is that in absence of validly elected Committee of Management, operation of the salary account under the single hand operation by the District Inspector of Schools is the only option left with the Court, until and unless, earlier directions issued by this Court dated 27.03.2023 are complied with by the Deputy Registrar and fresh elections are held and validly elected Committee of Management comes into power.

18. In view of the above, the writ petition succeeds and is **allowed**.

19. The order impugned dated 02.03.2023 passed by the District Inspector of Schools is **quashed**.

20. The salary account of the Institution shall be operated by the District Inspector of Schools under Single hand operation till a validly elected Committee of Management is appointed and signatures of the Manager are attested by the District Inspector of Schools.

21. Since, next elections are dependent upon determination of valid Electoral College, about which, directions have already been

issued on 27.03.2023, it is directed that the Deputy Registrar, Firms, Societies and Chits, Agra, Region Agra shall conclude the proceedings pending before him **on or before 15.01.2024** after providing full opportunity of hearing to the rival parties.

22. As soon as the valid Electoral College is determined by the Deputy Registrar, fresh elections of the Committee shall be held in accordance with law.

Order Date :- 26.10.2023

Jyotsana