

Court No. - 10

Case :- WRIT - C No. - 18467 of 2023

Petitioner :- C/M D.A.V.Inter College And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Prabhakar Awasthi, Vinay Kumar Mishra

Counsel for Respondent :- C.S.C., Adarsh Singh, Indra Raj Singh, Om Prakash Singh

Hon'ble Kshitij Shailendra, J.

Order on Civil Misc. Impleadment Application No.Nil of 2023.

1. An application seeking impleadment has been filed by one Mohan Singh Verma through Shri Abhishek Mishra Advocate. The same is taken on record.
2. Considering the submissions made in support of the impleadment application that the applicant is a founder member of the Society and has a say in the matter so as to assist the Court to arrive at a justifiable conclusion, the impleadment application is **allowed**.
3. Let necessary impleadment be carried by Shri Abhishek Mishra in the array of parties during the course of the day.

Order on Writ Petition.

1. Heard Shri Prabhakar Awasthi learned counsel for the petitioners, Shri Jitendra Singh, learned Additional Chief Standing Counsel for the State-respondents and Shri Indra Raj Singh, for respondent no.5.
2. On merits of the writ petition, after conducting preliminary hearing on 09.08.2023, this Court passed following order:-

"1. The order impugned dated 31.03.2023 has been challenged by the petitioners on various grounds including the ground that while disposing off Writ C No.23499 of 2022 (C/M D.A.V. Inter College & Another v. District Inspector of Schools, Ballia & 4 others) by order dated 06.09.2022 when the earlier order was quashed by this Court and the matter was remitted to the

Regional Level Committee to decide the case after putting the parties to notice, the order impugned has been passed by the Joint Director of Education, Azamgarh, Division Azamgarh alone by reciting the last line as follows:-

"माननीय उच्च न्यायालय इलाहाबाद के संदर्भगत पारित आदेश दिनांक 06.09.2022 एवं 28.09.2022 के अनुपालन में मण्डलीय समिति की बैठक दिनांक 31.03.2023 में उक्तवत् निर्णय लिया गया है।"

2. The submission of Shri Awasthi is that the Regional Level Committee has not taken any decision and, even otherwise, since District Inspector of Schools is statutory member of the Regional Level Committee, he has informed the petitioner under the Right to Information on 21.04.2023 that he had no knowledge about the meeting held by the Regional Level Committee on 31.03.2023 and that he was not even present in the said meeting.

3. Shri Ashok Khare, learned Senior Counsel by referring to 'page No.230' of the paper book has argued that Regional Level Committee had actually heard the matter and once hearing was closed, it was reopened on 31.03.2023 and, accordingly, the decision has been taken which has been impugned in the present writ petition.

4. Learned Standing Counsel shall obtain instructions with regard to holding of proceedings by the Regional Level Committee on 31.03.2023 and the presence of District Inspector of Schools in the said meeting. The original record of the entire proceedings under challenge shall also be produced on the next date.

5. Put up this case on 05.09.2023 as fresh."

6. Learned Additional Chief Standing Counsel has produced original record before this Court and has referred to a letter dated 29.03.2023

sent by the Joint Director of Education to the Deputy Director of Education as well as District Inspector of Schools asking them to participate in the proceedings to be held by the Regional Level Committee on 31.03.2023 at 11:30 a.m. in furtherance of the directions issued by this Court in the previous writ petition as referred to hereinabove. He submits that though, admittedly, the District Inspector of Schools did not participate in the proceedings, he authorized one Shri Pramod Srivastava (Headmaster) to participate in the said meeting. Such an endorsement is contained at top right corner of the letter dated 29.03.2023 itself.

7. When the aforesaid endorsement is compared to the information furnished by the District Inspector of Schools under the Right To Information Act, 2005, appended with the writ petition, it becomes apparently clear that the District Inspector of Schools was not present in the meeting held on 31.03.2023.

8. Various submissions on merits have been advanced by both the parties including the dispute of membership. However, this Court, considering various rounds of litigation, as referred to by the learned counsel for the parties, refrains itself from recording any finding on the issue of membership as the Court is satisfied that directions issued by this Court in its order dated 06.09.2023 passed in Writ C No.23499 No.2022 (C/M D.A.V. Inter College & Anr. v. District Inspector of Schools, Ballia & 4 Others) have not been complied with and the matter has not been heard by the properly constituted Regional Level Committee as per the Government Order dated 19.12.2000 which does not contain any stipulation that the District Inspector of Schools is authorized to further authorize somebody to participate in the meeting on his behalf.

9. However, certain allegations have been levelled by the respondent no.5 during the course of arguments that since the District Inspector of Schools, Ballia was advancing undue favour to the petitioners' side by passing successive orders therefore, in view of the decision of this Court

in the case of **C/M Intermediate College, Kakod, Bulandshahr and Another v. State of U.P. & Others, 2010 (1) ESC 387 (ALL)**, the District Inspector of Schools, Ballia rightly refrained himself from participating in the proceedings as there were chances of further allegations of bias and prejudice and, hence, he was justified in authorizing the Headmaster to participate on his behalf.

10. Shri Prabhakar Awasthi also submits that the office of Deputy Director of Education (Regional), Azamgarh is vacant.

11. Be that as it may, considering the facts and circumstances of the case, particularly the directions issued earlier, this Court is satisfied that impugned order has not been passed by a properly constituted Regional Level Committee and, in the facts and circumstances of the case, the matter is required to be heard by a properly constituted Regional Level Committee and both the learned counsel are at consensus that the matter may be referred to the Regional Level Committee, Gorakhpur for fresh adjudication on merits.

12. Learned counsel for the petitioners is directed to implead 'Joint Director of Education, Gorakhpur, Region Gorakhpur' as 'respondent No.7' in the writ petition during the course of the day.

13. Without expressing any opinion on the merits of the rival contentions on the issues involved, finding procedural lapses on the part of the Authorities, the writ petition is **allowed**.

14. The order impugned dated 31.03.2023 passed by the Joint Director of Education, Azamgarh, Region Azamgarh is **set aside**.

15. The Joint Director of Education, Azamgarh, Region Azamgarh is directed to place/remit the entire record of proceedings to the Joint Director of Education, Gorakhpur, Region Gorakhpur in the month of **December 2023**.

16. The Joint Director of Education, Gorakhpur shall issue notice to all the parties who are present before this Court including the newly

impleaded respondent No.6 to appear before the Regional Level Committee, Gorakhpur for the purposes of hearing.

17. The Regional Level Committee, Gorakhpur shall decide the dispute on merits **on or before 15.03.2024** subject to co-operation by all the parties.

18. The original record produced by the learned Standing Counsel is returned to him for the purposes of remittance to the Authorities.

Order Date :- 24.11.2023

Jyotsana