

Court No. - 10

Case :- WRIT - C No. - 18977 of 2023

Petitioner :- Dushyant Veer Singh And 2 Others

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

Counsel for Petitioner :- Seemant Singh

Counsel for Respondent :- C.S.C.,Alok Dwivedi,Shobhit Chauhan

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Seemant Singh, learned counsel for the petitioners, learned Standing Counsel for the State respondents and Sri Alok Dwivedi, learned counsel for Respondents No. 4 and 5.

2. Affidavits have been exchanged between the petitioner and Respondents No. 4 and 5 and considering the record it is not necessary to call counter affidavit from Respondents No. 1 to 3.

3. This writ petition has been filed challenging the orders dated 19.09.2022 and 21.03.2003, both passed by District Inspector of Schools Agra. By the first order, the elections dated 9.1.2022 have been approved by the DIOS whereas by the second order, the validity has been attached to the previous order.

4. This court, after conducting preliminary hearing, passed the following order on 16.8.2023:

"1. After hearing the learned counsel for the parties at some length, the Court feels appropriate to grant opportunity to the respondents no.4 and 5 to bring on record their stand as well as the documents to demonstrate that they were competent to hold elections on 09.01.2022 inasmuch as there is no dispute between the parties that last elections were held in 2002, i.e. 21 years ago. There is also consensus in between the parties that in 2008, the Regional Level Committee had discarded the elections set up by both the parties and directed for appointment of Authorized Controller for the purposes of holding elections but on account of an interim order passed by this Court in Writ-C No.27497 of 2008, the order of Regional Level Committee could not be given effect to, however, later on, in 2019 the writ petition was dismissed as infructuous.

2. There is also no dispute between the parties that several proceedings are still pending before the Deputy Registrar since 2022 with regard to office bearers of the Society.

3. The Court wants to be satisfied about the validity of the elections held on 09.01.2022 before proceeding further with the matter.

4. Four weeks' and no more time is granted to the respondents no.4 and 5 for filing counter affidavit.

5. One week and no more time thereafter is granted to the petitioner to file rejoinder affidavit.

6. Put up this case as fresh on 21.09.2023."

5. It has been argued by Sri Seemant Singh that the Regional Level Committee set aside elections set up by both the parties in 2008 and recommended for appointment of Authorized Controller, however, on account of an interim order passed by this Court in Writ-C No. 27497 of 2008, the said order was not given effect to and in the year 2019 the writ petition was dismissed as infructuous. He submits that due to dismissal of the writ petition, the situation which was prevalent in the year 2008 would stand revived for all theoretical and practical purposes, hence, after setting aside of the order impugned fresh elections should be directed to be held. He refers to various orders passed by this Court as well as the authorities at different stages. Ultimately, the request of Sri Seemant Singh is that fresh elections should be directed to be held as the Respondents No. 4 and 5 had no authority to hold elections on 9.1.2022 for the reasons recorded in the previous order dated 16.8.2023.

6. On the other hand, learned counsel for Respondents No. 4 and 5 submits that the managing body of the society and the committee of management being common, list of members was submitted at the time of renewal of the registration of the Society before the Assistant Registrar in the 2021-22. The elections of the Committee of Management of the Institution run by the said society were held utilizing the said list and hence it cannot be questioned, particularly, when no challenge has been made to the decision/order passed by the Assistant Registrar on 12.5.2023.

7. Learned Standing Counsel submits that the authorities have proceeded strictly in accordance with the directions issued by this Court in earlier round of litigation and, therefore, no interference is warranted in the orders impugned.

9. Having heard the learned counsel for the parties, dismissal of Writ C-No. 27497 of 2008 and another Writ C No. 55562 of 2008 as infructuous, respectively in 2019 and 2021 would not mean that the merits of the elections or developments which have taken place

in between 2008 and 2021 or thereafter would be deemed to have been considered by this Court on merits. In the considered opinion of this Court, constitution of Committee of Management being dependent upon the steps taken by rival sides over a period of time in the light of the bye-laws or the scheme of administration and there being authorities designated for the purpose of deciding the election dispute, once the Regional Level Committee had intervened in the matter in 2008 and now 15 years have passed since thereafter, the writ petition stands **disposed of** in following terms :

(i) The entire dispute is referred to the Regional Level Committee, Agra Region, Agra which shall decide the same after affording full opportunity of hearing to the petitioner and Respondents No. 4 and 5 **on or before 30.4.2024**.

(ii) The Joint Director of Education (Secondary), Agra Region, Agra shall place the matter before the Regional Level Committee to examine the validity of the elections dated 9.1.2022, in the month of December, 2023.

(iii) Both the parties are directed to serve copy of this order along with written submissions before the Joint Director of Education within a period of three weeks from today.

(iv) The continuance of Respondent No.5 in office shall depend on the final order to be passed by the Regional Level Committee.

Order Date :- 23.11.2023
Kumar Manish.