

Court No. - 39

Case :- SPECIAL APPEAL No. - 481 of 2023

Appellant :- Smt. Monika And Another

Respondent :- State Of U.P. And 5 Others

Counsel for Appellant :- Prabhakar Awasthi

Counsel for Respondent :- C.S.C.,Nipun Singh,Prateek Rai

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Syed Qamar Hasan Rizvi,J.

1. Heard Sri R.K. Ojha, learned Senior Advocate, assisted by Sri Prabhakar Awasthi and Sri Pravesh Kumar, learned counsel for the appellants and Sri G.K. Singh, learned Senior Advocate, assisted by Sri Nipun Singh, Sri Sankalp Narain and Sri Abhishek Kumar Mishra, learned counsel for the private respondents and learned Standing Counsel for the State-respondent.

2. Present intra-Court appeal has arisen from the order of the learned single-judge dated 12.05.2023 in Writ - C No. 10700 of 2023 (Committee of Management Janta Vedic College & 2 Ors. Vs. State of U.P. & 4 Ors.).

3. By that interim order, amongst others, the learned single-judge has directed for fresh elections to be conducted to constitute the committee of the society Jat Shiksha Sabha that has established and is running the educational institution Janta Vedic College, Baraut, Baghpat.

4. While entertaining the present appeal, a coordinate bench passed the below quoted order dated 19.07.2023 :

"1. From a perusal of the record and having heard learned counsels for the parties, we are of the considered view that the pending writ petitions challenging the validity of elections set up by the appellants herein from the year 2015 onwards and the writ petitions filed by the respondent petitioners to their claim are required to be decided together so as to bring the controversy to its logical end. The decision in those writ petitions will have a bearing on the claim in the writ petition, out of which

the instant appeal has arisen, wherein challenge is to the validity of the election dated 25.09.2021 set up by the appellants herein.

2. The learned Senior Counsels appearing for the parties agree to address the Court on the merits of the pending writ petitions.

3. The office is directed to place the record of Writ Petition Nos. 33317 of 2015, No. 34988 of 2015, No. 46757 of 2017, No. 1832 of 2019, No. 11524 of 2022, No. 7275 of 2022 and No. 10700 of 2023, along with the instant appeal.

4. The matter be posted on 25.07.2023 for hearing at 02:00 P.M. in the list of fresh cases."

5. Today, upon brief hearing this much is crystal clear, the parties before the Court are in dispute with respect to elections conducted in the year 2015 as also fresh elections set up by the present appellants in the year 2021. Arising from such disputes eight writ petitions are pending.

6. Upon query made, Sri Prabhkar Awasthi, learned counsel for the appellants states, the election set up by the respondent-appellants in the year 2021 is under direct challenge in Writ - C No. 7275 of 2022, wherein interim order is also operating.

7. If the election conducted in the year 2021 were to be upheld, clearly no fresh elections may be held before the end of the term of the Committee of Management. Such term would extend upto 2026.

8. Primarily on the above consideration, we are of the view that the learned single-judge may not have provided for fresh election to be conducted in the interregnum that is during pendency of the challenge raised in Writ - C No. 7275 of 2022.

9. Here, Sri G.K. Singh, learned Senior Counsel for the respondents would further contend, legality of the election conducted in the year 2021 hinges on the earlier election of 2015. Challenge to those proceedings is also engaging the attention of this Court in other writ petition (tagged to this

appeal). Therefore, we are of the firm opinion, on one hand, the direction issued by the learned single-judge directing fresh election to be conducted may not be sustained and on the other the disputes that are pending between the parties, may first be considered before the learned single-judge.

10. We find no good ground to interject the writ proceedings and intervene in the intra-Court appeal which course if adopted would have the effect of taking away the right of intra-Court appeal that may otherwise exist with the parties. As to the pleadings in the writ petitions, it appears, the same are not complete.

11. Accordingly, both sides is granted two weeks' time to file their respective counter affidavits, wherever required. One week thereafter is granted to the appellants to file rejoinder affidavit, if any.

12. List all the Writ Petition Nos. 33317 of 2015, 34988 of 2015, 46757 of 2017, 1832 of 2019, 11524 of 2022, 7275 of 2022 and 10700 of 2023 before the learned single-judge in the week commencing 04.12.2023.

13. Respondent-appellants are at liberty to seek vacation of the interim order insofar as the order provides for continuance of the petitioner-respondent.

14. Present appeal stands **disposed of** accordingly.

Order Date :- 30.10.2023
Abhilash

(S. Q. H. Rizvi, J.) (S. D. Singh, J.)