

Court No. - 10

Case :- WRIT - C No. - 25535 of 2023

Petitioner :- Committee Of Management Saraswati Vidya Mandir Inter College And Another

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

Counsel for Petitioner :- Chandan Sharma, Abhishek Rai

Counsel for Respondent :- C.S.C., Amit Kumar

Hon'ble Kshitij Shailendra, J.

1. Short counter affidavit filed on behalf of respondent No. 4 is taken on record.
2. Heard Shri Abhishek Rai, learned counsel for the petitioners, learned Standing Counsel for the State-respondent Nos. 1 to 3 and Shri Radha Kant Ojha, learned Senior Advocate assisted by Shri Amit Kumar, learned counsel appearing for respondent No. 4.
3. By the order impugned dated 17.07.2023 attestation of signatures of petitioner No. 2 as Manager of the Institution has been withdrawn/set aside. The said order is said to have been passed in furtherance of an order dated 13.07.2023 passed by the Joint Director of Education, which has also been challenged by means of amendment.
4. Submission of learned counsel for the petitioners is that a three members Committee comprising of S/Shri Ashok Kumar Mishra, Shrikant Mishra and Om Prakash was constituted for the purposes of holding of elections and the said decision was upheld by this Court in its order dated 04.02.2022 passed in Writ C No. 1273 of 2022 (C/M Saraswati Vidya Mandir Inter College and another vs State of U.P. and 3 others). It is contended that the said Committee

proceeded to publish the election schedule in news papers and an Election Officer was appointed, whereafter elections were held on 01.06.2022 and the signatures of the petitioners were attested on 07.06.2022 and while the Managerial functions were being smoothly performed, in the month of July, 2023 i.e. after a period of 13 months, factum of transfer of Rs. 20,00,000/- (rupees twenty lac) from the account of the Institution to the account of Bhartiya Shiksha Samiti came to the notice of petitioner No. 2 and when the members of the aforesaid Committee itself were found *prima facie* guilty of this act of transfer, notice was issued to them on 12.07.2023 and on the very next day, the order impugned was passed by the Joint Director of Education on 13.07.2023 and, next day, on 14.07.2023, the District Inspector of Schools issued a letter to petitioner No. 2 calling upon him to produce documents relating to the elections held and the petitioner No. 2 submitted an application on the next date i.e. 15.07.2023 along with necessary documents and again on 17.07.2023, he represented before the District Inspector of Schools disclosing the proceedings of elections and on that very day, i.e. 17.07.2023, the order impugned has been passed setting aside the attestation of signatures.

5. It is contended that action has been taken **within a period of five days** after the petitioner called upon three members Committee to explain its conduct in relation to the transfer of money and, even otherwise, there is no consideration of petitioners' response dated 15.07.2023 for 17.07.2023 in the order impugned. Further submission is that the impugned order is vague in nature and has been passed by merely mentioning that the elections is in violation of Clause 7 of the Scheme of Administration and no clear aspect has been mentioned.

6. Per contra, Shri Radha Kant Ojha, learned Senior Advocate has placed reliance upon the provisions of Intermediate Education (Second Amendment) Act, 2022 (U.P. Act No. 15 of 2022), which has come into force from 04.10.2022, according to which, the parent Society would govern the unaided recognized/self-finance Institutions. He further submits that once this provision has come into force, any elections held on the basis of Scheme of Administration would be invalid. He further submits that in relation to the affairs of the Society, which is empowered to conduct the elections, proceedings are pending before the Deputy Registrar and an order issued on 23.06.2023 has also been annexed with short counter affidavit in this regard. Further submission is that the elections having not been held by three members Committee are invalid and contrary to the directions issued by this Court in its order dated 04.02.2022.

7. Prima facie, I find that the election schedule was notified by the three members Committee and there being no dispute for a period of 13 months after the attestation of signatures, which was done on 07.06.2022 and the action taken on 13.07.2023 and 17.07.2023 being just after the Committee was put to notice regarding illegal transfer of money from one account to other coupled with vague nature of impugned order, I find that not only the principles of Natural Justice have been violated, the documents produced by petitioner No. 2 in relation to the elections proceedings have also not been looked into, nor is there any finding recorded either by the District Inspector of Schools or by the Joint Director of Education as to whether the elections were or were not held in consonance with the directions issued by this Court on 04.02.2022 in Writ C No. 1273 of 2022 (C/M Saraswati Vidya Mandir Inter College and another vs State of U.P. and 3 others) and by the

Committee constituted on 22.07.2021.

8. While this Court proceeded to pass an interim order in favour of the petitioners, Shri Radha Kant Ojha, learned Senior Advocate states that if the petitioners have responded to the notice issued by the District Inspector of Schools on 17.07.2023 and the documents in relation to the elections proceedings have been submitted by the petitioners, a short time may be fixed for the Joint Director of Education or for the District Inspector of Schools to examine the documents submitted by the petitioners and to take a decision in the matter.

9. Having heard the learned counsel for the parties, I find that the Joint Director of Education by order dated 13.07.2023 had directed the District Inspector of Schools to examine the papers so that the order of this Court may not be violated. The District Inspector of Schools has apparently not taken into consideration the documents.

10. Instead of keeping this petition pending and inviting response from the respondents, the Court finds it better to get an adjudication made by District Inspector of Schools in this case.

11. In view of above, the writ petition is **allowed**.

12. The order impugned dated 13.07.2023 passed by the Joint Director of Education and consequential order dated 17.07.2023 passed by the District Inspector of Schools are hereby **quashed**.

13. The District Inspector of Schools, Fatehpur is directed to pass a reasoned and speaking order in relation to the elections proceedings held in consequence to the order dated 22.07.2021 in the light of stand taken by the petitioners and the documents produced by them on 17.07.2023.

14. The said decision shall be taken **on or before 15.12.2023**, after providing full opportunity of hearing to the petitioners and the three members Committee.

Order Date :- 16.10.2023

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