

Court No. - 47

Case :- WRIT - C No. - 26924 of 2023

Petitioner :- C/M Krishak Vidhyapeeth Inter College And Another

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

Counsel for Petitioner :- Sandeep Kumar, Sr. Advocate

Counsel for Respondent :- CSC, Shivendu Ojha

Hon'ble Manish Kumar Nigam, J.

1. Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri Sandeep Kumar, learned counsel for the petitioner, Sri Radha Kant Ojha, learned Senior Advocate assisted by Sri Shivendu Ojha, learned counsel for the respondent no. 4 and learned Standing Counsel for respondent nos. 1 to 3.

2. This writ petition has been filed challenging the order dated 27.07.2023 passed by respondent no. 2/Regional Level Committee, Agra, Region Agra by which the Regional Level Committee has disapproved the elections of the Committee of Management held on 17.04.2022 and order dated 24.05.2022 passed by the D.I.O.S. Mainpuri. It was further directed by the Regional Level Committee that the elections of the Committee of Management be held in next three months and has authorized the D.I.O.S., Mainpuri to get the elections conducted.

3. It has been contended by the learned counsel for the petitioner that earlier also the respondent no. 4 approached the Regional Level Committee and the Regional Level Committee passed an order dated 09.09.2022 by which the representation of the respondent no. 4 dated 06.10.2021 was rejected by the Regional Level Committee. Against the order dated 09.09.2022, the petitioner filed a Writ Petition No. 8817 of 2023, The Committee of Management Krishak Vidyapith Inter College and another v. State of U.P. and three others before this Hon'ble Court and the aforesaid writ petition was allowed by order dated 12.04.2023 passed by this Court on the ground that orders impugned in the writ petition have been passed in violation of principles of natural justice and also vitiated by non application of mind. The impugned orders dated 09.09.2022, 07.05.2022 & 24.05.2022 were set aside and the matter was remanded to the respondent no. 2 Regional Level Committee to execute the following directions:

"(1) The respondent No.2-Regional Level Committee shall notice all necessary parties to submit their respective claims along with supporting documents.

(2) The respondent No.2-Regional Level Committee shall record its satisfaction in the ordersheet that each parties/adversely parties have supplied copies and exchanged their pleadings as well as relied on documents before proceeding with

the hearing.

(3) The respondent No.2-Regional Level Committee shall afford an opportunity of hearing to all the parties before deciding the controversy.

(4) The respondent No.2-Regional Level Committee shall proceed thereafter on a day to day basis. The respondent No.2-Regional Level Committee shall decide the controversy in accordance with law by a reasoned order.

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

4. Against the order dated 12.04.2023 passed by this Hon'ble Court in Writ Petition No. 8817 of 2023 an intra court appeal i.e. Special Appeal No. 272 of 2023 (Km. Amolika Singh v. State of U.P. & 4 others) was filed which was disposed of vide order dated 02.05.2023 and it was held by the appellate court that the decision of the learned Single Judge to set aside the subsequent order passed on 07.05.2022 and 24.05.2022 by the D.I.O.S. with respect to the elections held on 17.04.2022 and 15.05.2022 by the rival parties cannot be sustained as it would amount to unsettling on settled position without adverting to the merits of the controversy. The appellate court modified the judgment dated 12.04.2023 passed by learned Single Judge to the above extent and relegated the matter for consideration by the Regional Level Committee afresh in the light of the observations made in the appeal for adjudicating the controversy on merits by passing a reasoned and speaking order strictly in accordance with law preferably within a period of two months from the date of receipt of copy of this order.

5. The appellate court further directed that the directions issued by the learned Single Judge to the Regional Level Committee to proceed on day to day basis to decide the controversy in hand is required to be adhered as far as possible.

6. Sri Ashok Khare, learned Senior Advocate appearing for the petitioner submitted that after the order dated 02.05.2023 passed in Special Appeal No. 272 of 2023 (Km. Amolika Singh v. State of U.P. & 4 others) several dates were fixed by the Regional Level Committee and lastly 21.07.2023 was fixed for hearing of the matter. It has been pointed out by the learned Senior Advocate that on 21.07.2023, the respondent no. 4, during course of hearing, filed a detailed written statement/objections which is quoted in the order impugned after serving the copy of the same on 21.07.2023 to the petitioner. It has been further contended by the learned Senior Advocate that after submission of written statement by respondent no. 4, no further date was fixed for hearing of the matter by the Regional Level Committee and straightway an order was passed on 27.07.2023 which is impugned in the present writ petition. It has been further contended by the learned counsel for the petitioner that after submission of written statement/objections by the respondent no. 4 during the course of hearing on 21.07.2023, the Regional Level Committee has not provided any opportunity to the petitioner to rebut the same nor

any further date was fixed by the Regional Level Committee in this regard, hence, the order impugned dated 27.07.2023 has been passed by the Regional Level Committee in violation of principles of natural justice as well as the direction nos. 2 & 3 of the learned Single Judge in its order dated 12.04.2023 passed in Writ Petition No. 8817 of 2023.

7. Sri Radha Kant Ojha, learned Senior Advocate appearing for respondent no. 4 and learned Standing Counsel though contended that on 21.07.2023, it was only the written submissions were filed by the respondent no. 4 and the copy of the same was also given to the petitioner, therefore, there is no requirement of fixing any date or giving any opportunity to rebut the same. It was also emphasized by the learned counsel appearing for the respondent no. 4 that the petitioner did not prayed for any time for filing rebuttal to the written argument submitted by the respondent no. 4.

8. Per contra, learned counsel appearing for the petitioner submitted that on 21.07.2023, not the written argument but the written statement/objections were filed by the respondent no. 4 and in view of directions given by the court in direction nos. 2 & 3, the Regional Level Committee ought to have provided an opportunity to the petitioner to rebut the same and thereafter should have fixed a date for hearing in the matter.

9. From the perusal of record, it is clear that petitioner has not been given proper opportunity to file his objections to the written statement/objections filed by respondent no. 4, during the course of hearing on 21.07.2023, which is also is not in consonance with the directions issued by this Court in its order dated 12.04.2023. At this stage, Sri Radha Kant Ojha, learned Senior Advocate assisted by Sri Shivendu Ojha, learned counsel for respondent no. 4 submitted that he has no objection in case the writ petition is allowed and order dated 27.07.2023 is set aside and the matter is remitted back to the Regional Level Committee for deciding afresh after providing opportunity of hearing to all the parties.

10. Sri Ashok Khare, learned Senior Advocate assisted by Sri Sandeep Kumar, learned counsel for the petitioner has no objection to the submission made by Sri Radha Kant Ojha, learned Senior Advocate.

11. In view of the submissions made by learned counsel for petitioner as well as respondent no. 4, this writ petition is **allowed** and the order dated 27.07.2023 passed by the Regional Level Committee/respondent no. 2 is set aside with following directions:

(i) The copy of the this order will be filed by the petitioner before the Regional Level Committee within a period of ten days from today.

(ii) With the consent of parties, it is provided that both the petitioner as well as respondent no. 4 will appear before the Regional Level Committee on 02.11.2023.

(iii) Since the written statement/objections submitted by the respondent no. 4 on 21.07.2023 has already served upon the petitioner, the petitioner will submit his reply/counter objection on or before 02.11.2023 before respondent no. 2 after serving the copy of the same in advance to the respondent no. 4.

(iv) On 02.11.2023, the Regional Level Committee will fix next date as 09.11.2023 to enable the respondent no. 4 to file counter objections to the objections filed by the petitioner.

(v) The Regional Level Committee shall make every endeavour to decide the case on 09.11.2023 itself. If, however, because of some unavoidable circumstances, it is not possible for the Regional Level Committee to decide the case on 09.11.2023, the Regional Level Committee shall decide the same by 23.11.2023.

(vi) It is made clear that this Court has not examined the matter on merits and the Regional Level Committee will not be influenced by any of the observations made by this Court in this order and will pass an order strictly in accordance with law after providing opportunity of hearing to all the parties concerned.

Order Date :- 18.10.2023

Ved Prakash

(Manish Kumar Nigam, J.)