

Court No. - 10

Case :- WRIT - C No. - 32074 of 2023

Petitioner :- Buddhsen Singh

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

Counsel for Petitioner :- Hritudhwaj Pratap Sahi, Sankalp Narain

Counsel for Respondent :- C.S.C., Prabhakar Awasthi, Ram Lal Mishra

Hon'ble Kshitij Shailendra, J.

1. Learned counsel for the petitioner is permitted to implead Sub Divisional Magistrate/ Prescribed Authority, Vindhayachal, Tehsil Lalaganj, district Mirzapur as respondent No. 6 during the course of the day.

2. Heard Shri G.K. Singh, learned Senior Advocate assisted by Shri Sankalp Narain, learned counsel for the petitioner, learned Standing Counsel for respondent Nos. 1 to 3 and Shri Prabhakar Awasthi, learned counsel for respondent Nos. 4 to 6 and perused the record.

3. By means of the present writ petition, the order dated 30.08.2023 passed by the District Inspector of Schools, Mirzapur has been challenged, by which, the signatures of respondent No. 5 as Manager of the concerned Intermediate College, have been attested on the basis of elections held on 21.05.2023.

4. The dispute has come up before this Court on numerous occasions. All the details of such cases are not necessary to be mentioned, however, certain facts are necessary to be stated.

5. It is to be mentioned that concerning an elections held on 05.10.2015, the matter is already engaging attention of the

Prescribed Authority pursuant to a reference made on 08.09.2016, under section 25 (1) of the Societies Registration Act, 1860. Although pending reference, an order was passed by the Prescribed Authority on 30.08.2019 approving the elections dated 05.10.2015, the said order was recalled on 16.10.2019, which was challenged by respondent No. 5 by means of Writ C No. 34934 of 2019 (Ravindra Nath Tiwari vs State of U.P. and 2 others), in which, by order dated 19.11.2019, though the operation of order dated 16.10.2019 was not stayed, but it was directed that the Prescribed Authority shall not take any decision in the matter. The said writ petition is still pending and, therefore, the reference is still alive.

6. In the meantime, certain orders were issued appointing Controller in the Institution and various other orders in relation to subsequent elections held in 2018.

7. Recently on 02.05.2023, the respondent No. 5, by referring to the interim order dated 19.11.2019 passed in Writ C No. 34934 of 2019, requested the District Inspect of Schools to pass an order directing holding of elections and the said elections have been held on 21.05.2023. A dispute has been raised by the petitioner stating that during the continuance of Authorized Controller, the respondent No. 5 had no authority to hold elections and, even otherwise, the interim order passed by this Court in Writ C No. 34934 of 2019 has been misinterpreted and the dispute with regard to valid Electoral College of the Society is still to be adjudicated upon by the Prescribed Authority as, admittedly, the reference is pending since 2016.

8. Shri Prabhakar Awasthi, learned counsel for respondent Nos. 4 to 6 submits that the writ petition is not maintainable as it has been

filed by a single member and, in fact, it is the Principal of the Institution, who is instrumental in always making direct challenge to the orders issued by the Authorities, as he is not holding interested in election of any Committee of Management. He further submits that against the order impugned dated 30.08.2023, remedy lies before the Regional Level Committee and, therefore, the writ petition may be dismissed as not maintainable.

9. Learned Standing Counsel submits that since the term of the Committee of Management has already expired, fresh elections have to be held and granting approval to one of the elections is not illegal.

10. Having heard the learned counsel for the parties, I am of the opinion that validity of any elections is based upon determination of a valid Electoral College. Such validity, in the present case, can be attached only by the Prescribed Authority in the pending reference, which is pending since 08.09.2016. I also find that in absence of any adjudication made by the Prescribed Authority, the respondent No. 5 had no authority to hold elections particularly when, in the meantime, order under section 6 (3) of U.P. Act No. 24 of 1971 appointing Authorized Controller was issued.

11. Without saying much about the rights of the rival parties, the writ petition is being **disposed of** in the following terms:

(i) The Sub Divisional Magistrate/ Prescribed Authority, Vindhayachal, Tehsil Lalaganj, district Mirzapur, respondent No. 6 shall decide the pending reference after providing full opportunity of hearing to the petitioner and Shri Krishna Pal Singh and Shri Ravindra Nath Tiwari **on or before 10.01.2024**, provided a certified copy of this order is served upon the Prescribed Authority

within a period of **ten days** from today by either side.

(ii) The determination made by the Prescribed Authority with regard to valid membership/Electoral College shall form basis of the subsequent elections.

(iii) The fresh elections after decision of Prescribed Authority shall be held under the supervision of the District Inspector of Schools concerned within the **next two months**.

(iv) The order impugned dated 30.08.2023 is **quashed**.

Order Date :- 28.10.2023

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