

Court No. - 10

Case :- WRIT - C No. - 33493 of 2023

Petitioner :- C/M Janta Inter College And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ramesh Chandra Dwivedi

Counsel for Respondent :- C.S.C., Hemant Kumar Dubey, Sankalp Narain

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Ramesh Chandra Dwivedi, learned counsel for the petitioners, learned Standing Counsel for respondent Nos. 1 to 3 and Shri Sankalp Narain, learned counsel for respondent No. 4 and perused the record.

2. It is contended by the learned counsel for the petitioners that on 05.06.2020, a list of 51 members of the General Body of the Society was finalized by the Assistant Registrar, Firms, Societies and Chits, Gorakhpur under section 25(2) of the Societies Registration Act, 1860 and the elections were held on 28.08.2020, however, the order dated 05.06.2020 was quashed by this Court by order dated 31.08.2020 passed in Writ C No. 11487 of 2020 (Krishak Janpad Shiksha Society and 2 others vs State of U.P. and 2 others). The petitioner filed Special Appeal Defective No. 671 of 2020 (Committee of Management, Krishak Janpad Shiksha Society Sohsa Mathiya and another vs State of U.P. and 5 others), against the order of learned Single Judge and the Division Bench by order dated 29.09.2020 has stayed the operation of the order dated 31.08.2020 passed in Writ C No. 11487 of 2020 and the Special Appeal is pending.

3. It is contended that when the term of the Committee of

Management was going to expire, the petitioners conducted elections on 27.08.2023, but the District Inspector of Schools, merely on communication made by the Joint Director of Education dated 16.09.2023, has hurriedly passed the order impugned dated 19.09.2023 directing single hand operation of the accounts of the Institution. Thereafter another order has been passed after eleven days on 30.09.2023 declaring the elections dated 27.08.2023 as invalid on the ground that the same have not been held under the supervision of the Departmental Observer and without there being a list registered by the Assistant Registrar.

4. Learned counsel for the petitioners submits that both the orders impugned have been passed in utter violation of principles of Natural Justice and, even otherwise, there was no occasion to hold the Committee of Management as defunct/time barred as the term was going to expire on 28.08.2023, whereas elections were held just before one day.

5. Learned Standing Counsel submits that no validity can be attached to the elections, which are held contrary to law and for the reasons recorded in the order impugned, the elections were invalid.

6. Shri Sankalp Narain, learned counsel for the respondent No. 4 submits that though it is true that in view of the interim order passed in Special Appeal, the order dated 05.06.2020 remains intact, however, the elections dated 27.08.2023 have not been held on the basis of list finalized at that time under section 25(2) of the Act of 1860, but by utilizing a different list.

7. Learned counsel for all the respondents submit that though elections were held contrary to law, they concede to the extent that the orders impugned have been passed in violation of principles of

Natural Justice.

8. Be that as it may, without touching the merits of the elections held or any other aspect associated thereto, the Court finds that the Joint Director of Education issued some communications on 16.09.2023 and immediately after three days, the order of single hand operation was passed on 19.09.2023 and thereafter, on 30.09.2023 the elections were held to be invalid. There is nothing on record to indicate that at any point of time, any opportunity of hearing was provided to the petitioners. Apart from apparent violation of principles of Natural Justice, the Court finds that under the Scheme of the U.P. Intermediate Education Act, 1921 read with relevant Government Orders, the Regional Level Committee is competent to decide the election dispute.

9. In view of above, the writ petition stands **disposed of** in the following terms:

(i) The orders impugned dated 19.09.2023 and 30.09.2023 passed by respondent No. 3, District Inspector of Schools, Kushinagar are **quashed**.

(ii) The parties are at liberty to file objections before the respondent No. 2, Joint Director of Education, 7th Region Gorakhpur in relation to the elections dated 27.08.2023, within a period of **four weeks from today** along with certified copy of this order.

(iii) The respondent No. 2, Joint Director of Education, 7th Region, Gorakhpur shall immediately place the matter before the Regional Level Committee **by the end of January, 2024**.

(iv) The Regional Level Committee, after providing full

opportunity of hearing to the parties, shall decide the election dispute, strictly in accordance with law, **by 15.04.2024.**

(v) Necessary consequences shall follow.

Order Date :- 8.12.2023

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