

Court No. - 5

Case :- WRIT - C No. - 37395 of 2023

Petitioner :- Committee Of Management Gochar Krishi Inter College And Another

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

Counsel for Petitioner :- Sr. Advocate, Mohit Kumar

Counsel for Respondent :- C.S.C., Pramod Kumar Sinha, Syed Fahim Ahmed

Hon'ble Piyush Agrawal, J.

Heard Mr. Ashok Khare, learned Senior Counsel assisted by Mr. Mohit Kumar for the petitioner and Mr. R.K. Ojha, learned Senior Counsel assisted by Mr. Manoj Kumar Dubey for respondent no. 4 and learned Standing Counsel for State.

By means of present writ petition, the petitioners are seeking to quash the orders dated 10.10.2023 and 11.10.2023 passed by the District Inspector of Schools, Saharanpur.

Learned Senior Counsel for the petitioner submits that Scheme of Administration was prescribed the procedure for no confidence motion. He submits that Clause 10 (2) & (3) of the Scheme of Administration provides that no confidence motion can be passed against any member or the office bearer but same has to be passed by majority of 2/3 members and the resolution has to be rectified by the General House within a period of one month failing which the same has to be ineffective. He submits that in the case in hand the resolution was passed on 5.10.2023 and the same was rectified by the General House on 21.11.2023, therefore, the resolution dated 5.10.2023 itself loses its significance. He further submits that once the resolution itself is not valid and the impugned order passed on the basis of said resolution, cannot stand in the eyes of law.

He further submits that the impugned orders dated 10.10.2023 and 11.10.2023 were passed in violation of principles of natural justice as neither any notice nor any opportunity of hearing was given to the petitioners before passing the impugned orders. He prays for allowing the writ petition.

Per contra, Mr. R.K. Ojha, learned Senior Counsel appearing on

behalf of respondent submits that the resolution dated 5.10.2023 was rectified by the General House, therefore, the impugned orders are justified in the eyes of law. He prays for dismissal of the writ petition.

After hearing learned counsels for the parties, the Court has perused the records.

The issue involved in the present writ petition is very short as to whether the resolution dated 5.10.2023 can be said to be valid in accordance with the Scheme of Administration. It is admitted between the parties that resolution dated 5.10.2023 was rectified as per Clause 10 (2) & (3) of the Scheme of Administration on 21.10.2023, which is beyond the period prescribed thereunder, therefore, the resolution dated 5.10.2023 loses its significance. Once the resolution itself is not valid, any order passed on the basis of said resolution cannot be held to be in accordance with law.

In view of above, the writ petition is **allowed**. The impugned orders dated 10.10.2023 and 11.10.2023 are hereby quashed.

However, it is open for the respondents to take fresh action in accordance with law, if so advise.

Order Date :- 13.12.2023

Rahul Dwivedi/-