

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.1316 of 2015**

1. Snatak Mahavidyalaya Shikshan Samiti Through- Chairman, Snatak Mahavidyalaya Shikshan Samiti, Having Office At D.P.Vipra College, Old High Court Road, Bilaspur- (Chhattisgrh)
2. Anurag Shukla S/o Shri Ram Narayan Shukla Aged About 51 Years Chairman, Snatak Mahavidyalaya Shikshan Samiti, Old High Court Road, Bilaspur - (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through - Secretary, Department Of Higher Education, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, P.S.- Rakhi, District- Raipur- (Chhattisgarh)
2. The Administrator, D.P. Vipra College, Old High Court Road, District- Bilaspur- (Chhattisgarh)
3. Principal D.P. Vipra College, Old High Court Road, Bilaspur, District - Bilaspur (Chhattisgarh)

---- Respondent

For Petitioners	:	Shri B. P. Sharma with Shri Sudeep Agrawal, Advocates
For Respondent No.1 & 2:		Shri Satish Gupta, Govt. Advocate
		None for Respondent No.3.

Order On Board**07/10/2015**

Considering the nature of dispute, no notice was issued to respondent No.3.

2. The petitioner, by this petition, has assailed the authority of respondent No.2 in continuing as Administrator of the petitioner-society and has prayed for writ of quo-warranto on the allegation that the respondent No.2 has no

authority to continue in the office of the Administrator after expiry of three years from the first date of appointment as Administrator.

3. Brief facts giving rise to this petition are that the petitioner No.1-Society has established a college in the city of Bilaspur. The college is admittedly affiliated to the privileges of the State University and is also receiving grant in aid from the State Government. In connection with certain allegations of mismanagement of the affairs of the society and financial irregularities, the governing body of the society was superceded by an order passed by the State Government on 11-05-2012 (Annexure P-2). In exercise of power conferred under Section 33 of the C.G. Society Registrkaran Adhiniyam, 1973, (In short "the Act of 1973"). By the same order, Administrator was also appointed to manage the affairs of the society for a period of two years. Later on, vide order dated 31-05-2014 (Annexure P-1), the tenure of Administrator was further extended for a period of one year.

The petitioners have also assailed legality and validity of order of supercession, which is subject matter of consideration in W.P.C.No.970 of 2012. When Additional Collector was giving the charge of the office of Administrator, that was also separately challenged in W.P.C.No.1080 of 2012.

4. This petition is, however, confined to the authority of Administrator in continuing beyond a period of three years in aggregate.

5. Short submission of learned counsel for the petitioner is that in view of the provisions contained in Section 33(3) of the Act of 1973, maximum period, for which, the Administrator could be appointed in the society is three years in agreegate. Beyond the period of three years, the statutory scheme of the Act does not entitle the State Government to continue Administrator nor the

Administrator, appointed earlier to continue in the capacity as such under the provisions of the Act. As the period of three years has come to an end on 31-05-2015, the respondent No.2 ceased to have any authority under the law to continue as Administrator of the society. Therefore, he be restrained from functioning as administrator of the society by virtue of order dated 31-05-2014.

6. On the other hand, learned State counsel submits that as there is no one to look after the functions of the society, the governing body having already been superceded, as an interim arrangement, Administrator is being continued to ensure that till new elections take place, interest of the society and that of aforesaid educational institution run by the society are not adversely affected.

7. On the face of it, provision contained in Section 33(3) of the Act of 1973 leaves no manner of doubt that the maximum period, for which, the administrator can be appointed, is three years in aggregate. For ready ready reference, relevant provision contained in Section 33(3) is quoted hereinbelow:-

“33. Supersession of governing body:

(1) ----- xxxx -----

(2) ----- xxxxxx -----

(3) The period specified in the order under sub-section (1) may, at the discretion of the State Government be extended from time to time.

Provided that no such order shall remain in force for more than three years in the aggregate.”

8. In view of above, it is crystal clear that the Administrator has no authority to continue as such to manage the affairs of the society after 31-05-2015.

9. State counsel was granted time to file return but nothing has been placed on record to show as to under what authority the respondent No.2 is continuing as Administrator of the petitioner society.

10. In these circumstances, inevitable conclusion is that the respondent No.2 has lost authority to continue as Administrator to manage the affairs of the petitioner-society. Therefore, he is restrained from functioning as Administrator of the society or to perform any duties and functions in connection with the office of the society in any manner whatsoever. Charge of the office of Administrator shall be forthwith handed over by respondent No.3 to the petitioner-society through its named representative to be submitted before the Administrator.

11. In so far as constitution of the governing body under Statute No.28 of the Chhattisgarh Vishwavidyalaya Adhiniyam, 1973 is concerned, looking to the requirement of there being three representatives of the society, the society may nominate its three members, who shall represent the society in the governing body. The Registrar or such authority not below the rank of Assistant Registrar as may be authorized by the Registrar Societies, Chhattisgarh, shall get the elections of the managing committee of the society conducted within a period of four months from the date of receipt of a copy of this order. The election shall be conducted according to bye laws of the society under the supercession of authority, authorized by the Registrar.

Till the managing committee elected and comes into existence, as directed above, interim arrangement made by this Court with regard to charge of the society and representation of the society in the governing body shall continue.

12. Accordingly, the petition is allowed.

Sd/-
Manindra Mohan Shrivastava
Judge