

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: January 09, 2019

1. RSA No.5586 of 2016 (O&M)

Ashok Kumar

...Appellant

Versus

Malwa Prantia Brahman Sabha and Sanskrit Mahavidyala (Regd.) Maisar
Khana & others

...Respondents

2. RSA No.6629 of 2016 (O&M)

Kulwant Rai

...Appellant

Versus

Malwa Prantia Brahman Sabha and Sanskrit Mahavidyala (Regd.) Maisar
Khana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Akshit Aggarwal, Advocate
for the appellants in both the appeals.

AMIT RAWAL, J.

This order of mine shall dispose of two Regular Second Appeals bearing No.5586 and 6629 of 2016 arising out of a decision of Civil Suit No.153 of 16.07.2009 filed at the instance of the appellant-defendants.

Respondent-plaintiff filed the suit for permanent injunction that Malwa Prantia Brahman Sabha and Sanskrit Mahavidayala (Regd.) was a competent body to run and manage Mata Maiserkhana College of Education

(B.Ed.College), Miserkhana and also competent to operate all its Bank accounts and sought injunction against the defendants from interference and obstruction of peaceful management and running of B.Ed. College. It was alleged that the Society passed a resolution dated 11.12.2005 in its executive meeting, whereby defendant No.1-Ram Nath Bhardwaj was given powers to make arrangement to start B.Ed. College classes upto 31.12.2005, but he failed to conduct and, thus, in the meeting held on 03.02.2006 it was decided to lease out temporarily the powers of running classes of new B.Ed. College by leasing it out to a competent Educational Institutions for a period of five years and for that purpose, 5 members committee was nominated and this sub-committee was given full powers to lease out the B.Ed.College. The defendants in connivance with each other, misled the members of the Society and gave the College on theka/contract to defendant No.4-Ashok Kumar and two other persons, namely, Sanjay Sharma and Vijay Kumar Aggarwal for a consideration of ₹ 25,00,000/-. On 16.07.2006, the executive committee decided that all previously nominated sub-committees to manage the affairs of the schools or colleges would be cancelled and the plaintiff society was declared competent to manage the affairs of the college. Even the saving account was opened in the State Bank of Patiala and vide resolution dated 16.07.2006, powers were given to Ashok Kumar and Sanjay Sharma jointly for withdrawal. However, defendants got passed a resolution terminating the contract of B.Ed. College vide agreement of cancellation dated 14.05.2008 and got registered the Charitable Education Society vide registration No.726/2007 and also passed a resolution dated 21.02.2007 by empowering all the powers. Old resolution could not be revived. It was stated that two groups, one headed by Somjeet Pal and other

by Ram Nath Bhardwaj and Kulwant Rai filed civil suits against each others. A compromise dated 08.03.2007 was arrived and the suits were withdrawn. It was decided that election of the President of the Sabha would be held on 03.02.2008 and till then, 9 members committee shall manage the affairs of the Society.

Defendant No.1 contested the suit by taking legal objections and stated that the executive body of the Sabha was self-styled and self-constituted and, thus, has no power to act on behalf of the Sabha.

Defendant No.2 filed a separate written statement and raised similar objections.

Defendant No.3 filed a counter claim and written statement by taking legal objection that the plaintiff, who, had filed the present suit by showing himself to be a duly elected President of the Sabha and representing himself to be entitled to transact the business, has usurped the control over the management of the affairs.

Defendant No.4 filed a separate written statement and opposed the suit.

On the preponderance of the evidence, the trial court decreed the suit and held that Somjeet Pal Sharma, President of the Sabha, was competent to run and maintain the Sabha and operate all its Bank accounts and the defendants were restrained from interfering and obstructing the peaceful management and running of B.Ed. College and dismissed the counter claim of defendant No.3. It is in these circumstances, two appeals have been filed, but the same were dismissed.

Mr. Akshit Aggarwal, learned counsel appearing on behalf of the appellants submitted that the impugned judgments and decrees are not

sustainable in the eyes of law as the courts below did not appreciate all material aspects and passed the judgments without noticing the aforementioned facts. The testimony of the witnesses, who deposed in favour of Somjeet Pal Sharma has erroneously been relied upon. Even the proper issues were not framed. Evidence produced by the defendants has not been considered and, therefore, the findings are perverse.

I am afraid that the aforementioned arguments are not sustainable, for, both the courts below, on the preponderance of the evidence, i.e., oral and documentary found that sanction was obtained by the Society for running the B.Ed. College in the name of Mata Maiserkhana College of Education for the session 2005-06 for 100 seats. Defendants miserably failed to lead any evidence to show that either the order of the Sub-Divisional Magistrate was illegal or the agreement aforementioned. The Lower Appellate Court also concurred with the findings of the trial court as no different argument or defence were referred to, to form a different opinion than the one arrived at.

For the reasons mentioned above, I do not find any illegality or perversity in the concurrent findings, which are based on appreciation of oral and documentary evidence. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeals are dismissed on merit as well as on the ground of delay.

January 09, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No