

C/M Of Sri Ramdeo Sanskrit Mahavidyaya ... vs State Of U.P. And 3 Others on 3 March, 2025

Author: Saral Srivastava

Bench: Saral Srivastava

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2025:AHC:29914

AFR

Court No. - 32

Case :- WRIT - C No. - 7611 of 2019

Petitioner :- C/M Of Sri Ramdeo Sanskrit Mahavidyaya And Another

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

Counsel for Petitioner :- Hritudhwaj Pratap Sahi,Ramesh Chandra Tiwari,Vijay Kumar Singh

Counsel for Respondent :- C.S.C.,Pankaj Kumar,Raj Mani Vishwakarma

Hon'ble Saral Srivastava,J.

1. Heard Sri G.K. Singh, learned Senior Counsel assisted by Sri Ramesh Chandra Tiwari, learned counsel for the petitioner, and Sri R.K. Ojha, learned Senior Counsel assisted by Sri R.M. Vishwakarma, learned counsel for the respondents.

2. The petitioner through the present writ petition has assailed the order dated 08.02.2019 passed by the Prescribed Authority/Sub Divisional Magistrate, Madhiyahu, District Jaunpur, whereby he has held that the election of the petitioner's Committee of Management of the Society, namely,

Ramdeo Sanskrit Mahavidyalaya Bareri, District Jaunpur is valid.

3. It appears that there was a long-standing dispute between the parties, and several litigations have been contested by the parties. Lastly, the dispute between the parties crystallized into the order dated 25.02.2009 passed by the Assistant Registrar, Firms, Societies and Chits, Varanasi. There was one more order dated 26.11.2010 passed by the Registrar, Firms, Societies and Chits, U.P. Lucknow accepting the application for renewal of the Society based on documents submitted by Hari Nath Dubey.

4. The order dated 25.02.2009 passed by the Assistant Registrar, Firms, Societies and Chits, Varanasi to the extent it had accepted the claim of Ram Chandra Pandey as Manager of the Committee of Management of the Society and rejecting the claim of the petitioner while maintaining the renewal of certificate of the petitioner's Society was assailed in Civil Misc. Writ Petition No.23641 of 2009 by Hari Nath Dubey describing himself as Manager of the Committee of Management, Ram Deo Sanskrit Mahavidyalaya, Bareri, District Jaunpur.

5. The Civil Misc. Writ Petition No.72367 of 2010 was filed by one Ram Chandra Pandey for quashing the order dated 26.11.2010 passed by Registrar, Firms, Societies and Chits, U.P., Lucknow accepting the application for renewal of Society based on documents submitted by Hari Nath Dubey, who was petitioner in Civil Misc. Writ Petition No.23641 of 2009.

6. Both the writ petitions i.e., Civil Misc. Writ Petition Nos.23641 of 2009 & 72367 of 2010 were decided together by this Court by the judgement and order dated 03.05.2012 whereby this Court referred the matter to the Prescribed Authority to decide the dispute between the parties on the three issues framed by it in the judgement dated 03.05.2012. The three issues framed by the Court are reproduced below:-

"(i) Person or group of persons who convened the meeting, had the authority to convene the meeting and to hold the election;

(ii) Persons, who have participated in the election are the valid members in term of Section 15 of the Societies Registration Act and entitled to participate in the elections;

(iii) Elections, which have been held, has been strictly held under the provisions as contained in bye laws of the society, preferably within next six months and the order dated 26.11.2010 shall abide by the outcome of the order passed by Prescribed Authority and the list submitted under Sub-Section (4) of Section 3-A shall be amended/modified accordingly."

7. The Court further directed that the order dated 26.11.2010 shall abide by the outcome of the order passed by the Prescribed Authority and the list submitted under sub-section (4) of Section 3 (A) of the Societies Registration Act shall be amended/modified accordingly.

8. It appears that earlier, there was a Society in the name of 'Sri Ramdeo Dubey Sanskrit Pathshala, Bareri, Jaunpur registered in the year 1954 (hereinafter referred to as the 'Old Society'). One Ram Deo Dubey was the lifelong President of the Old Society. Raj Deo Dubey, Manager of the Old Society, died in the year 1980, and in his place, Surya Mani Dubey was elected as Manager and Badri Narayan Dubey was elected as President. Subsequently, the election of the Committee of Management of the Old Society was held on 25.12.1981.

9. It transpires that an application for renewal of the Old Society was filed in January 1982. The Assistant Registrar refused to renew the Society and asked Suryamani Dubey, Manager, who applied for renewal of the Society to get a New Society registered. Thereafter, a New Society was registered in the name of "Ramdeo Sanskrit Mahavidyalaya Bareri, Jaunpur" on 26.04.1982 (hereinafter referred to as the 'New Society'). Badri Narayan Dubey was shown to have been elected as President and Suryamani Dubey was shown to have been elected as Manager.

10. Thereafter, subsequent elections of the Committee of Management of the New Society took place. However, in the election of 1984, one Sabhapati Upadhyay submitted an objection and applied for renewal of Old Society, which was allowed by the Assistant Registrar by order dated 13.08.1986.

11. The Civil Misc. Writ Petition No.13289 of 1986 was filed by Suryamani Dubey challenging the order dated 13.08.1986 in which an interim order was granted by this Court on 25.03.1988.

12. In the meantime, it transpires from the record that the Vice Chancellor of Sampooranand Sanskrit University, Allahabad passed an order in favour of Sabhapati Upadhyay as Manager and Badri Narayan as President on 02.08.1990 which order came to be challenged by Suryamani Dubey by filing Civil Misc. Writ Petition No.20536 of 1990. The said writ petition was allowed by this Court vide order dated 12.12.1990 and the order of Vice-Chancellor dated 02.08.1990 was set aside by this Court. Thereafter, several litigations had taken place between the parties, details of which are not necessary in the facts of the present case, therefore, they are not being delineated as that would unnecessarily burden the judgement.

13. The Prescribed Authority in pursuance of the judgement of this Court dated 03.05.2012 decided the dispute by order dated 08.12.2019 which is impugned in the present writ petition.

14. This Court while remanding the matter to the Prescribed Authority by judgement dated 03.05.2012 framed three issues which have been extracted above.

15. On Issue No.1 "person or group of persons who convened the meeting had the authority to convene the meeting and to hold the election"; the Prescribed Authority considered Clause 9 (6) of the Bye-Laws of the Society, which provides that the President shall hold the Office for life long, and he has authority to appoint or nominate President who shall continue as President of the New Society life long. Clause 9 (6) of the Bye-Laws further provided that in case, the President does not appoint or nominate anybody as President during his lifetime, the eldest son or the son who stands in the seniority would become the President of the Society.

16. By interpreting the said Clause 9 (6) of the Bye-Laws of the Society, the Prescribed Authority returned a finding that Vijay Kumar Dubey who was the son of Late Badri Narayan Dubey, the erstwhile President of the New Society, became the President of the Society after the death of his father. Hence, the meeting called by the Manager of the Society of which Vijay Kumar Kumar Dubey was the President was as per the Bye-Laws of the Society. Consequently, it held that the meeting called by Ram Chandra Pandey, of which Vijay Kumar Dubey was the President, was the authorized person to call the meeting for holding the election on 05.03.2006. It further held that since under the Bye-Laws of the Society, it is only the eldest son of the President of the Society who could be the President of the New Society, therefore, the meeting called by him was as per law.

17. He further recorded a finding with regard to the petitioner that in the list submitted by Suryamani Dubey, Hari Nath Dubey was not shown as a Member of the Society. He further held that after the death of Suryamani Dubey, petitioner no.2, had submitted papers on the basis of incomplete evidence. He further held that the register submitted by Suryamani Dubey, who was the alleged Manager of the Society, did not reveal the name of Hari Nath Dubey, therefore, the election which was submitted by the petitioner had been submitted only by changing the name of the Society and no election was conducted.

18. On Issue No.2 framed by this Court "persons who have participated in the election are valid Members in terms of Section 15 of the Societies Registration Act and entitled to participate in the election"; it held that the meeting has been convened by proper person and no dispute has been raised in respect to the Members. Accordingly, he held that all the Members who participated in the election were valid Members of the Society.

19. On Issue No.3 "Elections which have been held, has been strictly held under the provisions as contained in the Bye-Laws of the Society"; the Prescribed Authority returned a finding that the election has been held in accordance with the Bye-Laws of the Society as the quorum of the meeting was complete and due intimation about the election was given to the Members of the Society 15 days before the date of election, and 40 members out of 51 Members had participated in the election. Accordingly, it rejected the claim of the petitioner and declared the election dated 05.03.2006 of the respondents valid.

20. Challenging the aforesaid order, the learned Senior Counsel for the petitioner has contended that the Prescribed Authority has committed manifest illegality and has acted illegally in not deciding the issues framed by this Court in the judgement dated 03.05.2012 in the correct perspective. He further submits that the Prescribed Authority while deciding the dispute had travelled beyond the reference as the dispute has been referred to only concerning the election of 2006, whereas he has returned a finding on the subsequent election which power he did not have, therefore, the order passed by the Prescribed Authority is in the teeth of law laid down by this Court in a judgement reported in 2007 (3) AWC 3066 (All) Mehendi Hasan and Ors. Vs. State of U.P. and Ors.

21. Per contra, learned counsel for the respondent would contend that the finding returned by the Prescribed Authority is a finding of fact based on proper appreciation of law and evidence on record,

therefore, this Court may refrain from interfering with the order passed by the Prescribed Authority. He submits that since Clause 9 (6) of the Bye-Laws of the New Society provides that the President shall continue to hold the office of President till life long, and he has the authority to appoint or nominate the President during his lifetime, and in case, he does not appoint/nominate the President during his lifetime, his eldest son or senior most son would be the President of the Society, in such view of the fact the finding returned by the Prescribed Authority on the Issue No.1 is correct and based upon proper appreciation of facts and evidence on record.

22. He further submits that a specific finding has been recorded on Issue No.2 that there is no dispute regarding the validity of the member, and in such view of the fact, the finding on Issue No.2 is not liable to interfered with by this Court.

23. Lastly, he contends that the finding returned by the Prescribed Authority that the election of the respondent's Committee of Management dated 05.03.2006 was held as per the Bye-Laws of the Society is based upon proper appreciation of evidence on record and being a finding of fact does not call for any interference by this Court.

24. I have considered the rival submissions advanced by the learned counsel for the parties and perused the record.

25. Necessary facts have already been delineated above, therefore, they are not being reiterated.

26. At this stage, it would be apt to reproduce Clause 9 (6) of the Bye-Laws of the Society as under:-

" 9 (6)-

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27. Perusal of the aforesaid Clause indicates that it provides that the President of the Society shall continue to hold the office of President during his lifetime. The said Clause also confers the power upon the President to appoint or nominate any person as President who shall become the President of the Society and shall have all the powers of President, and in case, he does not appoint any President during his lifetime, his eldest son or senior most son would be the President of the Society.

28. It transpires from the record that earlier a dispute between the parties arose, and an order dated 02.08.1990 was passed by the Vice Chancellor in favour of one Sabhapati Upadhyay and Badri Narayan, which order came to be challenged by the petitioner by filing a Civil Misc. Writ Petition No.20536 of 1990, which was allowed by this Court by order dated 12.12.1990 and the order dated 02.08.1990 was set aside. While allowing this writ petition, this Court observed as follows:-

"Two persons cannot constitute a committee of management of the general body. It is also not justified to make life long president and management of the institution. The

terms and conditions of compromise, which have been made part of impugned order, being illegal and inconsistent with the Act, Statute and the bye-laws of the society, cannot be sustained. It appears that the Vice-Chancellor has passed the impugned order mechanical on the basis of the compromise without ascertaining the legality of the terms and conditions of the compromise. The order of the Vice-Chancellor is, as such liable to be set aside."

29. Much emphasis has been laid by the learned counsel for the petitioner on the aforesaid observation in the judgement of this Court in Civil Misc. Writ Petition No.20536 of 1990 to contend that once this Court has held that it is not justified to make life long President of Management/Institution and the terms and conditions of the compromise which have been made part of the impugned order was held illegal and inconsistent with the Act, Statute and Bye-Laws of the Society, therefore, the judgement of this Court passed in Civil Misc. Writ Petition No.20536 of 1990 is binding upon the parties, and the parties cannot resile from the judgement. In such view of the fact, the finding returned by the Prescribed Authority that Vijay Kumar Dubey became the President after the death of his father Badri Narayan is illegal. He submits that the observation made by this Court in the judgement dated 12.12.1990 in Civil Misc. Writ Petition No.20536 of 1990 has virtually invalidated Clause 9 (6) of the Bye-Laws of the Society. In this respect, he has placed reliance upon the judgement of the Apex Court reported in 1998 (8) SC 120 V.C. Charati Vs. Hussein Nhanu Jamadar. Paragraph 9 of the judgement is reproduced herein-below:-

"It is submitted by the respondent that the Agricultural Lands Tribunal was not right in dropping proceedings under Section 32-G. Its order of 31.5.1961 is bad in law. He relied upon a decision of the Bombay High Court in the case of Nago Dattu Mahajan Vs. Smt. Yeshodabai Huna Mahajan reported in (1976) 78 BLR 427 where this Court has held that under Section 31, the landlords have a choice to avail of one of the two provisions of resumption, namely, either Section 31(1) or Section 31(3). No landlord can avail of both the provisions. Learned counsel for the respondent, therefore, contends that in the present case, the appellant having exercised his choice under Section 31(1), could not have urged in the proceedings under Section 32G his disability as a minor under Section 31(3). The order of 31.5.1961 of the Agricultural Lands Tribunal, however, was not challenged by the respondent. The order of 31.5.1961 has become final and the decision rendered by the Agricultural Lands Tribunal as between the appellant and the respondent is binding on both the parties. A decision simply because it may be wrong, would not thereupon become a nullity. It would continue to bind the parties unless set aside. The effect of the decision of 31.5.1961 on the parties therefore, cannot be ignored. In the present case, since the tenant could not complete his purchase by reason of the proceedings under Section 32G being dropped, he cannot now contend that the decision has no legal effect or that the proceedings under Section 32G ought to have been completed and, therefore, he should be looked upon as a purchaser."

30. In the opinion of the Court, the aforesaid argument of learned counsel for the petitioner does not stand to merit since Clause 9 (6) of the Bye-Laws is specific and unambiguously provides that the

President of the Society shall continue to hold the Office during his lifetime, and he shall appoint or nominate someone as President who is authorized to discharge all the powers of the President of the Society, and in case, no nomination/appointment has been made by the President during his lifetime, his eldest son or senior most son would become the President of the Society.

31. Clause 9 (6) of the Bye-Laws which is the edifice of the claim of the respondent was not placed before the Court in Civil Misc. Writ Petition No.20536 of 1990. There was no issue before the Court as to whether Clause 9 (6) of the Bye-Laws of the Society was against the Act/Statute of the University, and therefore, the same is liable to be struck down or declared invalid.

32. In Civil Misc. Writ Petition No.20536 of 1990, the dispute revolved around only in respect to the validity of the order dated 02.08.1990 passed by the Vice Chancellor which was passed on the basis of the compromise entered into between the parties and the Vice Chancellor after noting the compromise between the parties passed the order, this Court did not record any finding as to whether Clause 9 (6) of the Bye-Laws of the Society is against any Statute or any provision of law.

33. Since the aforesaid dispute was not before the Court in Civil Misc. Writ Petition No.20536 of 1990, therefore, the finding returned by this Court in the judgement passed in Civil Misc. Writ Petition No.20536 of 1990 will not be binding upon the parties more so when Clause 9 (6) of the Bye-Laws specifically provides that the President of the Society shall be the President of the Society life long and validity of such Clause has not been assailed by the petitioner in the writ petition. In such view of the fact, the finding returned by the Prescribed Authority on Issue No.1 that the Manager of the Society Ram Chandra Pandey of which Vijay Kumar Dubey was the President had the authority to call the meeting for the election to be held on 05.03.2006 does not warrant any interference by this Court.

34. So far as the finding about the claim of the petitioner returned by the Prescribed Authority on Issue No.1 that the petitioner by changing the name of the Society has submitted the election and his name does not find place in the record submitted by Suryamani Dubey is a finding of fact, which cannot be interfered by this Court unless it is demonstrated that the same is perverse or against the record. In such view of the fact, this Court does not find any error committed by the Prescribed Authority in deciding Issue No.1.

35. So far as Issue No.2 is concerned, the Prescribed Authority has recorded a categorical finding that no dispute had been raised about the Members of the Society, accordingly, it returned a finding that all the persons who participated in the election are the valid Members of Society. The finding on Issue No.2 is also a finding of fact and does not call for any interference by this Court under Article 226 of the Constitution of India.

36. So far as Issue No.3 is concerned, the Prescribed Authority has recorded a categorical finding that the record reveals that the quorum was complete for convening the meeting for taking a decision for holding the election. It further held that all the Members of the Society had been given prior notice of 15 days before holding the election, and 40 members out of 51 members had participated in the election. The finding returned by the Prescribed Authority on Issue No.3 is based

upon proper appreciation of evidence and material on record.

37. Now, so far as the contention of the learned counsel for the petitioner that the Prescribed Authority has erred in law in entering the dispute with respect to subsequent election as he was referred the dispute of the election of 2006 is concerned, this Court does not find any substance in the said argument inasmuch as the Prescribed Authority after recording a categorical finding that the election of the respondent dated 05.03.2006 is legal and in accordance with law has held that the subsequent election of the Committee of Management has also been held in accordance with law. Therefore, this Court finds that the Prescribed Authority has not travelled beyond the reference inasmuch he has categorically recorded a finding about the election of 2006, and in such view of the fact, the judgment of this Court relied upon by the learned counsel for the petitioner of this Court in 2007 (3) AWC 3066 (All) Mehendi Hasan and Ors. Vs. State of U.P. and Ors. is not applicable in the facts of the present case.

38. Since this Court has held above that the Prescribed Authority has not committed any illegality in recording the finding on the issues framed by this Court in the judgement dated 03.05.2012, therefore, this Court is of the view that the writ petition lacks merit and deserves to be dismissed.

39. Consequently, the writ petition is dismissed with no order as to costs.

Order Date :- 3.3.2025 NS