

# **C/M Lucknow Intermediate College Thru. ... vs State Of U.P. Thru. Secy. Secondary ... on 2 January, 2025**

**Author: Manish Mathur**

**Bench: Manish Mathur**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:130

Court No. - 19

Case :- WRIT - C No. - 5087 of 2024

Petitioner :- C/M Lucknow Intermediate College Thru. Manager Shri Sarvjit Singh And 2 Others

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko. And 2 Others

Counsel for Petitioner :- Som Kartik Shukla,Ravindra Kumar Ravi,Som Kartik Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard Mr. Som Kartik Shukla, learned counsel for petitioners and learned State Counsel for opposite parties.
2. Petition has been filed challenging order dated 12.04.2024 passed by the Regional Committee whereby election to the Committee of Management of the College has been unapproved and held illegal.
3. Further prayer for a direction to opposite parties to recognize the Committee of Management elected on 08.12.2019 and to attest signature of one Sarvjit Singh as Manager alongwith other

concomitant prayers have also been made.

4. Learned counsel for petitioners submits that earlier as well, petitioners had filed Writ Petition Nos.1884 (M/S) of 2020 and 17594 (M/S) of 2021 in which directions were issued vide order dated 29.09.2021 as modified in review vide direction dated 22.11.2021 and in Special Appeal No.501 of 2021 which was disposed of vide order dated 10.12.2021 referring the matter to concerned authority with regard to attestation of signatures of Members of Committee of Management and its Manager in terms of the Government Order dated 20.10.2008. It is submitted that the impugned order has been passed in pursuance of such directions which have been issued.

5. It is submitted that a perusal of impugned order will make it evident that attestation of signatures in pursuance of elections held by the petitioners' Committee of Management have been rejected primarily on grounds that the same were conducted without the presence of an observer nominated by the Office of District Inspector of Schools or even in the presence of the Ex officio Member being the Principal of the Institution. It is submitted that various other factors pertaining to financial irregularities and monopoly of a particular family have been cited as reasons for rejection of the application for verification of signature.

6. Learned counsel however submits that the impugned order has completely ignored Clause 11 of the approved scheme of administration which specifically provides authority to the Management to conduct Election to the Committee of Management even in the absence of an observer required to be provided by authorities. It is submitted that the impugned order also does not mention as to whether the presence of the Ex officio Member being the Principal of Institution was a mandatory or merely a directory condition. He further submits that even the financial irregularities cited in the impugned order pertained to the erstwhile Committee of Management, which would have no relevance or bearing with regard to the present Elections and the Committee of Management elected in pursuance thereof. It is therefore submitted that the impugned order has been passed without any cogent reasoning or indicating violation of any scheme of administration of the College.

7. Learned State Counsel has refuted submissions advanced by learned counsel for petitioners and places reliance on the counter affidavit filed with the submission that the scheme of administration of the College clearly prohibits creation of a monopoly in favour of any particular person, caste, faction or family and since a number of persons from the same family of petitioners are included in the Committee of Management, such election was against the approved scheme of administration of the College. It is also submitted that the impugned order clearly indicates financial irregularities at the instance of Committee of Management and non-adherence to directions issued from time to time by the authorities.

8. It is also submitted that the elections in question held by Society were without following due procedure as required by approved scheme of administration of the College inasmuch as neither any observer from the Office of District Inspector of Schools was present nor was the Ex officio Member being Principal of Institution was present. It is therefore submitted that since there were various irregularities, the impugned order has been rightly passed.

9. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, it is evident that impugned order has been passed rejecting applications submitted by Committee of Management regarding verification of signature of the Manager said to have been elected in the Elections held on 08.12.2019. The order impugned gives various reasons for rejecting the application for verification of signatures. Two of the reasons being that the elections were conducted in the absence of observer to be nominated by District Inspector of Schools and also in the absence of the Ex officio Member of Committee being the Principal of the Institution.

10. So far as the first ground is concerned, learned counsel for petitioners had adverted to Clause 11 of the approved seen of administration whereby Management has been granted authority to conduct elections for a new Committee of Management even in the absence of observer to be provided by authorities. That apart, it is also indicated by this Court in the order dated 17.12.2024 in the following manner:-

"In terms of directions issued earlier, learned State Counsel has been provided written instructions dated 16th December, 2024 in which it has been admitted that letter sent by the management dated 6th November, 2019 for providing an observer for purposes of conduct of election of committee of management was received by the authority concerned on 8th November, 2019 but the observer could not be provided for various reasons.

Learned counsel for petitioner has adverted to Clause 11 of the approved scheme of administration to submit that the management has been granted authority to conduct elections to the committee of management even in absence of observer to be provided by the authorities.

In view thereof, the aspect as to the consequence of observer not being provided by the opposite parties in the light of scheme of administration requires consideration.

List this case on 2nd January, 2025 as fresh. "

11. The said instructions clearly admits the fact that the letter dated 06.11.2019 was sent by the Management to District Inspector of Schools for purposes of providing an observer.

12. Learned State counsel on the basis of instructions received subsequently has admitted that the letter dated 06.11.2019 was in fact received in the Office of District Inspector of Schools. In such circumstances, in the considered opinion of this Court, opposite parties cannot be permitted to take advantage of their own wrong since they were under an obligation to provide an observer once request for same was received by them.

13. So far as the second ground is concerned, neither the impugned order nor the counter affidavit indicate whether presence of the Principal of Institution as Ex officio Member of the Committee was a mandatory condition for elections to the new Committee of Management to be held or whether it was merely directory. The order does not indicate any statutory provision or any provision in the

scheme of administration of the College with regard to same.

14. It is also evident that although the ground has been taken by opposite parties pertaining to provisions of scheme of administration of the College which prohibit a monopoly being created by any particular person, faction or family, there is absolutely no mention either in order or even in the counter affidavit as to how the petitioners' family or faction creates a monopoly in the Committee of Management. There is absolutely no discussion as to the number of Members in the Committee of Management required as per the approved scheme of administration and number of Members elected in the new Committee from which it can be said that they constitute a monopoly.

15. The aspects of financial discrepancies indicated in the impugned order also appear to pertain to the erstwhile Committee of Management and obviously would not relate to a new Committee of Management particularly the signatures of whom have not yet been attested. The mere continuation of earlier Members of the Committee of Management in the New Committee of Management does not indicate any continuation of the Committee of Management which is a New Body altogether once subsequently elected. This aspect has also not been considered in the impugned order.

16. In view of aforesaid discussion, it is evident that the impugned order while indicating various discrepancies has failed to indicate violation of any statutory provision or even any clause approved scheme of administration of the College with regard to election that has been held.

17. In such circumstances, it would be appropriate that the authority concerned should revisit the issue.

18. In view of aforesaid, impugned order dated 12.04.2024 is hereby quashed by issuance of a writ in nature of Certiorari with a further direction to the opposite party no.2 i.e. Chairman Joint Director of Education, Regional Committee, VIth Region, Lucknow to revisit petitioners' application for recognition of the election held on 08.12.2019 particularly in view of statutory provisions and clauses of approved scheme of administration. This order is being passed for re-examination on the ground that the Committee of Management is said to continue for a period of five years and it is on an extension of further one month in terms of scheme of administration of the College with regard to the election.

19. Opposite party no.2 i.e. Chairman Joint Director of Education, Regional Committee, VIth Region, Lucknow is directed to take a decision with regard to aforesaid aspects expeditiously within a period of three weeks from the date a certified copy of this order is severed upon the said authority.

20. In view of aforesaid, the petition succeeds and is allowed. Parties to bear their own costs.

Order Date :- 2.1.2025 Subodh/-