

Shyam Lal Yadav and Others

Vs.

Smt. Kusum Dhawan and Others

Civil Appeal No. 1027 of 1978

(V. R. Krishna Iyer, P. S. Kailasam, A.D. Koshal JJ)

10.11.1978

JUDGMENT

Krishna Iyer, J. -

1. We have no alternative but to allow this appeal which has come up by special leave. A brief narrative of fasciculus of facts is necessary to appreciate why the appeal must be allowed.

2. The appellants represent the managing committee of a private college by name Lal Bahadur Shastri Girls' Inter College, Mugalsarai. At a meeting held on February 13, 1978 the said committee considered the alleged misconduct of respondent 1, the Principal Srimati Kusum Dhawan and found that it was sufficiently serious to warrant an enquiry and suspension forthwith. Consequently, she was suspended subject to further enquiry. The said suspension order was confirmed by the Regional Inspectress of Girl's Schools, Varanasi, a statutory functionary under the U. P. Intermediate Education Act, 1921. Smarting under the suspension, the Principal moved the Civil Court for an injunction against the management and obtained an ex parte order restraining the appellant-management from interfering with her work as the Principal. This order was promptly rescinded when the appellant explained the facts to the trial Court. Thereupon, the aggrieved Principal appealed to the district court with success. The frustrated management filed a second appeal to the High Court which passed the order under challenge before us. The High Court held, for reasons which are obscure, that while the management had the legal title to manage, the Principal should not be prejudiced by the suspension order to manage, the Principal should not be prejudiced by the suspension order and so should be allowed to function. That is to say, while upholding the power of the management to suspend, the court, nevertheless, prevented it from exercising their power.

3. It is apposite to state that there was some rivalry between two sets of persons regarding the right to be the Managing Committee. According to the appellants they were duly elected to power, while the opposite group contested this claim. Indeed, there is a litigation at their instance challenging the right of the appellant-committee. Although this rival group is a party to the present proceedings, we are not concerned with the relative merits and the competing claims of the two sets of persons who have clashed on the issue of the right to manage. The only question before us is as to whether there is a prima facie case in favour of the appellant as the competent management and further whether there is prima facie ground to hold that order of suspension imposed upon the Principal is legal. Moreover, there is an important obstacle in the way of the Principal is legal. Moreover, there is an important obstacle in the way of the Principal which has not been adequately understood by the courts below. The suit itself is barred by Section 16-G(7) of the Act which reads :

No such order of suspension shall, unless approved in writing by the Inspector, remain in

force for more than sixty days from the date of commencement of the Uttar Pradesh Secondary Education Laws (Amendment) Act, 1975, or as the case may, from the date of such order, and the order of the Inspector shall be final and shall not be questioned in any Court.

The High Court held

that since the election of the defendants-applicants has been approved by the Regional Inspectress of Girl's Education, Varanasi, the defendants-applicants would be entitled to manage the affairs of the college.

Once this finding stands vis-a-vis the Principal, the inference inevitably follows that it has the power to take disciplinary action against the employees of the college including the Principal. In this view the resolution of the Managing Committee directing an enquiry "into the case and action and most improper behaviour on the part of the Principal" is within its power. Equally, the decision "that the Principal be kept suspended till the end of the enquiry" is also prima facie good. It is impossible, therefore, to understand how the High court could, consistently with its finding that the appellant-committee was "entitled to manage the affairs of the college", interfere with such management by granting an injunction in favour of the suspended Principal. A search for the basis of this finding by the High Court is fruitless because all that is mentioned is "Smt. Kusum Dhawan was admittedly working as the Principal of the college. It is, therefore, not appropriate to interfere with the order of the court below which restrained the defendants-applicants from interfering in the discharge of the duties by Kusum Dhawan as Principal. As a matter of fact, it appears to me that Srimati Kusum Dhawan would suffer uncompensatable disadvantages if the operation of the order was not stayed at this stage." Assuming that she was working as Principal, how is it right for a court to interfere with the action of the management against its employee by way of an ad interim injunction unless there was a strong prima facie case that the action was illegal ? How is it a valid ground to grant an injunction merely because the suspended Principal "would suffer uncompensatable disadvantages if the operation of the order (of suspension) was not stayed ?". For, by every suspension the alleged delinquent will sustain some disadvantage. Does that justify the court coming in the way of the internal management of a college, club or other like enterprise ? It will be strange jurisprudence which will paralyse autonomous bodies if courts can intervene on some ipse dixit to undo acts of internal management against employees especially when the power of the employer is made out. Moreover, there is the fact that prima facie, the order of suspension has been found to be good by the Regional Inspectress of Girls' Education, Varanasi. On top of all these is the statutory provision contained in Section 16-G which expressly lends finality to the order of the Inspector and forbids its validity being questioned in any court. Without holding finally on this interdict, we regard this a prima facie bar unless jurisdictional deficiency in the appellant-committee is made out.

4. We find it difficult to resist the request of the appellant that the High Court's order be reversed. We do so. However, we make it perfectly clear that the contest in this litigation is between the appellant-managing committee and the first respondent-Principal. The members of the rival Managing Committee have instituted a separate suit, we are told. Nothing stated by us in this judgment will, any way, prejudice their rights and contentions. We must also make it clear that the proceeding which has reached this Court is an interlocutory application. Any other proceeding in the suit or the trial of the issues in the suit should not be taken to have been pre-judged by us in the observations we have made. This caution will sufficiently protect the first respondent-Principal in agitating her rights, if any, before the courts below or the educational authorities under the Act.

5. We allow the appeal and vacate the injunction but in the circumstances direct the parties to bear their respective costs. We superadd the direction that the urgency of the case merits early disposal of the suit itself by the trial Court.

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