

Nand Deo Pande

Vs

Committees of Management and Other

Civil Appeal No. 5319 of 1990

(S. Ranganathan, S.C. Agarwal JJ)

12.11.1990

JUDGMENT

1. Leave granted. We have heard counsel for both the parties and proceed to dispose of the appeal as the point involved is a short one.

2. The petitioner was the Principal of the Pt. Jawaharlal Nehru Uchchar Madhyamik Vidyalaya. The Committee of Management of the Vidyalaya served a notice suspending the petitioner for certain alleged irregularities and referred the matter to the District Inspector of Schools for approval under the U. P. Intermediate Education Act, 1921. The District Inspector, however, found that the Managing Committee had ceased to be valid due to non-renewal of the registration of the society and non-holding of periodical elections and that a dispute regarding the society was pending before the Sub-Divisional Magistrate, Gola, Gorakhpur under the provisions of the Societies 'registration (U.P. Amendment) Act, 1960. He, therefore, declined to grant approval to the suspension order.

3. We are also informed that a similar inquiry is pending before the Deputy Director of Education under the U. P. Education Act.

4. The Committee of Management filed a writ petition against the order of the District 11 Inspector of Schools refusing to approve the suspension of the petitioner. The High Court did not go into the question of the validity or otherwise of the impugned order. It thought that the best solution to the problem would be to direct the management to conclude the disciplinary proceedings initiated against the petitioner within a stated time and at the same time permit the petitioner to draw his full salary month by month till the proceedings were concluded. The writ petition was disposed of accordingly.

5. The petitioner has preferred this appeal. His complaint is that, while he was not shirking any inquiry, such an inquiry could not be conducted by the respondent-committee of management which was not a validly constituted committee of management. He submits that until the issue of the validity of the committee is decided either by the Sub divisional Magistrate or by the Deputy Director of Education, disciplinary proceedings cannot be continued against him by the respondent committee. On the other hand, Mr. Jain submits that the petitioner is due to retire in a very short time and that he should not be allowed to evade the inquiry by the respondent on technical pleas.

6. We are of the opinion that the petitioner is certainly entitled to urge that the committee which is proceeding to inquiry into his conduct should be the properly constituted committee of management

of the Vidyalaya. Since this issue is pending before the Sub-divisional Magistrate and the Deputy Director of Education (D.D.E), we direct the Sub-Divisional Magistrate and D.D.E. to proceed with the inquiry before them and complete the same within one month from today. Thereafter, the committee held to be the properly constituted committee of management will be at liberty to continue the proceedings of inquiry against the petitioner. In the meantime, the inquiry initiated by the present committee of management will stand stayed. We do not, however, interfere with the order of the High Court that the petitioner should continue to be paid his full salary and allowances since the order for his suspension had not been approved by the education department.

7. Counsel for the committee of management states that he has no objection if the disciplinary inquiry against the petitioner is carried out by a nominee of the Deputy Director of Education. The petitioner has also no objection to adopt this course of action. We direct, therefore, that irrespective of the proceedings before the Sub-divisional Magistrate and the D.D.E., it will also be open to the Deputy Director of Education to nominate some officer to conduct the disciplinary inquiry against the petitioner. If this course is adopted, the inquiry proceedings should be completed expeditiously.

8. With these directions, this appeal is disposed of. There will be no order as to costs.

Order accordingly.

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