

SUPREME COURT OF INDIA

Virendra Dhar Tripathi

Vs.

State of U.P.

C.A.Nos. 5969-5971 of 2001

(B.N. Agrawal and G.S. Singhvi JJ)

18.03.2009

ORDER

1. Heard learned counsel for the parties.

2. By an order dated 20.09.1999 learned Single Judge of the High Court disposed of Writ Petition No. 2381 (MS) of 1999, Writ Petition No. 591 (MS) of 1999 and Writ Petition No. 43(MS) of 1999, first two of which were filed challenging the actions of the District Inspector of Schools, Pratapgarh in the matter of election to the Managing Committee of the society which was running Beni Madhav Junior High School, Siloudhi, District Pratapgarh and the third one was filed for quashing communication dated 17.10.1974. The learned Single Judge opined that it will be appropriate to relegate the matter to the Prescribed Authority under Section 25 of the Societies Registration Act, 1860 (for short 'the Act') to determine the question of membership as well as validity of the election held on 4.9.1999. The learned Single Judge also directed that if the Prescribed Authority comes to the conclusion that the election was based on valid list then the elected committee shall be continue else the matter be referred to the Registrar/District Inspector of Schools for holding the election.

3. In compliance of the direction given by the learned Single Judge, the Prescribed Authority cum Deputy District Magistrate, Lalganj, Pratapgarh passed orders dated 28.10.1999 and 30.10.1999. By the first order, he declared the election of Shri Ram Swaroop Bharti as President of the society is illegal. By the second order, the Prescribed Authority held that the valid list of voters comprises of 68 persons and directed that the same be forwarded to District Inspector of Schools, Pratapgarh and Deputy Director, Allahabad for holding elections of the Managing Committee.

4. The order of the learned Single Judge was challenged in Special Appeal No. 455 (MS) of 1999 and two orders passed by the Prescribed Authority were challenged in Writ Petition No. 3326 (MS) of 1999 and Writ Petition No. 3232 (MS) of 1999. The Division Bench did not examine the correctness or otherwise of the direction given by the learned Single Judge and legality of the consequential orders passed by the Prescribed Authority and disposed of the

special appeal and writ petitions by directing the Registrar Societies to first determine the membership of the society after examining the records and giving an opportunity to the parties concerned and thereafter hold election of the Society in accordance with Section 25 of the Act. In our view, in the facts and circumstances of the case, the Division Bench should have decided the issues raised in the special appeal and writ petitions on merits. Since that has not been done, the impugned order is liable to be set aside.

5. Accordingly, the civil appeals are allowed, the impugned order of the Division Bench of the High Court is set aside and the matter is remanded for decision of the special appeal and writ petitions on merits in accordance with law. The Division Bench of the High Court shall now hear the parties and decide the issues raised in the special appeal and writ petitions. Since, the matter has remained pending for a long time, the High Court is requested to dispose of the cases within six months from the date of receipt/production of this order. It is also directed that till the disposal of the cases by the High Court, the concerned Sub-Divisional Magistrate shall continue to exercise the financial and administrative control over the Society.

No costs.

Cont. Pet (C) Nos.318-320/2000 in C.A.Nos.5969-5971/2001 and
Cont. Pet (C) Nos.130-132/2001 in C.A.Nos.5969-5971/2001:

The contempt petitions have become infructuous and are accordingly disposed of.