2025:AHC:190332

AFR
Reserved on 27.10.2025
Delivered on 30.10.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 7665 of 2022

Mohammad Sajid Khan and another

.....Petitioner(s)

Versus

State of U.P. and 5 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Prabhakar Awasthi, Rajvendra Singh, Sr. Advocate
Counsel for Respondent(s)	:	Adarsh Singh, C.S.C., Indra Raj Singh, Kailash Nath Singh, Kailash Singh Kushwaha, Mohd. Saeed Siddiqui, Pranav Mishra

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Along with
WRIT - A No. 11878/2022
WRIT - A No. 17222/2022
WRIT - A No. 17697/2022

Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Petitioners were appointed at respondent Madarsa namely Madarsa Quraniya, Gopalpur Shahri, Jaunpur and respective financial approval was also granted by the Registrar, U.P. Madarsa Shiksha Board **(for short "Madarsa Board")** with few conditions. Relevant Conditions No. 6 and 7 are quoted below :-

> *"6.* यह सुनिश्चित कर लिया जाये कि प्रबंध समिति एवं प्रधान के प्रतिबंधित संबंधी नही है।

7. चयन/नियुक्ति के समय प्रबंध समिति अविवादित थी और किसी न्यायालय में प्रबंध समिति का कोई प्रकरण लम्बित नही है।"

2. Admittedly a dispute of rival Committee of Management of concerned Madarsa has reached up to this Court earlier and orders were also passed. Details of same are mentioned in subsequent paragraphs.

3. A complaint was made in regard to appointments of petitioners in the month of May, 2021 that between 20.01.2017 and 24.02.2018, when there was no Committee of Management of concerned Madarsa, therefore, any appointment or a process to forward papers for financial approval during said period would be illegal and consequently orders of granting financial approval were also illegal since said fact was not brought into the notice of concerned State-Respondent.

4. An inquiry was accordingly conducted and a report dated 09.03.2022 was submitted by Madarsa Board that there was no illegality in appointment of petitioners. Meanwhile, a fresh complaint was made to Chief Secretary, Minority Welfare and Department of Waqf, Government of U.P. in month of February/March, 2022 that appointment of petitioners were contrary to law and by the impugned order dated 20.04.2022 and upon a detailed inquiry financial approval granted to petitioners' appointment were revoked mainly on above referred ground. The said order is impugned in present writ petitions. Committee of Management of concerned Madarsa has not challenged the same.

5. In writ petitions, Respondent-4 is the newly constituted Committee of Management.

6. For adjudication of present cases, following dates and events would be relevant :-

(i) The dispute of Committee of Management of concerned Madarsa has reached up to this Court, when a challenge was made to a resolution that Afzal Ahmad (the then Manager) was unable to discharge his duties as Manager of said Madarsa and was expelled as well as that the then Deputy Manager and Vice President were also expelled and resolutions were approved by an order passed by the Assistant Registrar.

(ii) This Court in Writ C No. 3156/2016 has set aside the above referred impugned order vide judgment dated 16.02.2016 and relevant part thereof is quoted below :-

> *"10. As noted above, a specific finding has been entered in the impugned order that the petitioners failed to prove that Afzal Ahmad was incapacitated in discharging duties attached to his office. On the other hand, as a matter of fact, it was found that he had been discharging his duties as Manager. In such view of the matter, in the opinion of the Court, the Assistant Registrar was fully justified in going into the question whether any vacancy on the part of Manager came into existence or not. On a specific query posed by the Court to the counsel for the petitioner as to whether there is any provision under the bye-laws, whereunder if an office bearer had fallen ill, it would give rise to a vacancy or the same would incur a disqualification, so as to warrant his expulsion, he very fairly admitted that there is no such provision. He has also not assailed the finding recorded in the impugned order that under the bye-laws it is only the Manager who is competent to issue agenda and convene a meeting. In such view of the matter this court does not find any illegality in the findings rendered in the impugned order discarding the proceedings set up by the petitioners as sham or paper transaction.*
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> *11. The other aspect of the matter is relating to the validity of proceedings set up by the second*

respondent dated 25.4.2015, whereunder the Deputy Manager and Vice President were allegedly expelled and well as the proceedings dated 5.5.2015 in which these posts were filled up. A perusal of the impugned order shows that after considering the case of the petitioners, the order concludes by directing that necessary action be taken on the papers submitted by the second respondent, without going into the question whether the removal of the second petitioner from the post of Deputy Manager and that of Vice President was in consonance with the provisions of the bye-laws and whether a dispute of such nature requires to be referred to the Prescribed Authority. Sri G.K. Singh, learned senior counsel very fairly conceded that in the order impugned there is no such finding and therefore suggested that the Assistant Registrar may be permitted to pass fresh order on the said aspect.

12. Accordingly, the impugned order of the Assistant Registrar, in so far as it fails to consider the validity of the proceedings set up by the second respondent dated 25.4.2015 and 5.5.2015 and further directs for taking action on the basis of the documents submitted by the second respondent cannot be sustained and is hereby quashed. The first respondent is directed to re-consider the said aspect of the matter after giving opportunity of hearing to the parties.

13. The writ petition stands allowed to the extent indicated above. No order as to costs. ”

(iii) In pursuance of above order, Additional Registrar, Madarsa Board passed an order dated 19.12.2016 whereby list of office bearers submitted by Management through the then Manager, Afzal Ahmad for year 2016-17 was found to be valid and an order was passed for its registration.

(iv) Aforesaid order was challenged before this Court in Writ C No. 3010/2017 and said order was set aside and writ was allowed vide order dated 20.01.2017. For reference, relevant part of order is quoted below :-

“Heard learned counsel for the parties.

Sri V.K.Singh, learned senior counsel, assisted by Sri Kailash Nath Singh has put in appearance on behalf of second respondent.

The petition is directed against the order dated 19 December 2016, passed by first respondent, Assistant Registrar, Firms, Societies and Chits, Varanasi, whereby, the first respondent has registered the respondent committee of management.

Learned counsel for the petitioner would submit that the impugned order is a cryptic order and has been passed without hearing the petitioner. This fact is not being disputed by the learned senior counsel, appearing for the second respondent.

It is sought to be urged that the matter be remitted to the first respondent for a decision afresh.

In regard thereto, the writ petition is disposed of finally, on consent, with direction to the first respondent, Assistant Registrar, Firms, Societies and Chits, Varanasi to pass a fresh speaking and reasoned order after giving opportunity of hearing to the parties. It is expected that the order shall be passed, expeditiously, preferably, within two months from the date of filing of a certified copy of this order.

The impugned order dated 19 December 2016 is set aside and quashed.

No costs."

(v) Consequence of above order would be that w.e.f. 20.01.2017, there was no Committee of Management of concerned Madarsa, therefore, Afzal Ahmad the then Manager has no power to appoint any petitioner or to forward any paper for financial approval subsequent to said date.

(vi) Subsequently, a fresh order was passed by Registrar on 24.02.2018 whereby the then Committee of Management (Manager being Afzal Ahmad) was found to be a legally elected committee and list of office bearers

was recognized. Relevant part of order dated **24.02.2018** is quoted below :-

> "पत्रावली में उपलब्ध प्रपत्रों के परीक्षण से पाया गया कि श्री फहीम अहमद जो कि संस्था के किसी कोटि के सदस्य तक नहीं हैं, स्वयं एजेण्ड़ा जारी करते हुए दिनांक *24.05.2017* को चुनाव कराया जाना प्रदर्शित किया है. जबकि उनकी कमेटी आउटगोइंग कमेटी नहीं है और न ही वे संस्था के किसी कोटि के सदस्य ही है। जो व्यक्ति संस्था का सदस्य तक नहीं है वह संस्था में सेक्रेटरी / प्रबन्धक कैसे हो सकता है? उनके द्वारा प्रस्तुत की गयी चुनाव सम्बन्धी सारी प्रक्रियाएं अविधिक एवं नियमावली के विपरीत होने के कारण ग्राह्मयोग्य नहीं है और न ही उसे विधिमान्य किया जा सकता है। ऐसी स्थिति में श्री फहीम अहमद द्वारा प्रस्तुत चुनाव सम्बन्धी कार्यवाही नियमावली के अनुरूप न होने के कारण निरस्त किये जाने योग्य है, जिसे निरस्त किया जाता है।
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> श्री अफजाल अहमद बतौर सेक्रेटरी / प्रवन्धक की हैसियत से अपने आवेदन पत्र के साथ चुनाव की कार्यवाही दिनांक *25-05-2017*, चुनाव अधिकारी नियुक्त करने सम्बन्धी प्रस्ताव, चुनाव के सम्बन्ध में सदस्यों को सूचना भेजे जाने सम्बन्धी प्रमाण पत्र यथा पोस्ट आफिस के रसीद की छायाप्रति, समाचार पत्र में प्रकाशन की प्रति, चुनाव में साधारण सभा के जीवित *86* सदस्यों में से *54* सदस्यों ने भाग लिया है, जिनके हस्ताक्षर की छायाप्रति एवं चुनाव कार्यवाही दिनांक *25-05-2017* के साथ साधारण सभा के सदस्यों की सूची एवं प्रवन्ध समिति की सूची वर्ष *2017-18* प्रस्तुत करते हुए पंजीकृत करने का अनुरोध किया। संस्था में निर्विवादित प्रबन्ध समिति का पिछला चुनाव दिनांक *25-05-2012* को हुआ था, जिसमें श्री अफजाल अहमद की प्रबन्ध कमेटी चयनित हुई थी, जिसका कार्यकाल *05* वर्ष था। कार्यकाल समाप्त होने पर अगला चुनाव कराने का अधिकार आउटगोइंग कमेटी श्री अफजाल अहमद को है और उन्हीं के द्वारा संस्था के प्रबन्ध समिति का अगला चुनाव दिनांक *25-05-2017* को संस्था के पंजीकृत नियमावली के अनुसार कराकर चुनाव सम्बन्धी सारे प्रपत्र कार्यालय में प्रस्तुत किये गये हैं।
>
> पत्रावली पर उपलब्ध अभिलेखों के अनुसार कार्यालय आदेश दिनांक *09-09-2016* को किसी के

द्वारा भी, कहीं कोई चुनौती नहीं दी गयी है। माननीय उच्च न्यायालय के आदेश दिनांक *16.02.2016* तथा कार्यालय आदेश दिनांक *09.09.2016* के अनुपालन में निर्वाचन दिनांक *25.05.2017* में चयनित प्रबंधक श्री अफजाल अहमद के संस्थआ प्रबंधक होने का तथ्य पुष्टित होता है।

अतः पत्रावली में उपलब्ध प्रपत्रों एवं चुनाव सम्बन्धी प्रपत्रों के परीक्षण करने पर पाया गया कि श्री अफजाल अहमद द्वारा प्रस्तुत चुनाव सम्बन्धी प्रपत्र संस्थआ के नियमावली के अनुरूप होने के कारण स्वीकार योग्य है। सा०रजि०एक्ट की धारा *4*क के अन्तर्गत श्री अफजाल अहमद द्वारा प्रस्तुत प्रपत्रों पर नियमानुसार कार्यवाही किये जाने के आदेश दिये जाते है।

माननीय उच्च न्यायालय, इलाहाबाद में योजित या०सं० *3010/2017* में पारित आदेश दिनांक *20.01.2017* के अनुपालन में प्रकरण का निस्तारण किया जाता है।"

(vii) The effect of above order would be that the Committee of Management as existing before **20.01.2017** became operative w.e.f. **24.02.2018**, however, admittedly between **20.01.2017** and **24.02.2018**, there was no valid committee.

(viii) In the impugned order, on basis of above reference and factual findings, appointment of petitioners and order to grant financial approval of petitioners were found illegal.

7. This Court vide a detailed interim order dated **19.05.2022** has granted stay of impugned order with a direction that petitioners shall be paid their respective salaries. Contempt proceedings were initiated on a ground that referred order was not complied.

8. Sri Prabhakar Awasthi, learned counsel for petitioners has not disputed above referred facts i.e. order dated

16.02.2016 passed by this Court, order dated 19.12.2016 passed by Registrar, Madarsa Board, order dated 20.01.2017 passed by this Court and order dated 24.02.2018 passed by Registrar, Madarsa Board.

9. Learned counsel for petitioners has submitted that petitioners were effective parties, therefore, they were required to be heard but undisputedly, no notice was issued to them before the impugned order was passed.

10. Learned counsel for petitioners further submitted that in earlier inquiry conducted by Registrar, Madarsa Board, same complaint was found baseless and appointment of petitioners and order of financial approval were found to be legal, therefore, there was no legal justification to take a contrary view in fresh inquiry.

11. Once the Committee of Management (Manager being Afzal Ahmad) who has appointed petitioners and has send papers for financial approval were found subsequently to be a legal Committee, therefore, it's effect would be that it would be deemed to be remained in operation between 20.01.2017 and 24.02.2018 and any act done in between would also be justified. Learned counsel has placed reliance on **Committee of Management, Vidyawati Higher Secondary School Vs. Assistant Registrar Firms, Societies and Chits reported in 2005(2) AIILR 10.**

12. Per contra, Sri Manish Goyal, learned Senior Advocate/Additional Advocate General assisted by S/Sri Rajeshwar Tripathi, learned C.S.C., A.K. Goyal, learned Additional C.S.C. appearing for Respondents – 1, 2, 3 and 5 as well as Sri Pranav Mishra, Advocate for Respondent-4, have supported the impugned order.

13. They have submitted and also mentioned in written submissions submitted by the State that:-

(a) The Selection Committee was not validly constituted particularly in view of the fact that there was no Manager in the Institution and as per the Rules no substitution on the post of Manager is permissible. Moreover, the person claiming himself to be the Manager and who in fact signed as Manager unequivocally represented to the Inspector/Registrar, U.P. Madarsa Education Board, Lucknow by filing an affidavit on **10.03.2017** stating that he is Manager and there is no dispute relaing to the managerial affairs of the Institution i.e., pending before any Court.

(b) There is no continuity in the Management once the dispute has traveled up till this Hon'ble Court and the matter has been remitted not once but twice and was pending consideration with the Assistant Registrar, Firms, Societies and Chits, Varanasi at the time of the appointment of the petitioners. As such the case law relied upon by the petitioner in the matter of **Committee of Management, Vidyawati Higher Secondary School Vs. Assistant Registrar Firms, Societies and Chits reported in 2005(2) AIILR 10** will not be applicable.

(c) The reliance placed upon by the learned counsel for the petitioner in the decision of **Committee of management A.K. College, Shikohabad Vs. State of U.P. and others, 2000(1) AWC 792** is distinguishable inasmuch as it's Paragraph-35 clearly states that Office Bearers of

the Committee of management does not continue indefinitely.

(d) In the present matter the list of Office Bearers remained in dispute on account of which the Committee of Management came in dispute which means orders cannot be executed and policy decision could not be taken. Moreover, the decision of this Court in **A.K. College (Supra)** does not address the issue in hand as it does not deal with the consequences and impact of Section 4B of the Societies Registration Act, 1860. Section 4B came on the Statute Book by U.P. Act No. 23 of 2013.

(e) They have relied upon the decision in the matter of **Jainendra Singh Vs. State of U.P. and others, 2012(8) SCC 748** wherein the Supreme Court after taking into account various precedents has clarified the law by formulating the cardinal principles on the order of appointment obtained fraudulently or through suppression of facts.

14. I have heard learned counsel for parties and perused the material available on record.

15. In the present cases, petitioners, who are Teachers, appointed in Madarsa concerned and financial approval was also granted, are before this Court.

16. The reason assigned in impugned order to set aside the financial approval was that at relevant time there was no valid Committee of Management of Madarsa concerned. The effective party who could show that the findings were incorrect or wrong was the Committee of Management.

However, they have not approached this Court. Probably petitioners have no lis to the dispute since it is between Committee of Management and concerned respondents who have passed orders as well as it would be outcome of orders passed by this Court in earlier round of writ petition. Still since an interim order is passed, therefore, ignoring the issue of locus, the Court has proceeded to decide these matters on merit with observation that an argument of compliance of principle of natural justice that petitioners were not heard, has no legal basis since the dispute was not with regard to any qualification of petitioners. The dispute was with regard to jurisdiction of Manager to appoint or to forward the papers for financial approval, therefore, there was no mandatory requirement to hear the petitioners before the impugned order was passed.

17. In the preceding paragraphs of this judgment some dates and events are mentioned elaborately and without any doubt the Court can conclude that between 20.01.2017 to 24.02.2018 there was no valid Committee of Management of Madarsa concerned, therefore, during said period, alleged Manager has no power to appoint any petitioners or to forward papers for financial approval. It could not be a case that the then Manager of Committee of Management was not aware about the said orders and that he has no power or jurisdiction to appoint any petitioners or to forward their papers for financial approval between said period.

18. In entire writ petition there is no averment or any document is placed on behalf of petitioners that their appointments were made by a duly constituted selection committee and it cannot be disputed that the concerned rule

prescribed that there shall be a selection committee consisting of President and various Members including two Educationalists. Even there is no averment in writ petitions in that regard.

19. The only argument which can be considered is that, whether due to subsequent order dated 24.02.2018 whereby the earlier committee was found to be a legal committee, the act undertaken between 20.01.2017 to 24.02.2018 would be deemed to be valid on ground that Committee of Management can be considered to be continued, i.e., there was a continuity in Management once the dispute was settled by order dated 24.02.2018 passed by Registrar.

20. The aforesaid argument may have some legal value if Management has done something prior to said date and consequential orders were passed by Registrar concerned but in the present cases undisputedly the then Manager of Committee of Management of Madarsa concerned despite having knowledge that the committee was not longer in existence and by order dated 20.01.2017 this Court has set aside the order dated 19.12.2016 whereby the list of office bearers submitted by Management through the then Manager was found to be valid, therefore, w.e.f. 20.01.2017 the order to approve the list of office bearers was set aside as such there was no valid committee w.e.f. 20.01.2017 and the then Manager had knowledge of same since he was the party in aforesaid litigation before this Court and despite knowledge of said fact and legal consequence of order passed by this Court, without any authority and jurisdiction the then Manager proceeded to appoint petitioners or to refer the documents for financial approval.

21. In view of above, the Court is of the opinion that there was no continuity of Management to protect the acts of the then Manager undertaken between 20.01.2017 to 24.02.2018.

22. The objection of State is also valid since it is the State who has to pay salary to petitioners from State Exchequer and, therefore, the conditions mentioned in order of financial approval would also become relevant, specifically the conditions no. 6 and 7, which have already been mentioned in para 1 of this judgment.

23. As referred above, undisputedly when selection was conducted or papers were sent for financial approval, there was a dispute of Committee of Management, rather there was an order whereby recognition of office bearers of Committee of Management of Madarsa concerned was set aside and matter was remitted to Registrar to pass fresh order. Therefore, there was clear violation of said condition and State was within its jurisdiction on basis of report to take action, i.e., to set aside the financial approval. I, therefore, find no illegality in impugned orders.

24. The writ petitions are accordingly dismissed. Interim order, if any, stands vacated.

25. However, it is made clear that this order will not come in way if present Committee of Management proceed to initiate process for appointment of Teachers in accordance with law through a selection committee in which petitioners will have liberty to participate, if they fulfill the conditions.

(Saurabh Shyam Shamshery,J.)

October 30, 2025
N. Sinha/AK

Digitally signed by :-
AWADESH KUMAR
High Court of Judicature at Allahabad