

B
C.A.No. 6066 OF 2000

Item No.107

COURT No. 4

SEC.XI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL No.6066/2000@@
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Qmar Rashid Khan

Appellant (s)

VERSUS

Commt.MGMT., Azamgarh Muslim Ed.STY. & Ors.

Respondent (s)

WITH C.A. No. 6067/2000 (With Office Report)

Date : 17.07.2001 This appeal was called on for hearing today.@@
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CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Appellant (s) Mr.P.N.Misra,Sr.Adv.
Mr. Ranbir Yadav,Adv.
Mr. Atul Kumar,Adv.

For Respondent (s) Mr. T.R.Andhyarujna,Sr.Adv.
Mr. Intiaz Ahmad,Adv.
Smt. Nagma Intiaz,Adv.for
Mr. V.N.Raghupathy,Adv.
Mr. Anil Hooda,Adv.for
Mr. H.M. Singh,Adv.
Mr. Manoj Prasad,Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....J.

.SP2

The appeals are dismissed as infructuous.

.SP1

(Y.P.Dhamija)
Court Master

(D.D. Jindal)
Asstt. Registrar

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6066/2000@@
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Qmar Rashid Khan ..Appellant

Vs.

COMMT.MGMT.,Azamgarh Muslim Ed. STY & Ors. ..Respondents

WITH C.A. No. 6067/2000@@
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These two appeals are directed against one and the same judgment of the Division Bench of Allahabad High Court. The subject matter of dispute relates to the election to the committee of management of Azamgarh Muslim Education Society. By order dated 7.10.1997, the Registrar excluded 100 persons from the electroal roll, who were supposed to have been entitled to vote for the committee of management. The date of election was, however, fixed. The District Inspector of Schools passed an order recalling the date of election, obviously being of the view that the Registrar could not have excluded 100 persons from the electrol roll. The order of the District Inspector recalling the election was assailed by the present appellant by filing a Writ Petition in Allahabad High Court. The order of the Registrar excluding 100 persons from the electroal roll was assailed by filing a Writ Petition in Allahabad High Court by the then committee of management. It appears Vice-Chancellor had also passed an order directing holding of election, which was also assailed by the said committee of management, which was registered as

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Writ Petition No. 569/1998. All these three Writ Applications were disposed of by a learned Single Judge by common order dated 29.5.1998. Prior to the aforesaid order of the learned Single Judge, on the basis of an interim order passed by the said learned Single Judge dated 21.11.1997, election was held on 14.12.1997, and the present appellant was elected in that election. It is obvious that the election had been held excluding the 100 persons from the electrol roll, legality of which was the subject matter of challenge before the High Court. The learned Single Judge ultimately held that the exclusion of 100 persons from the electrol roll was not warranted in law, and therefore a fresh election ought to be held for the committee of management. This order of the learned Single Judge was assailed by filing Appeal before the Division Bench by the present appellant. The Division Bench passed an interim order dated 6.7.1998 saying that the action taken pursuance to the final judgment of the learned Single Judge would be subject to the final decision in the appeal. In view of the conclusion of the

learned Single Judge that exclusion of 100 persons from electrol roll was illegal and the direction that a fresh election had to be held, a fresh election was held on 12.7.1998, and in that election the present respondent was elected as the committee of management. The Division Bench disposed of the appeal by the impugned judgment dated 9.9.1999, and agreeing with the learned Single Judge it was

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held that the exclusion of 100 persons was bad in law, but at the same time the Division Bench came to the conclusion that the direction of the learned Single Judge to hold a fresh election could not have been passed by the Court in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution. It is this judgment of the Division Bench, which is now under challenge in both the appeals. In C.A. No.6066/2000 the appellant assails the conclusion of the Division Bench agreeing with the learned Single Judge that the exclusion of 100 persons from the electrol roll is bad in law. In C.A. No.6067/2000 the committee of management assails the conclusion that the learned Single Judge could not have ordered for a fresh electionn to be held. Under the bye-laws in question, the tenure of a committee of management is three years. Thus, the election that was held pursuant to the interim order on 14.12.1997 in which the present appellant was elected as well as the election that was held on 12.7.1998 in accordance with the judgment of the learned Single Judge wherein the respondent committee of management got elected, the tenure would be over by now. Necessarily, therefore to the committee of management a fresh election is required to be held. Mr. Mishra states that a fresh election has been held to which Mr. Andhyarujina appearing for the respondent says that he has no instruction in the matter, and the Vice-Chancellor did not recognise the said election. In these appeals, we are not concerned with the

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legality of the fresh election, if any that has been held and if there has been an election, the legality of the same had to be assailed in an appropriate forum by the party concerned. Since the period of tenure is already over, it is not necessary for us to examine the correctness of the conclusion arrived at by the Division Bench of Allahabad High Court. In our view, the appeals have become infructuous.

The appeals are dismissed as infructuous.

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.....J.
(G.B. PATTANAİK)@@
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New Delhi,
July 17, 2001

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(U.C. BANERJEE)@@
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