

Civil Writ Petition No. 2043 (M/S) of 2001

Committee of Management of  
Ram Ganga Pariyojna Inter College,  
Kalagarh, District Pauri.

.....Petitioner.

Versus

State of Uttaranchal and  
Others.

.....Respondents.

-----

**Hon. P.C. Verma, J.**

This writ petition has been filed by the petitioner challenging the order dated 29.12.2000 by which the authorised controller has been appointed in place of the petitioner. The petitioner committee of management of the institution came into being after the election held in the year 1990. After completion of three years term in the year 1993 fresh election was held and the same committee was elected and the signatures were sent to the D.I.O.S. for verification but the D.I.O.S. refused to verify the signatures. Thereafter the petitioner filed a writ petition before the Allahabad High Court which passed the orders allowing the committee to continue till the pendency of the writ petition. The orders passed by Allahabad High Court is contained in annexure – 1 to the writ petition. The said writ petition is still pending. Therefore, the petitioner continued to remain in office till date.

Even if the election held in the year 1993 is held to be valid, the term of the committee came to an end in the year 1996 and thereafter the term was to expire in the year 1999 and again in this year.

The petitioner continued in office without holding of the election in 1996 in terms of the interim order. The writ petition filed at Allahabad has been rendered infructuous by efflux of time as three years have already expired. The continuance of the petitioner in terms of the interim order in an infructuous writ petition pending at Allahabad High Court cannot be allowed to continue in office any further. It is in this background the impugned order has been passed.

The learned counsel for the petitioner submits that no show cause notice has been issued to the petitioner before appointing the authorised controller under section 16 D as required by the said section itself. Therefore, the appointment of the authorised controller under section 16 D is bad in law and is liable to be quashed. The learned counsel for the petitioner further submitted that section 16 D itself provides that if any committee of management is continuing in terms of the interim order in any writ petition passed by the High Court, the period shall not be counted towards the term of the committee of management. Therefore, the term has not come to an end. On this

account also the impugned order cannot be sustained. The learned counsel for the petitioner further submitted that none of the conditions mentioned in section 16 D of the Act has been violated by the petitioner and therefore, the impugned order may be quashed.

The contention of the learned counsel for the petitioner is not without force but two facts are not disputed that the term of the petitioner has come to an end by efflux of time and petitioner is continuing in terms of interim order, and during this period, the petitioner has not got the fresh election held, therefore, the continuance of the petitioner in the office cannot be permitted as the petitioner is availing the benefit of the interim order in an infructuous writ petition.

Considering the facts and circumstances of the case, I direct the Registrar/Deputy Registrar/Assistant Registrar Firms and Societies, Pauri Garhwal to get the election held according to the list of the members available with it for which the registration of the societies has been renewed last time, within a period of one month from today and shall recommend the D.I.O.S. for verification of the signatures of the elected manager and the D.I.O.S. shall verify the signatures of the newly elected manager

within ten days from the date of election of the committee of management.

The Committee of management shall continue to function for the period mentioned above and the impugned order shall not be given effect for a period of one month and ten days so far as it relates to the appointment of the authorised controller in the institution.

With the aforesaid observation/direction, the writ petition is finally disposed of.

R.P. Singh  
31.5.2001

**(P.C. Verma, J.)**