

*presented for information and consideration.*

*(c) Other items, if any, shall then be taken up and considered."*

9. In view of above, as per the procedure prescribed the meeting of the Gaon Sabha shall be convened by the Pradhan and he will also preside the meeting and control the transaction of business in the meeting. The Pradhan and in his absence the meeting shall be presided over by the Up-Pradhan and in his absence the member nominated by Pradhan or prescribed authority, as the case may be. After meeting the proceedings of the meeting shall be read and confirmed and then signed by the Pradhan. Therefore the proceedings of the meeting are not only to be presided and controlled by the Pradhan but confirmed and signed also by the Pradhan after the meeting.

10. When there is a statutory provision for proceedings of the meeting, a proposal which has not been confirmed and signed by the Pradhan, it cannot be said to be a valid proposal and the proposal made therein would be void. Admittedly the proceedings of the meeting dated 11.10.2017 have not been confirmed and signed by the Pradhan, therefore it cannot be said to be a valid proposal and is void.

11. It is also noticed that the Gram Pradhan of the Village himself had made a written complaint in this regard to the Tahsildar, Lalganj, Pratapgarh with request for permission for re-voting on 11.10.2017 itself and to the Sub-Divisional Officer, Lal Ganj. The Tehsildar had submitted a report on 18.10.2017 annexing the list of 304 persons who were of the view that election is valid and 340 persons who were of the

view that election was invalid and were in favour of secret voting.

12. In view of above, the proposal dated 11.10.2017 cannot be said to be a valid proposal, therefore it cannot be acted upon. Hence no direction can be issued for taking decision in pursuance of the said proposal. Even otherwise subsequently another proposal was made, in which the name of respondent no.5 was recommended and he has been appointed. Therefore also no direction can be issued for taking any decision on the aforesaid proposal dated 11.10.2017 which has not been confirmed and signed by the Pradhan and is not in accordance with law. The petition has been filed on misconceived and baseless grounds and it is liable to be dismissed.

13. The writ petition is, accordingly, **dismissed**. No order as to costs.

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**(2023) 5 ILRA 1492**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: ALLAHABAD 17.04.202**

**BEFORE**

**THE HON'BLE AJAY BHANOT, J.**

Writ-C No. 34819 of 2022

**Committee of Management, Maharshi Dayanand Saraswati Vaidik Siksha Samiti, Meerut & Anr. ...Petitioners**

**Versus**

**State of U.P. & Ors. ...Respondents**

**Counsel for the Petitioners:**

Sri Prabhakar Awasthi, Sri Brijesh Kumar, Sri Saurabh Tripathi

**Counsel for the Respondents:**

C.S.C., Sri Avneesh Tripathi

5 All. Committee of Management, Maharshi Dayanand Saraswati Vaidik Siksha Samiti, Meerut & 1493 Anr. Vs. State of U.P. & Ors.

**Civil Law – Constitution of India, 1950 - Article - 226 – UP Educational Institutions (Prevention of Dissipation of Assets) Act, 1974 – Section - 5:** - Writ Petition – against impugned order passed by DM, declined to transfer of the land from an intermediate college to a degree College – court finds that, for transfer of land, permission under section 5 of the Act, not been obtained – held, the provisions of the Act, 1974 are mandatory in nature and transfers of land made in transgression of said provisions are void ab initio – hence, court upheld the impugned order and remitted the matter to the Director of Education, Lucknow to decide the representation for transfer of land assets in accordance with law within a period of three months – writ petition, disposed of.  
(Para – 6, 12)

**Writ Petition Disposed of.** (E-11)

**List of Cases cited:**

M/s G.S. Convent School Vs St. of U.P. & ors.,  
2019 (11) ADJ 274

(Delivered by Hon'ble Ajay Bhanot, J.)

1. By the impugned order dated 24.02.2022, the District Magistrate, Meerut has declined to issue no objection certificate as regards land requirements for setting up a degree college. The impugned order finds that the land belongs to the intermediate college being run by the petitioner-committee of management and was transferred to the degree college in the teeth of Section 5 of the U.P. Educational Institutions (Prevention of Dissipation of Assets) Act, 1974 (hereinafter referred to as the 'Act', 1974) .

2. Brief facts are these. The land belonging to the intermediate college run by the petitioner-committee of management was transferred to the degree college without prior approval for effecting the

aforsaid transfer under Section 5 of the Act, 1974.

3. Shri Prabhakar Awasthi, learned counsel assisted by Shri Saurabh Tripathi, learned counsel for the petitioners in his usual fairness submits that the permission under Section 5 of the Act, 1974 has not been obtained. However, he contends that no permission was required since the institution is a degree college and only excess land was transferred by the intermediate college.

4. Per contra, Shri I.P.Srivastava, learned Additional Chief Standing Counsel submits that the provision is mandatory in nature and the land transfer being in the teeth of the said provision is liable to be rendered null and void.

5. The land holdings are most critical assets of educational institutions, and have a direct bearing on the quality of education imparted therein. Today land assets of educational institutions are under constant threat of alienation. The managements often cut corners to break profits and land holdings are the first casualties. Over long years dissipation of land assets of institutions has almost disappeared the playgrounds from various schools and colleges in the State of U.P. [See: **M/s G.S. Convent School v. State of U.P. and 3 others** reported at **2019 (11) ADJ 274**]

6. Depletion of land assets of educational institutions causes decline in overall educational standards. The alienation of land assets belonging to the intermediate college are governed and regulated the U.P. Educational Institutions (Prevention of Dissipation of Assets) Act, 1974. The legislation seeks to check the menace of dissipation of land assets of an

educational institution. The said provisions of the Act, 1974 are mandatory in nature and have to be strictly complied with. Transfers of land and property of educational institutions made in transgression of said provisions are void ab initio. Considering the gravity of the problem the legislature may well contemplate more stringent provisions and exemplary penalties to discourage acts of dissipation of assets of educational institutions.

7. Violation of Section 5 of the Act, 1974 is established. The transfer of land of the intermediate college in favour of the degree college is vitiated and void.

8. In this wake, there is no infirmity in the impugned order dated 24.02.2022 passed by the respondent No.3-District Magistrate, Meerut. The relief sought in the writ petition is accordingly declined.

9. At this stage, Shri Prabhakar Awasthi, learned counsel assisted by Shri Saurabh Tripathi, learned counsel for the petitioners contends that the institution has ample land assets to run both the intermediate college as well as degree college. He also submits that the institution shall apply for necessary approval for transfer of the aforesaid land holdings in favour of the proposed degree college. He recasts the relief and prays that the application of the petitioners may be decided within a stipulated period of time.

10. Shri I.P. Srivastava, learned Additional Chief Standing Counsel for the State-respondents No.1, 3, 4 and 5 does not have any serious objection to the aforesaid prayer.

11. Shri Avneesh Tripathi, learned counsel for the respondent-No.2-University

submits that the institution can be granted recognition only after the all relevant eligibility criteria including the availability of no objection certificate in respect of land assets are made available.

12. In this wake, the matter is remitted to Director of Education, Lucknow to execute the following directions:

1. The petitioner-committee of management shall make a fresh application for seeking approval of transfer of land assets by the intermediate college to the degree college along with all supporting documents which shall include the existing maps of structures in the land holdings and also proposed structures for the degree college.

2. The Director of Education, Lucknow shall cause a physical inspection of the institution to be conducted. The inspection shall also compare existing structures to those cited in the representation.

3. The Director of Education, Lucknow shall decide the representation for transfer the land assets in accordance with law within a period of three months from the date of receipt of a certified copy of this order along with a fresh copy of representation.

4. It shall be ensured that separate playgrounds (of the prescribed dimensions) are available in both the institutions even after transfer of land.

With the aforesaid directions, the writ petition is finally disposed of.

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