

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9440 OF 2005

NAVNATH
SITARAM
WAGHMARE

Digitally signed by
NAVNATH SITARAM
WAGHMARE
Date: 2026.08.31
20:33:53 +0530

1. Dnyanganga Madhyamik Vidyalay,
Manikkhamb, Post Mundhegaon
Tal. Igatpuri, District Nashik
Through its Head Master.

2. Dnyanganga Shikshan Prasarak Mandal
Manikkhamb, Post Mundhegaon.
Tal. Igatpuri, District Nashik,
Through its Trustees.

a. Shri Ramdas Pundalik Chavan, President

b. Shri. Shankar Gangaram Joshi,
Deputy Chairman.

c. Shri Ratan Chahadu Chavan, Secretary.

d. Shri Shantaram Malhari Pagare, Member.

e. Shri Bhagirath Ramchandra Chavan, Member.

f. Shri Bandu Punjaji Chavan, Member.

g. Shri Devram Tukaram Layare, Member.

i. Shri Ramchandra Hari Chavan, Member.

j. Shri Bapu Sitaram Pawar, Member.

...Petitioners

Versus

1. Maharashtra Shikshan Vikas Mandal,
Manikkhamb, Post Mundhegaon,
Tal. Igatpuri, District Nashik.

2. Shri Ramdas Adole,
Ex Chairman,
Dnyanganga Shikshan Prasarak Mandal

R/o. Manik Khamb, Post: Mundhegaon,
Tal. Igatpuri, District: Nashik.

3. The Joint Charity Commissioner,
Nashik Region, Nashik.

4. The State of Maharashtra. ...Respondents

WITH
CIVIL APPLICATION NO. 1178 OF 2006
(for party addition)

Shri. Kisan Devram Gangurde and Ors. ...Applicants

IN THE MATTER BETWEEN

Dnyanganga Madhyamik Vidyalay And Ors. ... Petitioners

Versus

Maharashtra Shikshan Vikas Mandal and Ors. ...Respondents

WITH
WRIT PETITION NO. 3459 OF 2006

1. Bhagirath Ramchandra Chavan, Member

Age About : 52 Years,

R/o. Manikkhamb, Post: Mundhegaon, Tal.
Igatpuri, District: Nashik.

2. Devram Tukaram Layare,

Member, Age: 70 Years,

R/o. Manikkhamb, Post: Mundhegaon, Tal.
Igatpuri, District: Nashik.

... Petitioners

Versus

1. Maharashtra Shikshan Vikas Mandal,
Manikkhamb, Post Mundhegaon,
Tal. Igatpuri, District Nashik

2. Shri Ramdas Adole

Ex Chairman,
Dnyanganga Shikshan Prasarak Mandal
R/o. Manikkhamb, Post : Mundhegaon,
Tal. Igatpuri, District: Nashik.

3. The Joint Charity Commissioner
Nashik Region, Nashik.

4. Education Officer (SEC) Z.P. Nashik
Zilla Parishad Office at Nashik, Nashik.

5. Shri Shankar Gangaram Joshi
Manikkhamb, Igatpuri.

6. Ratna Chahadu Chavan
Secretary, Dyanganga Shikshan Prasarak Mandal
Manikkhamb, Igatpure.

7. Shantaram Malhari Pagare
Manikkhamb, Igatpuri.

8. Bandu Punjaji Chavan
Manikkhamb, Igatpuri.

9. Ramchandra Hari Chavan
Manikkhamb, Igatpuri.

10. Ramdas Pundalik Chavan
Chairman, Dyanganga Shikshan Prasarak
Mandal
Manikkhamb, Igatpuri.

11) Bapu Sitaram Pawar
Manikkhamb, Igatpuri.

12. Dnyanganga Madhyamik Vidyalaya

Manikkhamb, Post Mundhe gaon
Tal: Ingatpuri, District Nashik.

13. Dnyanganga Shikshan Prasarak Mandal,
Manikkhamb, Post Mundhe gaon
Tal: Ingatpuri, District Nashik.

14. The State of Maharashtra.

...Respondents

Mr. Kayval P. Shah i/b Mr. Praful B. Shah for the Petitioner in WP/9440/2005.

Ms. Swati Sawant a/w Ms. Swati Panjwani i/b Mr. Harshad Bhadbhade for the Petitioner in WP/3459/2006.

Mr. Nikhil Pujari a/w Mr. Bipin Singh & Ms. Gauri Kamat i/b Mr. P.N. Joshi for the Respondent No.1 in both Petitions.

Mr. V.M. Parashurami for the Respondent Nos.7 & 11 in WP/3459/2006.

Ms. Sangeeta Salvi for the Applicant in CAW/1178/2006.

Ms. S.D. Chipade, AGP for the Respondent/State in WP/9440/2005.

Mr. P.V. Nelson Rajan, AGP for the Respondent/State in WP/3459/2006

CORAM : M.M. SATHAYE, J.

DATE : 29th AUGUST, 2026

JUDGMENT :

1. Heard learned counsel for the parties and perused the record.
2. Invoking Articles 226 and 227 of the Constitution of India, the Petitioners in Writ Petition No. 9440 of 2005 (Educational Trust and a faction of trustees) are challenging the order dated 15.10.2005 passed by the learned Joint Charity Commissioner, Nashik Region, Nashik in Misc. Application No. 29 of 2003. By the said impugned order, concerned authority granted no objection for transfer of the management of the school in question (Dnyanganga Madhyamik Vidyalaya, Manikkhamb, Post Mundhegaon, Tal. Igatpuri, District:

Nashik, ('the said School' for short) on joint application of Respondent No. 1 Trust and Respondent No. 2 (Ex-chairman of Petitioner Trust).

3. The Petitioners in Writ Petition No. 3459 of 2006 are two supporting trustees of the Petitioner No. 2 Trust, in above Writ Petition No. 9440 of 2005, challenging the same impugned order.

BRIEF BACKGROUND

4. Petitioners' case in short is as under.

4.1. That Petitioner No.2 *Dnyanganga Shikshan Prasarak Mandal* is an educational institute registered under the Bombay Public Trusts Act, 1950 (as it then was) (the 'said Act' for short) and Societies Registration Act, 1860 which was running Petitioner No. 1 school in question. The said school was run on unaided basis.

4.2. That Respondent No.2 - Adole was the earlier chairman of Petitioner-Trust who, during his tenure, had removed certain teachers and had issued letters and carried out activities detrimental to the welfare of the institute. That because of such conduct, the other Trustees of Petitioner-Trust removed him by holding meeting of Management Committee and by filing change report.

4.3. That Mr. Adole in collusion with a Clerk of the school (Shri. Bapu Sitaram Pawar) took the school records and prepared fabricated Resolution dated 10.01.2003, forging signatures of the Committee Members, resolving to transfer the management of the said School. That Respondent No.1-Trust passed a Resolution dated 17.01.2003, giving consent for taking over management of the said School. That an Agreement dated 23.01.2003 came to be entered into between Mr. Adole of Respondent No.1-Trust by which the management of the school in question was agreed to be transferred on certain terms and

conditions.

4.4. That since Mr. Adole had influence over the staff of the school, he managed to get signatures of the teaching and non-teaching staff on 23.01.2003 giving no objection/consent to transfer of management in favour of the Respondent No.1-Trust.

4.5. That when the Petitioners came to know about the missing records, they lodged a police complaint against the said Clerk and Mr. Adole.

4.6. That when they came to know about present proceedings seeking NOC, for transfer they objected to such transfer by letter dated 06.06.2003, pointing out that Mr. Adole has been removed from Charimanship and new Chairman has been appointed and further contending that Mr. Adole has prepared false and fabricated documents with forged signatures.

5. Learned Joint Charity Commissioner after hearing all concerned, passed the impugned order granting no objection certificate for transfer of the management of the said School in favour of Respondent No.1-Trust subject to the condition that service conditions of the teaching and non-teaching staff will not be affected.

6. In these circumstances, the above petitions are filed which were admitted. Initially, on 17.07.2006, ad-interim order was passed in Writ Petition No. 3459 of 2006. However, after hearing all concerned, by a reasoned common order dated 13.06.2007, this Court came to the conclusion that ad-interim order granted is not required to be continued and it was vacated. However, it was clarified that the transfer of the school management would be subject to the result of the petitions.

SUBMISSIONS

7. Mr. Shah learned counsel for the Petitioners (in Writ Petition No. 9440 of 2005) submitted as under. That Respondent No. 2 Ex-Chairman was removed. That he had forged the resolution and Trust was not in financially weak condition as contented. That NOC to transfer the school from the staff members was obtained using influence. That criminal case was filed against the concerned clerk, who was having custody of the school record and who colluded with Respondent No. 2 for fabricating the Resolution. That Joint Charity Commissioner has no jurisdiction and 'no objection certificate' is not required under any provision of law. That under clause 7 of the Agreement for Transfer of Management, assets of the Trust (school building) has been dealt with and therefore, there is breach of Section 36 of the said Act requiring permission. He submitted that the application seeking NOC from Joint Charity Commissioner does not make reference to any legal provision and as such the Joint Charity Commissioner has passed order without legal requirement. That Section 3 and 4 of the Maharashtra Educational Institutions (Transfer of Management) Act, 1971 ('the Act of 1971' for short) was not followed under which the State Government has power to issue directions and carry out investigation. That Joint Charity Commissioner was not competent to issue NOC. That the Joint Charity Commissioner has not dealt with the aspect of transfer of trust-asset by the Management. That existence of the Trust ought to have been verified. That therefore, the very basis of impugned order is illegal.

8. Ms. Sawant, learned counsel for Petitioners (in Writ Petition No. 3459 of 2006) adopted and supported the arguments of Mr. Shah and further submitted that she is disputing the signatures of

Petitioners on documents created by Mr. Adole. She submitted that the trust resolution was without their consent.

9. On the other hand Mr. Pujari, learned Counsel for the Respondent No. 1 (transferee-trust) submitted as under. That at the time of transfer, the said School was not receiving any grant-in-aid and there was no requirement for application under the Act of 1971. That the signature disputes cannot be considered in the writ jurisdiction. That as on today, only two Trustees of Petitioner Trust are alive and the present dispute is preceded by dispute amongst the Trustees which has resulted in filing of complaint etc., which is not the subject matter. He submitted that the staff of the school is happy and smoothly working. That the Petitioner Trust had never constructed the school building and therefore, there is no question of trust-assets being involved requiring any permission under Section 36 of the said Act. He further submitted that the Respondent-Trust has in fact constructed rooms for school. He invited Court's attention to clause 7 of the Transfer Agreement contending that the Petitioner-Trust had not built the school building.

10. Mr. Parashurami, learned counsel appearing for Respondent Nos. 7 and 11 in Writ Petition No. 3459 of 2006 submitted that he is appearing for two Trustees of Petitioner-Trust, who are supporting the impugned order. He submitted that NOC was applied by way of abundant precaution because Petitioner-Trust had resolved to transfer the management to new Trust. That since the school was not having grant-in-aid at the relevant time, non-compliance with Act of 1971 is not fatal. That as on today, there are 145 students studying in 8th to 10th standard in an *adivasi* area and currently the said School has been running in 8 rooms, with 1 Headmaster, 4 teachers and 1 non-teaching staff smoothly. He submitted that the present petitions are nothing but

an effort by disputing Trustees to disturb smooth running of the said School. He submitted that impugned order is a reasoned order requiring no interference. Civil Application No. 1178 of 2006 is filed by school staff opposing petitions and requesting them to make parties.

REASONS AND CONCLUSION

11. I have considered the rival submissions and perused the records.

12. After going through the records and on hearing learned counsel for the parties, clear picture emerging is that the Petitioner-Trust had internal disputes amongst the Trustees which has resulted into Police complaint and resolutions as well as change reports concerning Respondent No. 2 who was Ex-Chairman.

13. It has come on record that by order in Change Report No. 196 of 2000, the Deputy Charity Commissioner has refused to accept the Change Report in respect of alleged removal of Respondent No. 2 Mr. Adole and inclusion of his rival Mr. Chavan (Petitioner No. 2(i) in Writ Petition No. 9440 of 2005).

14. So far as the aspect of Trust's property being transferred is concerned, Clause 7 of the Transfer Agreement executed between Respondent No. 1 and Respondent No. 2 clearly states that Petitioner-Trust (Dnyanganga) has not taken/purchased new building. However, a building 'belonging to local village' is being used for the school and such user shall continue. It is also stated that Petitioner-Trust (Dnyanganga) shall have no concern in that respect. Therefore, it is clear that under the Transfer Agreement, no asset of the Trust was transferred.

15. Mr. Shah learned Counsel for the Petitioner has fairly conceded that Schedule -I is not available with him or produced on

record to even *prima facie* show that what are trust properties.

16. It has come on record by additional affidavit filed by the Secretary of the Respondent No. 1 Trust that the management of the said School has been transferred to Respondent No. 1 since year 2006 and after receiving the charge, Respondent No. 1 Trust has made several changes by constructing new rooms/building for the purpose of conducting school and has also made changes required for smooth functioning of the Trust. It is stated that when the transfer took place, the situation of the school was absolutely critical and students were not having classrooms for taking education and entire functioning took place on open ground. It is stated that Respondent No. 1 Trust has constructed school building in 2013-14. It is stated that Respondent No.1 Trust is running as many as 21 schools effectively and the school is running smoothly and no interference is required.

17. Record further shows that by a reasoned order dated 13.06.2007 and after noting that the concerned Education Officer has granted its NOC/permission for the transfer under letter dated 03.05.2006, this Court has vacated the interim stay and since then the school is being run by Respondent No. 1.

18. It is true that the Act of 1971 provides for transfer of management of educational institutions and there is a power with the Government to cause investigation and issue directions in that regard. It is important to note that this objection about non-compliance with provisions of Act of 1971 was not argued before the Joint Charity Commissioner. Also, no provision is pointed out from the Act of 1971 which can be said to be fatal if such directions are not sought from the Government in case of un-aided schools. As noted earlier, the transfer has has been granted permission/NOC by the concerned Education

Officer.

19. So far as the contention that trust-resolution is fabricated and there is dispute about signatures, is concerned, it is not possible to take cognizance thereof for the first time in writ jurisdiction. Suffice it to observe that no record from the Charity Commissioner's office accepting change report in favour of the Petitioners, is produced on record.

20. The document of NOC dated 23.01.2003 signed by the teaching and non-teaching staff including the headmaster, is not disputed and therefore apparently the transfer of management was effected with the consent and permission of the staff.

21. No material is placed on record to indicate any action taken pursuant to criminal complaint lodged against the peon.

22. Viewed in the light of what is observed above, when the impugned order is perused, it is seen that the Joint Charity Commissioner has considered certified copy of order in Change Report No. 196 of 2000 rejecting it. He has also considered the reason for rejecting such Change Report that in cross-examination, one of the witnesses and objectors requested that the inquiry be dropped. He has further considered that in response to affidavits filed by objectors, five more Trustees have filed affidavit in support of the application for Transfer of Management, stating that the criminal complaint lodged about alleged missing school record was an afterthought and in fact the original objectors had tried to take the record in possession illegally, for which the school principal had lodged complaint. He has further considered that Change Report filed by Petitioner No. 2(c), Mr. Ratan Chahadu Chavan is false and the managing body was in existence in the year 1994-1995 which is continued for further period of 3 years. He has

considered joint request of the employees of the said School who had prayed for transfer of management. The police complaint against Petitioner Mr. Ratan Sahadu Chavan and Shankar Gangaram Joshi, alleging threats to the staff members, is also considered. Thus, on consideration of the material, the Joint Charity Commissioner has held on preponderance of probability that resolution for transfer of management was passed by the Trustee board at the relevant time after due discussion with teaching and non-teaching staff. On finding that there is no legal impediment, no-objection is granted, subject to condition that service conditions of teaching and non-teaching staff will not be affected.

23. Since it was a transfer of management from one trust to another, it appears that the transferee trust has applied for seeking no objection from the Joint Charity Commissioner by way of precaution. It has already come on record that the transfer has been duly approved by the concerned Education Officer. It has also come on record that the school is presently running without any complaints from the teaching as well as non-teaching staff. Therefore, the argument of jurisdiction of Joint Charity Commissioner or requirement of such NOC under law is not found sufficient for this Court to interfere in limited writ jurisdiction.

24. The judgment relied upon by the Petitioners in the case of **Jeejau Shikshan Sanstha, Nagpur V/s. State of Maharashtra and Ors. 2011 (4) Mh.LJ 352** makes a reference in Paragraph No.18 that No objection certificate from the office of the Charity Commissioner should not be obtained. In the said judgment, this Court was considering a circular dated 08.12.2005 issued by Deputy Director of Education providing that in the matter of transfer/change of

management of school, assets and liabilities, employees of the school, it is purely a matter of privity of contract between transferor and transferee society. This Court held that such provision making the transfer of management purely a matter of contract between two societies is not correct and where public money is involved, the transfer of management cannot be a private affair. It is important to note in the present case at hand, that when the transfer of management took place under Agreement of 2003, admittedly the school was un-aided school and as such, the aspect of Respondent Trust not seeking directions under the Act of 1971 cannot be said to be fatal. In such peculiar facts, the said Judgment will not advance the case of the Petitioners.

25. Overall, no fault can be found with the view taken by the Joint Charity Commissioner.

26. In the aforesaid facts and circumstances and for the reasons indicated above, impugned order does not suffer from any perversity. The view taken is the most probable view. There is no reason to interfere.

27. Accordingly, writ petitions are dismissed. Rule is discharged. No order as to costs. Pending Civil Application is disposed of in above terms.

28. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)