

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2619 OF 2015

PRAVIN KARBASAPPA KARPE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Advocate for petitioner : Mr. V. D. Gunale
AGP for respondent Nos. 1 to 3 : Mr. K. J. Ghute Patil
Advocate for respondent No. 4 : Mr. V. D. Salunke (Caveat filed by
Mr. S. S. Thombre)
Advocate for respondent No. 5 : Mr. M. S. Karad

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WITH

CIVIL APPLICATION NO. 4630 OF 2015

IN

WRIT PETITION NO. 2619 OF 2015

SHIVCHARANAPPA RACHAPPA CHITKOTE
VERSUS
PRAVIN KARBASAPPA KARPE AND OTHERS

....

Advocate for applicant : Mr. S. V. Natu
Advocate for respondent No. 1 : Mr. V. D. Gunale
AGP for respondent Nos. 2 to 4 : Mr. K. J. Ghute Patil
Advocate for respondent No. 5 : Mr. S. S. Thombre

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WITH

CIVIL APPLICATION NO. 4925 OF 2015

IN

WRIT PETITION NO. 2619 OF 2015

UMESH VAIJANATHAPPA GIRWALKAR AND ANOTHER
VERSUS
PRAVIN KARBASAPPA KARPE AND OTHERS

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Advocate for applicant : Mr. R. K. Ashtekar
Advocate for respondent No. 1 : Mr. V. D. Gunale
AGP for respondent Nos. 2 to 4 : Mr. K. J. Ghute Patil
Advocate for respondent No. 5 : Mr. S. S. Thombre

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WITH

CIVIL APPLICATION NO. 6034 OF 2015

IN

WRIT PETITION NO. 2619 OF 2015

VITTHAL MANIKRAO SONTAKKE

VERSUS

PRAVIN KARBASAPPA KARPE AND OTHERS

....

Advocate for applicant : Mr. A. V. Indrale Patil

Advocate for respondent No. 1 : Mr. V. D. Gunale

AGP for respondent Nos. 2 to 4 : Mr. K. J. Ghute Patil

Advocate for respondent No. 5 : Mr. S. S. Thombre

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WITH

WRIT PETITION NO. 6279 OF 2015

MAHATMA BASWESHWAR SHIKSHAN SANSTHA, LATUR

THROUGH ITS SECRETARY

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

....

Advocate for Petitioner : Mr. S. S. Thombre

AGP for respondent Nos. 1 and 2 : Mr. K. J. Ghute Patil

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WITH

CIVIL APPLICATION NO. 7243 OF 2015

IN

WRIT PETITION NO. 6279 OF 2015

PRAVIN KARBASAPPA KARPE

VERSUS

MAHATMA BASWESHWAR SHIKSHAN SANSTHA, LATUR

THROUGH ITS SECRETARY AND OTHERS

....

Advocate for applicant : Mr. V. D. Gunale

Advocate for respondent No. 1 : Mr. S. S. Thombre

AGP for respondent Nos. 3 to 5 : Mr. K. J. Ghute Patil

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WITH

CIVIL APPLICATION NO. 7240 OF 2015

IN

WRIT PETITION NO. 6279 OF 2015

MAHATMA BASWESHWAR SHIKSHAN SANSTHA, LATUR

THROUGH ITS SECRETARY

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for applicant : Mr. R. N. Dhorde, Sr. Counsel i/b Mr. V. R.
Dhorde

AGP for respondent Nos. 1 and 2 : Mr. K. J. Ghute Patil
Advocate for respondent Nos. 4 and 5 : Mr. S. S. Thombre

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WITH

CIVIL APPLICATION NO. 7594 OF 2015

IN

WRIT PETITION NO. 6279 OF 2015

SHIVSHARANAPPA RACHAPPA CHITKOTE
VERSUS
MADHAV HANUMANTRAO PATIL TAKLIKAR AND OTHERS

....
Advocate for applicant : Mr. S. V. Natu
Advocate for petitioner in WP : Mr. S. S. Thombre
AGP for respondent Nos. 3 and 4 : Mr. K. J. Ghute Patil

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WITH

CONTEMPT PETITION NO. 143 OF 2015

IN

WRIT PETITION NO. 670 OF 2015

PRAVIN KARBASAPPA KARPE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

....
Advocate for petitioner : Mr. V. D. Gunale
AGP for respondent/State : Mr. K. J. Ghute Patil

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 14th AUGUST, 2015

P.C. :-

1. In writ petition No. 2619 of 2015, the petitioner assails the order dated 27.02.2015 passed by respondent No. 3 Education Officer thereby, cancelling the approval granted in favour of the petitioner to the order of transfer.

2. The petitioner, in writ petition No. 6279 of 2015 assails the order dated 16.06.2015 passed by the Education Officer thereby directing not to accept the applications for admission from any parents of standard 6th to 10th.

3. We have heard the learned counsel for the petitioners, the learned counsel for the respondents and the intervenors.

4. These petitions are the classic illustration of the feud in the various factions of the management and the employees being used as pawns by the different groups of the management. Upon hearing the arguments and the pleadings, so also, the intervention applications, it appears that three groups are claiming to be in the management of the institution i.e. Mahatma Bashweshwar Shikshan Sanstha, Latur.

5. The said Shikshan Sanstha runs three Schools. For establishing the authority, each faction of the management is passing orders and issuing directions to the employees and also representing with the Education Department.

6. On or about 06/07-11-2014, the orders of transfer were issued, thereby transferring the Head Masters of all the three Schools. The said orders of transfer were assailed by two of the

Head Masters. This Court, vide order dated 20.12.2014, in writ petition No. 10210 of 2014, declined to interfere with the orders of transfer for the reason set out in the said judgment. In effect, the said orders of transfer stood confirmed. Subsequently, the Education Officer granted approval to the transfer of one of the Head Masters, Mr. Karpe. The said order is cancelled vide the impugned order in writ petition No. 2619 of 2015.

7. It is contended by one of the factions that the said transfer orders dated 6/7-11-2014 were subsequently directed to be not acted upon.

8. The said transfer orders and its effect were considered by us in the earlier writ petition. We did not interfere with the said orders of transfer. Subsequently, there is no order either withdrawing the said orders of transfer or cancelling the same. At least, no such order is placed on record. It was submitted by the petitioners in writ petition No. 6279 of 2015 that the said orders of transfer were not acted upon. The orders of transfer dated 06/07-11-2014 were considered by us in the earlier writ petition and challenge to the said transfer orders was negated. In absence of any fresh transfer orders or any fresh orders being passed and in absence of any other order, the Education Officer cancelled the said approval granted in favour of the petitioner in writ petition No. 2619 of 2015. The said

order of cancellation of approval is without notice to the petitioner and without hearing the petitioner. Initially, the approval was granted with regard to the transfer of the petitioner to the other School run by the same institution on 03.01.2015 and the same is cancelled vide the impugned order without hearing the petitioner and without notice to the petitioner. When the said approval was being cancelled, minimum expectation was that notice ought to have been given to the said person against whom the said order of cancellation of approval was being passed. On this count itself, the order deserves to be set aside and is hereby set aside.

9. As far as the order in writ petition No. 6279 of 2015 is concerned, vide interim order dated June 24th, 2015, we had allowed the institution to continue with the admission process with certain directions, pursuant thereto, admissions have been done and now, the admission process is complete. The order dated 16.06.2015 with regard to the aspect of not admitting the students has become redundant and would not survive. As the order has become redundant, now the same would not have any effect.

10. In these writ petitions much vocabulary has been poured by the learned counsel for the respective parties with regard to the persons in the management. More than 10 to 12 change reports are pending consideration with the office of the Assistant Charity

Commissioner. It is not for this Court to investigate into the factual matrix as to who is in the management. It is for the Assistant Charity Commissioner. However, suffice it to observe that there is a chaotic situation as far as the management in the institution is concerned. There are three groups claiming themselves to be in the management either as President or as Secretary, and various persons, claiming to be in the management, are making communications with the Education Department.

11. In view of the aforesaid situation, in case it is noticed by the Education Department that the management of the institution is not being conducted in a proper manner and smoothly, and is affecting the employees and the students, in such circumstances, the Education Department will be within its right to take further steps in the matter. Even the office of the Assistant Charity Commissioner / Charity Commissioner can take necessary steps in this regard. As various change reports are already pending with the office of the Assistant Charity Commissioner and further it is for the office of the Assistant Charity Commissioner to consider the legality and the validity of various change reports, we refrain from commenting upon the genuineness or otherwise of the documents produced by the respective parties. Voluminous documents are produced on record by each faction to establish that they are in the management. It is only for the office of the Assistant Charity

Commissioner to decide the same or even to pass such further orders for effective management of the said institution.

12. We have set aside the order impugned in writ petition No. 2619 of 2015 on the ground that principals of natural justice are not followed. Though the approval was granted earlier in favour of the petitioner, the same was cancelled without notice to the petitioner and without hearing the petitioner, so also, the fact that the earlier transfer orders dated 06/07-11-2014 were confirmed by us and there are no further orders pursuant thereto with regard to the transfers.

13. We are disposing of the writ petition No. 6279 of 2015, as pursuant to the interim orders passed by us, the process of admissions of students have been completed by the Institution and the said order has now become redundant and would not have any effect.

14. The writ petitions are accordingly disposed of with aforesaid observations and directions.

15. In view of disposal of writ petitions, all civil applications also stand disposed of.

16. As far as the contempt petition No. 143 of 2015 is concerned, we have heard Mr. Gunale, the learned counsel for the petitioner and the learned AGP. Upon going through various aspects of the matter, it appears that the Education Officer was confused because of the orders of status-quo being passed.

17. We do not feel that it is a deliberate or willful act on the part of the Education Officer to flout the orders of the Court. Considering the above, we accept the explanation given by the Education Officer. The Contempt Petition is also accordingly disposed of. There shall be no orders as to costs.

18. After the judgment is delivered, Mr. Thombre, learned counsel for respondent no.5 in Writ Petition No.2619/2015, seeks stay of the order passed in Writ Petition No.2619/2015. In fact, the order of status-quo was passed by us in favour of the petitioners. There is no adverse order passed in the said Writ Petition. In light of that, the request made by Mr. Thombre, learned counsel cannot be considered.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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