IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 428 OF 2015

MHATMA PHULE SHIKSHAN PRASARAK MANDAL, BEED
VERSUS
THE EDUCATION OFFICER (SECONDARY), ZILLA PARISHAD, BEED AND ANOTHER
...
Advocate for Petitioners : Mr. S P Katneshwarkar
AGP for Respondent State : Mrs.S.A.Dhumal
Mr.S.R. Kedar,Adv. for R.2
Mr.P.R.Patil, Adv. for intervenor
...

CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA,JJ.
DATE : 28th January, 2015.

P.C. :

We have heard Mr.Katneshwarkar, learned counsel for petitioner and Mr.Kedar, counsel for respondent no.2, learned AGP for respondent no.1 and Mr.P.R.Patil, counsel for intervenor.

2] The petitioner assails order dated 13/12/2014. This Court on 27/11/2014 in Writ Petition No.9039/13 had made following observations while disposing of the Writ Petition.

> "4] We are not entering into the said debate, as the same would not be within the scope of the present writ petition. The present writ petition is limited to the extent that the

respondent no.2 Education Officer be directed to accept the pay bills and disburse the salary of the employees of the petitioner Trust, as per regular process from the month of September, 2013 onwards regularly. This Court had passed ad-interim order considering the plight of the employees of the Trust. It is not for this Court to determine as to who is entitled to administer and run the Trust, as the same would be within the realm of the office of the Charity Commissioner. The Education Officer shall direct the competent person to submit the pay bills and salary bills of the employees of the Trust so that they are not deprived of their salary regularly.

5] It is made clear that we have not considered the contentions of the respective parties on merits with regard to their rights as claimed by them."

3] It is explicitly clear that this Court had never given any finding on the status of any party.

4] In the impugned order dated 13/12/2014, the Education Officer has interpreted the order passed by this Court quoted above as if this Court has held one Shri Kale Gangadhar R. to be the Head Master. This Court had never given any finding about the status of any person as Head Master or otherwise. On the

contrary, this Court had directed the Education Officer to direct the competent person to submit pay bills and salary bills of the employees of the trust. We have specifically observed that we have not considered contentions of the respective parties on merits with regard to their rights as claimed.

5] The Education Officer was expected to apply his mind to the contentions raised by rival parties and then arrive at a conclusion as to the person who is competent to sign the bills. That was the only factum of dispute in the Writ Petition. The Education Officer it appears has not properly read and interpreted the order passed by this Court.

6] In the result, impugned order is quashed and set aside. The Education Officer (Secondary), Zilla Parishad, Beed shall after hearing the respective parties, decide about the claim as directed by this Court vide order dated 27/11/2014 in Writ Petition No.9039/2013. We make it clear that we have not given any findings about the status or authority of any person. It is for the Education Officer to decide on its own merits by applying his mind and upon consideration of the contentions raised by rival parties. The rival parties are entitled to put forth their contentions and case before the Education Officer.

7] Writ Petition is accordingly disposed of with aforesaid observations and directions. No costs. The contentions raised by all the parties are kept open.

8] In view of disposal of Writ Petition, Civil Application No.2489/2015 stands disposed of.

V.L.ACHLIYA,J. **S.V.GANGAPURWALA,J.**

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