

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1328/2015

(VIJAY RAMBHAU MANIKPURE **VERSUS** THE STATE OF MAHARASHTRA & ORS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.D. Dangore, counsel for the petitioner.
Shri A.V. Palshikar, A.G.P. for the R-1.
Shri P.V. Thakre, counsel for the R-2 to 4.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : NOVEMBER 27, 2015.

By this petition, the petitioner has challenged the order of the respondent no.3-Education Officer (Primary), Zilla Parishad, Wardha, dated 24.02.2015, directing a fresh election of the School Management Committee as per the provisions of the Right Of Children To Free And Compulsory Education Act, 2009.

According to the petitioner, in an election conducted on 22.12.2014 for electing a School Management Committee, the petitioner was elected as a Ward or Students' Representative. It is stated that on a complaint made by the local M.L.A., the respondent-Education Officer had directed the holding of the fresh election though the earlier election was duly approved by the Gram Sabha and the Extension Officer. It is stated that in view of the directions of the Chief Executive Officer, an enquiry was conducted by the Deputy Education Officer in the matter of the conduct of the elections on 24.02.2015 and it was found that there were no irregularities while conducting the election. It is stated that in the circumstances of the case, the impugned order directing a fresh election to the school committee of parents should be quashed and set aside.

The respondent nos.2 and 3 have filed an affidavit-in-reply. It is stated that in view of the complaint received against the conduct of the election dated 22.12.2014, an enquiry was conducted by two officers, viz. Pramod Deshpande and R.H. Khan, who are presently working as Block Level Extension Officer (Education). It is stated that it was revealed in the enquiry conducted by the aforesaid officers that though there are 152 students, the notices in respect of the election dated 22.12.2014 were served on only 123 parents. It is stated that though 80 to 90 parents were present in the meeting held on 22.12.2014 as per the statement of the Headmistress, it was found from the Proceedings Book that only 47 parents had endorsed their signatures and the remaining parents had walked out without signing the Proceedings Book. It is stated that it was also found that only 41 parents were eligible to participate in the election process. It was found that in case of some students, both, the father and the mother, had voted in the election. It is stated that in pursuance of the said enquiry, it was found that the election dated 22.12.2014 was not conducted legally and, therefore, a direction to conduct a fresh election was issued.

On hearing the learned counsel for the parties and on a perusal of the provisions of the Act of 2009, specially Section 21 thereof, it appears that the School Management Committee is constituted merely with an object of ensuring that the school is administered in a proper manner. The School Management Committee is required to perform various operations mentioned in Section 21 of the Act of 2009. It appears that the members of the Committee under Section 21 of the Act of 2009 would not hold any post or office as such and they are only elected with a view to assist in the administration of the school, in a proper manner. The disputes in regard to the representatives of parents of children need not be brought for resolution in a writ petition. We have already held so, in the order dated 27.08.2015 in Writ Petition No.134 of

2015. If the Extension Officer or the Education Officer is of the clear view that the election was not properly conducted and directions are issued to hold a fresh election, the petitioner or any other parent of the Ward may participate in the fresh election. The petitioner cannot claim a right to remain on the post of Representative of the parents and the guardians. We find on a perusal of the affidavit-in-reply filed on behalf the respondent nos.2 and 3 that several illegalities were found to have been committed in the election dated 22.12.2014. In our view, any dispute in regard to the commission of those illegalities or otherwise cannot be gone into, in exercise of the writ jurisdiction.

In the circumstances of the case, we dismiss the writ petition with no order as to costs.

JUDGE

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