

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No.1902 of 2014

(Akhil s/o. Narmadaprasad Keoliya .vs. Election Officer, Swawalambi Shikshan Prasarak
Mandal, Wardha and Ors.)

with

Writ Petition No.1903 of 2014

(Vijay s/o. Ayodhyaprasadji Chandak .vs. Election Officer, Swawalambi Shikshan
Prasarak Mandal, Wardha and Ors.

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

Court's or Judge's orders

**CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.**

DATE : 14th JANUARY, 2015.

Heard Mr.Prashant Gode, learned Counsel for the petitioners, Mr.N.S.Khubalkar, learned A.G.P. for respondent no.1 and Mr.Firdos Mirza, learned Counsel for respondent no.3 (in W.P.No.1903/2014).

Effort of the petitioners is to demonstrate that order dt.9.4.2014 passed by respondent no.1 deciding objections to the voters' list is apparently perverse and unsustainable.

Contention is 2009 voters' list or members' list has been mechanically accepted without any application of mind. It is further contended that though names of respondent nos. 3 and 4 did not figure in that list, they have been permitted to contest and are now the Managing Committee members.

Mr.Prashant Gode, learned Counsel for the

petitioners submits that respondent nos. 3 and 4, therefore, are not elected in accordance with law and they cannot be permitted to manage the affairs of the trust.

Learned A.G.P. as also Mr.Firdos Mirza, learned Counsel submit that the order passed by respondent no.1/Election Officer on 9.4.2014 has been further acted upon, elections have been held and out of total 29 voters, only 12 offered to contest. The Managing Committee is to consist of 15 persons, but only 12 have been elected. They further state that respondent nos. 3 and 4 are the Managing Committee members (trustees) and they have not been elected as Office bearers. It is pointed out that petitioner Akhil s/o. Narmadaprasad Keoliya (petitioner in Writ Petition No.1902 of 2014) is not a member of the trust and he has not participated in the proceedings.

After enquiry, Change Report has been filed u/s.22 of the Maharashtra Public Trusts Act, 1950 and all the disputed questions can be looked into in those proceedings.

Learned A.G.P. has invited our attention to order of this Court passed on 26.2.2014 in Writ Petition No.5248 of 2013 to urge that this Court has already pointed out that such adjudication by the Election Officer is subject to further orders of the competent Authority.

Mr.Firdos Mirza, learned Counsel submits

that all the disputed questions can be looked into by the Assistant Charity Commissioner, before whom the Change Report proceedings are pending.

While replying to the objections and arguments, Mr.Prashant Gode, learned Counsel for the petitioners, in the alternative, submits that the Change Report proceedings should be expedited. According to him, as the Assistant Charity Commissioner at Wardha does not have long pendency and large number of matters, the present dispute can be expedited.

This Court has taken care of objections to be raised against the orders of the Election Officer while disposing of Writ Petition No.5248 of 2013 on 26.2.2014. Perusal of the impugned order shows that the Election Officer appointed by the Assistant Charity Commissioner accepted 2009 list as elections then conducted were unopposed and the Change Report proceedings were not objected to by anybody. Thus, on the basis of that list, he has held elections in 2014. Though the elections have been conducted, out of total 29 members, the Managing Committee consisting of only 12 persons has been elected. Respondent nos. 3 and 4 figure in it.

As the Change Report is pending, all the disputed questions can be looked into by the Assistant Charity Commissioner in accordance with law.

If there is no large pendency, it is open to the petitioners to apply to the said Authority for expeditious

consideration of the Change Report. If such application is made, the Authority shall consider it in accordance with law.

With these directions and keeping all the rival contentions open, the petitions are disposed of. No costs.

JUDGE

JUDGE

jaiswal