

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

WRIT PETITION NO. 2496 OF 2014

Rani Durgawati Bahuddeshiya Shikshan Sanstha

-vs-

State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.M.P.Kariya, counsel for the petitioner.
Mr.N.S.Khubalkar, AGP for the respondent Nos.1 to 3.
Mr.S.V.Sohoni, counsel for the respondent No.4.

**CORAM : SMT. VASANTI A. NAIK &
A.M.BADAR, JJ.**

DATE : 19.03.2015.

By this petition, the petitioner-Society challenges the order of the State of Maharashtra dated 05/03/2014 permitting the transfer of the Management of the School run by the petitioner-Society to the respondent No.4-Society.

Shri Kariya, the learned counsel for the petitioner, *inter alia*, states that the impugned order is liable to be set aside as the same is passed without granting an opportunity to the petitioner-Society of being heard. It is stated that neither was the petitioner-society made a party to the proceedings filed by the respondent No.4-Society before the State Government, nor was the petitioner served with a notice of hearing of the proceedings. It is stated that when the matter in regard to the transfer of Management was hotly contested before this Court in the earlier round of litigation, it was incumbent on the part of respondent No.4 to have joined the petitioner as a party to the proceedings before the State Government and it was equally obligatory for the State

Government to hear the petitioner before deciding the appeal filed by the respondent No.4.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that the petitioner-Society has not been heard before the State Government permitted the transfer of the Management of the School run by the petitioner-Society to the respondent No.4-Society. Since the order of the State Government adversely affects the petitioner-Society, it was necessary for the State Government to have heard the petitioner before passing the impugned order. The impugned order is bad-in-law and cannot be sustained.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order is quashed and set aside. The matter is remanded to the respondent No.1 for a fresh decision on merits after hearing the petitioner and the respondent No.4. The petitioner and the respondent No.4 undertake to remain present before the respondent No.1 on 13/04/2015 so that issuance of notice to the parties could be dispensed with. The respondent No.1 should decide the appeal as early as possible and positively within a period of three months from the date of appearance of the parties before the respondent No.1.

Order accordingly. No costs.

JUDGE

JUDGE