

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

WRIT PETITION NO.3360 OF 2014.

Mohd. Khalil Abushama ..vs.. Education Officer, Z.P.Buldhana and ors.

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

Court's or Judge's orders

Mr.P.S.Patil, Advocate for the petitioner.
Mrs.M.N.Hiwase, AGP for respondent no.1.
Mr.P.Kadu, Adv. for respondent no.2.
Mr.Anand Parchure, Adv. for resp.nos.3 and 4.

CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.

DATE : AUGUST 24, 2015.

Petitioner, an approved Head Master of Secondary School, has approached this Court with grievance of victimization. The submission is, because of dispute in Management, the minority group has issued order of suspension and charge-sheet. The learned counsel for the petitioner invites attention to the orders passed by this Court dated 8th of July, 2014 and 9th of September, 2014. He further submits that accordingly Deputy Director of Education has conducted enquiry and found that petitioner is being harassed by a group in minority, which is not in power.

Advocate Shri Kadu appearing for the majority group (respondent no.2) supports contentions of Advocate Patil.

Advocate Shri Parchure, appearing for respondent nos.3, 4 and 5, the so-called group in minority, submits that respondent nos.3, 4 and 5 are not in minority. He states that the Deputy Director of Education, who has conducted enquiry, was not present throughout the process of recording statements and had left that job to his subordinates i.e. Clerk and typist. He further submits that there is no finding or persons who were taking administrative or managerial decision and

were operating bank account of the Trust. He therefore submits that report of Deputy Director of Education is unsustainable.

Learned AGP appearing for respondent no.1 – Education Officer submits that as directed by this Court, Deputy Director of Education has conducted enquiry and submitted a report. The objections to that report, raised by respondent nos.3, 4 and 5, have been received by her recently and she is awaiting instructions upon it.

Advocate Patil disputes the objections raised by respondent nos.3, 4 and 5. He submits that on last date of hearing before this Court learned AGP has relied upon affidavit dated 1st of April, 2015 filed by Deputy Director of Education personally and at that time the respondent no.1 did not find it necessary to file any additional reply or affidavit in view of objections raised by respondent nos.3, 4 and 5.

He further contends that all relevant documents were produced before Deputy Director of Education and after perusal the decision has been taken. He points out that petitioner is working as Head Master since 1994 and till date.

We find that the dispute is amongst so called Trustees and therefore, if any decision about the fraction or group in power is to be taken, that decision is possible only by competent authority functioning under Bombay Public Trust Act, 1950. The direction by this Court to Deputy Director of Education is to find out whether persons who have issued the order of suspension and charge-sheet to petitioner are at the helm of affairs.

Decision could have been taken by Deputy Director of Education after finding out the position qua bank accounts and other similar records. Report of the Deputy Director of Education (Shri Pawar) does not disclose any application of mind in this respect.

Interim orders granted by this Court protecting petitioner are operating since 8th of July, 2014.

In this situation, we find that the interest of justice can be made by directing the parties to appear before the Deputy Director on

Education, Amravati on 1st of September, 2015 and to abide by his further instructions in the matter. The said authority shall look into relevant records including the position of operation of bank accounts, submission of bills, payments etc. and then determine whether the persons/body which has issued order of suspension or charge-sheet are actually administering the Trust.

The decision in this respect shall be reached in any case within a period of two months after parties appear.

Subject to that adjudication, interim order granted by this Court on 8th of July, 2014 to continue.

Writ petition is thus partly allowed and disposed of.

Hamdast allowed.

JUDGE

JUDGE

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