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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.3713/2011

Ashish Shikshan Sanstha, Aurangabad
and another.

...Petitioners..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri V.V. Bhavthankar, Advocate for petitioners.

Shri V.H. Dighe, AGP for respondent nos.1 & 2.

Shri S.R. Chowkidar, Advocate for respondent no.3.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 26.09.2016

ORDER :

1] Learned counsel for the petitioners submits that the Education Officer vide order dated 10.5.2011 has allowed the Head Master to operate the account singularly bearing Account Nos.52 and 77 for the purpose of disbursement of the scholarship and for providing nutritious food. The learned counsel submits that the account was being operated all these years under the joint signature of the Secretary of the society and the Head Master. There is

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no reason to change this system. The learned counsel submits that the Head Master is guilty of large scale illegalities. Even an amount of Rs.4,26,036/- has been misappropriated by him. According to the learned counsel, because of the high-handed act of the Head Master, the accounts could not be audited since 2007 and the office of the Charity Commissioner is insisting for the same.

2] Learned counsel for the respondent no.3 - Head Master submits that not a single pie is due and payable by the Head Master to the society. The Head Master is operating the account for disbursement of the scholarship and mid-day meals so also other grants by cheque only and not a single pie is withdrawn by cash. According to the learned counsel, the Head Master is not concerned with the audit of the society. The amount in the account as stated in the letter dated 15.9.2010 (Exh.P-4) is as it is. The Head Master has not touched any amount in the said account.

3] The learned AGP submits that considering the dispute amongst the members of the managing committee, the decision was taken to allow the Head Master to disburse

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the amount of the scholarship, mid-day meals.

4] We have considered the submissions.

5] It is not disputed even by the petitioners that the dispute exists with regard to the persons managing the affairs of the society. If there are disputes in the members of the managing committee and various persons are claiming their right to operate the account or to manage the affairs of the society, naturally a chaotic situation would arise. To resolve the same and in order that the students who would be the beneficiaries of the grant amounts should not be put to loss, the modality as has been referred to in the impugned order has been carved out. Certainly if there would not have been dispute in the management, then the Head Master could not have operated the account singularly and the account had to be operated under the signatures of the Secretary and the Head Master.

6] The audit has to be done by the auditor appointed by the society. In case the auditor appointed by the society asks for the record, the Head Master is bound to cooperate and supply the same. If such a request is made by the auditor appointed by the society, the Head Master

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shall cooperate in showing the up-to-date accounts.

7] It is also made clear that the Head Master is allowed to operate the accounts only by making payments through cheques and not disbursing any amount by cash or withdrawing any amount by cash.

8] With these observations, the writ petition stands disposed of. No costs. If any irregularity is committed by the Head Master or any other person in the management, the Education Officer or such other concerned authority is entitled to take suitable action.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)