

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

WRIT PETITION NO. 3808/2015

(RAMDAS EDUCATIONAL & TECHNICAL SOCIETY, NAGPUR **VERSUS**
 CORPORATION BANK, NAGPUR & OTHERS)

CHIEF MANAGER,

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

Court's or Judge's orders

Shri A.R. Patil, counsel for the petitioner.
 Shri P. Marpakwar, counsel for the R-1 & 2.
 Shri S.D. Abhyankar, counsel for the R-3 & 4.
 Shri N.S. Khubalkar, A.G.P. for the R-5.

CORAM : SMT.VASANTI A. NAIK AND
A.S. CHANDURKAR, JJ.

DATE : FEBRUARY 29, 2016.

By this petition, the petitioner impugns the judgment of the Assistant Charity Commissioner, Nagpur, dated 02.03.2015 permitting the President, Secretary and the Treasurer on the Schedule-I of the trust to operate the bank account of the trust till the decision of Appeal No.19 of 2013 in Change Report Enquiry No.1325 of 2005. By the said order, the non-applicants in the application filed by the petitioner under Section 41-A of the Act were restrained from operating the Fixed Deposit accounts of the trust, till the decision in the said appeal.

It is stated on behalf of the petitioner that though the trust-deed provides that the withdrawal of the amount from the bank would be made with the joint signatures of the Treasurer and either the President or the Secretary only, the respondent no.4-Treasurer is not withdrawing the amount on the say of the Secretary of the trust. It is stated that by the impugned order, the Assistant Charity Commissioner could not have directed the operation of the bank account by the

Secretary, Treasurer and the President of the trust, when the trust-deed provides that the withdrawal of the amount would be by the Treasurer with the joint signature of the Treasurer and either the President or the Secretary only. It is stated that in view of Clause 11 of the trust-deed, it was necessary for the Assistant Charity Commissioner, Nagpur to permit the withdrawal with the joint signatures of the Treasurer and either the President or the Secretary. It is stated that it would be necessary for the Treasurer to withdraw the amount with the joint signature of the secretary in view of Clause 11 of the trust-deed.

Shri Abhyankar, the learned counsel for the respondent nos.3 and 4, does not dispute that the withdrawal of the amount from the bank could be made by the joint signature of the Treasurer and either the President or the Secretary. It is stated that the Secretary has never asked the Treasurer for withdrawal of any amount. It is stated by the learned counsel, on instructions, that if the Secretary seeks the withdrawal of the amount, the Treasurer would be required to abide by the direction.

In view of the statements made by the learned counsel for the respondent nos.3 and 4, Shri Patil, the learned counsel for the petitioner, states that the grievance of the petitioner-Secretary would not survive.

The writ petition is disposed of by accepting the statements made on behalf of the respondent nos.3 and 4. No costs.

JUDGE

JUDGE