

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

WRIT PETITION NO.3054 OF 2015

Govind Narayan Shende

-vs-

State of Maharashtra, Thr. The Secretary, Tribal Development Dept. Mumbai and ors.

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

Court's or Judge's Orders.

Shri V. U. Waghmare, Advocate for petitioner.
Shri H. R. Dhumale, AGP for respondent Nos.1 to 3
and 7.

CORAM : PRASANNA B. VARALE, J.

DATE : October 03, 2016

By the present petition, the petitioner challenges the order of the Commissioner, Tribal Development Department Maharashtra State, Nashik dated 14/05/2015 thereby cancelling the appointment of Administrator. Few facts giving rise to the petition can be summarised as follows :

It is the case of the petitioner that he is one of the recorded trustee and President of the trust viz. The Gangabai Shikshan Sanstha Gondia and the trust is registered under the Society Registration Act as well as Bombay Public Trust Act, 1950. From the perusal of the petition it further reveals that there are two rival groups in the said trust and the proceedings are pending before the Charity Commissioner in respect of election of trustees and change reports submitted by the rival groups. It may not be necessary to give the other facts in detail about the disputes between these two groups. Suffice to say that the trust is running a school in the name of Bapuji Adiwasi Ashram Shala, Ambagad. The school is

governed under the provisions of Tribal Ashram School Code.

From the perusal of the order impugned in the petition, it reveals that the Competent Authority of the Tribal Development Department on inspection carried out found that there were many deficiencies in the administration of the school. A show cause notice was issued to the said school for cancellation of recognition of the school. Perusal of those deficiencies shows that these were serious irregularities such as the attendance in school was as minimum as 4 students only against the strength of 309 students shown in the school records. The other serious irregularities were in distribution of necessary material to the students such as school uniforms, the other material relating to their lunch plates, bowls. There were deficiencies of even basic amenities provided to the students like toothbrushes, bath soaps, bed covers etc. It was also found that the school furniture was in such a condition that it could have caused a serious threat to the students. The electric wiring was found open and switch boards were damaged. Thus on finding these all other irregularities, a show cause notice was issued.

In reply submitted to the show cause notice, it was stated that there is a long standing dispute in the Management of the trust. The Project Officer on considering these serious deficiencies in the school administration as well as on considering the aspect that there is a dispute in the Management, the authority thought it fit to appoint an Administrator so that the school functioning and the education of the students is not disturbed because of the dispute in the Management.

The Commissioner of the Tribal Development Department on hearing the parties and on considering the

orders passed by this Court in W.P.2479/14 dated 19/01/2015 thought it fit to cancel the appointment of the Administrator and to give an opportunity to the School Administration. Thus, the Commissioner, subject to the condition that the deficiencies will be removed within stipulated period of three months and the Project Officer, Integrated Tribal Development Project, Bhandara visits personally to the school after three months and on submitting the self explanatory report to the Commissioner, Tribal Development Department, permitted the Management to run the school.

On a specific query made to the learned counsel for the petitioner that by the order impugned in the petition what prejudice is caused to the petitioner, it was submitted that there are two groups in the Management and because of the disputes in these groups, students are suffering. The factum of two groups quarreling with each other is observed by the Commissioner of Tribal Development and was also the matter of consideration before this Court in W.P.No.2479/2014. It would be useful to refer to the order of this Court dated 19/01/2015 in W.P.No.2479/14. Interestingly enough the present petitioner was the petitioner in W.P.No.2479/2014 and in that petition a challenge was raised to the order passed by the Assistant Charity Commissioner dated 30/04/2014 under Section 41-A of the Bombay Public Trust Act, 1950 whereby the petitioner was restrained from interfering with the management and administration of the said public trust. On the backdrop of the rival contentions raised by the parties, the Division Bench of this Court observed thus :

“ We do not wish to go into these rival contentions. The

purpose of Section 41-A proceedings is only to see that the Trust property is not wasted, does not fall in wrong hands and trust is administered property. There are two groups here in Section 41-A proceedings and both claim to be legally elected. Those Change Reports are still pending and the Assistant Charity Commissioner has expedited the same by the impugned order.

The petitioner claims that he had effected some purchases on credit. The credit purchases, material received and other expenditure incurred shall form part of Trust accounts. The grants received from Government to meet that expenditure, therefore, must also be reflected in trust account and person in-charge of trust including the successor in office due to the election or Administrator could not have used those funds to clear the outstanding amounts. It was not necessary for the petitioner to open a new bank account and to deposit that cheque in that account. The account has been discontinued after the cheque was encashed.

The Assistant Charity Commissioner has found this conduct not proper. We are also not in a position to appreciate such conduct when the controversy, in the background of which the same is required to be judged, is looked into.” (emphasis supplied).

As this Court was of the opinion that no case is made out for warranting interference, the writ petition was rejected. The petitioner sought review of the said order dated 19/01/2015.

The submission before this Court in review application was that there is an apprehension of the review applicant that the order passed under Section 41-A and maintained by this Court may be misused and the rival group may interfere with the working of the administration. This Court by

observing that it is always open to the Administrator to seek appropriate orders if he finds any such interference, rejected to exercise review jurisdiction and disposed of the application seeking review.

Considering these facts it is more than clear that the attempts of the petitioner to seek indulgence of this Court in the orders passed by the Competent Authority like the Assistant Charity Commissioner utterly failed. As stated above the present petition is filed challenging the order passed by the Commissioner, Tribal Development Department only on assumption and presumption that the order would result in disturbance of the education of students. There is absolutely no material either orally submitted before this Court or placed on record to substantiate the apprehension expressed by the petitioner. On the contrary, the order passed by the Commissioner, Tribal Development Department takes care of the interest of students by directing the Project Officer to submit self explanatory report by visiting the school and the show cause notice is on the aspect of compliance of the deficiencies and irregularities found in the school. The Management is also directed to take steps to comply with the deficiencies within a stipulated period of three months.

Thus, on considering these aspects what emerges is the petitioner is unable to show any locus to file the present petition and further is unable to show that any prejudice is caused to him by the order impugned in the present petition.

At the cost of repetition it would be necessary to state that the petitioner is a person whose act itself was not appreciated by this Court and this Court was of the opinion that the Assistant Charity Commissioner was right in

observing that the conduct of the petitioner was not proper.

Shri H. R. Dhumale, learned Assistant Government Pleader supports the order impugned in the petition.

Considering all these aspects I am of the opinion that the order impugned in the petition passed by the Commissioner of Tribal Development Department needs no indulgence. The petition deserves to be dismissed. The same is accordingly dismissed with no order as to costs.

JUDGE

-: C E R T I F I C A T E :-

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