

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2193 OF 2015

Waghur Shikshan Prasarak Mandal
Sakegaon, & another

Petitioners

Versus

Education Officer (Primary)
& others

Respondents

Mr. V.J. Dixit, Senior Counsel instructed by Mr. LV. Sangeet, advocate for petitioners.

Mr. A.V. Gondhalekar, AGP for respondents 2 and 3.

Mr. M.S. Sonawane, advocate for respondent no. 1.

Mr. V.P. Raje, advocate holding for Mr. S.B. Yawalkar, advocate for respondent no. 4.

Mr. S.P. Brahme, advocate for respondents 8 to 11.

**CORAM : DR. MANJULA CHELLUR, CJ. AND
R.M.BORDE, J.**

DATE : 28th June, 2017.

P.C. :

1. Heard learned counsel for petitioners as well as learned counsel for respondents and learned AGP.

2. The dispute between two groups of trustees seems to be the genesis for the present petition. Apparently, in the year 2002, after the death of the then President of the trust, election of the new President was cause of the dispute. The matter came up before this Court and other authorities. Ultimately, the election of the earlier President and other two members were held to be incorrect

and illegal therefore, the present President and two trustees came into power and they are running the day to day affairs of the trust including the school in question.

3. This has given rise to present dispute wherein the present management is before this Court contending that the appointment of teachers by the earlier trustees, whose election was held to be illegal, cannot be continued since the Assistant Charity Commissioner, in the year 2002 when the dispute to decide the validity of the election of the President and others was in process, directed the then President and others not to do certain acts including appointment of teachers without prior permission from the Joint Charity Commissioner.

4. Be as it may, the fact remains about eight teachers were appointed by the earlier management and they are functioning till date and in that regard there is no grievance. Apparently, so far as the approval of the appointment of those teachers becomes a *lis* before this Court apart from the change in the divisions, therefore, a direction was given by this Court in three writ petitions to the Education Officer to consider and dispose of the same. The said controversy is disposed of opining that the appointment of teachers is in order.

5. Aggrieved by the same, petitioners also contend in this writ petition that the petitioners were not heard and there is no reference to the earlier restriction imposed by the Joint Charity Commissioner way back in the year 2002.

6. The fact remains, these eight teachers are discharging their duties since 2010. There is possibility of some of the teachers becoming over aged for fresh appointment. If their qualifications were in order, we find, at this stage, why they should be discontinued for the reason of violation of certain conditions imposed by the Joint Charity Commissioner in the year 2002. If these teachers do not have required qualification to be appointed as teacher in a particular subject or other basic qualification, to be appointed as a teacher, then the very appointment becomes void. In that situation, there is justification if the statement of petitioners is held to be true, that some of the teachers do not have required qualification. The Education Officer (Primary) without elaborate discussion has opined that the appointments are in order. There is no specific finding that the required qualification or the criteria was complied with by all the eight candidates when they were appointed.

7. In that view of the matter, respondent no. 2 being the Deputy Director of Education is directed to enquire into the matter only with regard to the controversy of required criteria or qualification to be appointed as teacher, when these eight teachers were appointed by the earlier management. Beyond that, the respondent no. 2 shall not ponder over any other controversy raised either by petitioners or any other person. Such enquiry and final decision is to be made by respondent no. 2 within three months from the date of submission of representation by the petitioners. Petitioners shall submit representation within four weeks from today.

8. It is made clear that respondent no. 2 shall not be persuaded by the order under challenge passed by the Education Officer (Primary), Jalgaon in any manner.

9. With these observations, writ petition stands disposed of.

10. Pending civil application, if any, does not survive and stands disposed of.

R.M.BORDE, J.
JUDGE

CHIEF JUSTICE

dyb