

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY
BENCH AT AURANGABAD.**

**WRIT PETITION NO.2074 OF 2017
WITH
CIVIL APPLICATION NO.3715 OF 2017**

Laxmanrao S/o Eknathrao Manal
and others. ... Petitioners.

Versus

The State of Maharashtra
and others. ... Respondents.

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Mr.V.J.Dixit, learned Senior advocate holding for
Mr.S.R.Choukidar, advocate for the petitioners.
Mr.V.M.Kagne, A.G.P. for the State.
Mr.Milind Patil (Beedkar), advocate for
Respondent No.5.
Mr.Amol Kakade, advocate for Respondent No.6.
Mr.Arora S.C., advocate for Interveners.

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**CORAM : S.V.GANGAPURWALA AND
SANGITRAO S.PATIL, JJ.**

Date : 15.03.2017.

PER COURT :

1. Heard.
2. Leave to amend title clause.

3. Mr.Dixit, learned Senior advocate submits that Mr.Manal is the President of the Bhartiya Sanskratik Sanvardhan Shikshan Prasarak Mandal, Aurangabad. The petitioner No.2 is the Secretary. The petitioner No.3 is the Vice President. The petitioner No.4 is the Joint Secretary and petitioner No.5 is the Treasurer of the said Trust. These persons are elected pursuant to the elections conducted as per the order passed by the Apex Court dated January 8, 2016. The Joint Charity Commissioner has also endorsed the same. The learned Senior advocate submits that the petitioner No.2 is appointed as incharge Principal of Rajiv Gandhi Senior College run by the Bhartiya Sanskratik Sanvardhan Shikshan Prasarak Mandal, Aurangabad. The proposal is also forwarded seeking approval to the appointment of petitioner No.2 as incharge Principal on 7.1.2017. The Respondent No.3 granted approval to Respondent No.6 as incharge Principal under order dated 4.2.2017. The petitioner had never forwarded the proposal seeking approval to the appointment of Respondent No.6 as incharge Principal. According to the

learned Senior advocate, the Respondent No.6 is suspended by the petitioners. The Respondent Nos.3 and 4 be directed to grant approval to the appointment of petitioner No.2 as incharge Principal of Rajiv Gandhi College. The petitioners be also permitted to operate the bank accounts.

4. Mr.Kakade, learned counsel for Respondent No.6 submits that since the year 2015, the Respondent No.6 is officiating as incharge Principal. Even today he is officiating as incharge Principal. The salary bills for the month of March has been signed by the Respondent No.6 as incharge Principal. The petitioner No.2 is not eligible and qualified to be appointed as incharge Principal. The learned counsel relies on the Government Resolution dated 13.10.2011. According to him, the petitioner No.2 even today is not attending the College. He was terminated and under the compromise, he was reinstated but still, has not attended the College.

5. Mr.Arora, learned counsel for the

interveners submits that the interveners have already filed SLP against the order passed in Writ Petition No.100/2009, whereby illegal compromise was entered into, thereby reinstating petitioner No.2. The said SLP is pending. The learned counsel submits that various change reports are also pending. They are yet to be decided. The petitioner No.2 is not qualified to be appointed as a Principal.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. The Apex Court in SLP No.21504/2008 on January 8, 2016, passed an order directing to convene a meeting of the 8 Trustees on the electoral roll for conducting elections and whosoever get elected in such meeting shall be the office bearers of the Trust. The Joint Charity Commissioner, Aurangabad was directed to convene the said meeting. It appears that the meeting was convened by the Joint Charity Commissioner. The Joint Charity Commissioner has

endorsed on 18.2.2016 the factum of petitioners herein being the office bearers.

8. In view of the above, the petitioners herein would be managing the affairs of the said Trust and the School. The management would have right to appoint the incharge Principal and operate the accounts of the Trust. It is submitted that petitioner No.2 is appointed as incharge Principal and proposal seeking approval to his appointment is already forwarded on 7.1.2017 to the University. The University is bound to decide the said proposal.

9. Mr.Patil Beedkar, learned counsel for the Bank states that in view of the order of the Apex Court, the Bank would be bound to allow the petitioners to operate the accounts of the Trust. There are in all four accounts. Two accounts are operated by the members of the Trust along with signature of the Principal and two accounts are operated under the signature of the Principal. Naturally, as the petitioners are the Trustees, they would be entitled to represent the Trust and

put their signatures.

10. The appointment of petitioner No.2 as incharge Principal is not yet approved. The said proposal naturally, would be deemed to be pending. The University is required to consider the proposal submitted by the Management in office. Needless to state while considering the said proposal, the University will consider all the relevant aspects regarding eligibility, qualification and the Government Resolutions in force and applicable. The Respondent Nos.3 and 4 shall take decision upon the said proposal expeditiously, preferably within four (4) weeks from today. The impugned order dated 4.2.2017 would not be an impediment for the University to take decision on merits in respect of the proposal submitted by the petitioner seeking approval to the appointment of petitioner No.2 as incharge Principal.

11. In case the University approves the proposal of petitioner No.2 then the said order would supersede the impugned order.

12. The parties to the present petition can represent themselves before the University.

13. The interested parties may appear before the authority on 27.3.2017.

14. The Writ Petition is disposed of. No costs.

15. The Civil Application also stands disposed of.

(SANGITRAO S.PATIL, J.)

(S.V.GANGAPURWALA, J.)

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