

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 7326 OF 2014
WITH
CIVIL APPLICATION NO. 6326 OF 2016

The Shikshan Samiti, Bodhadi,
Tq. Kinwat, Dist. Nanded **....Petitioner.**

Versus

The State of Maharashtra and Ors. **....Respondents.**

Mr. S.G. Jadhavar, Advocate for petitioner.
Mr. A.R. Kale, A.G.P. for respondent Nos. 1 and 2.
Mr. V.D. Sapkal, Advocate for respondent No. 3.
Mr. S.S. Panale, Advocate for intervenor.

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**
DATED : March 8, 2017.

ORDER : [PER T.V. NALAWADE, J.]

The petition is filed to quash and set aside the decision of the respondent Government dated 1.7.2014 (Order made by Joint Secretary, Social Justice and Special Assistance Department, Mantralaya, Mumbai), by which the school which was previously run by the petitioner institution is transferred to the management of respondent No. 3.

2. The submissions were mainly made on the

interpretation of the guidelines given in one Government Resolution (G.R.) dated 1.7.2014. The school involved was started for the benefit of handicapped persons by taking the benefit of the provisions made in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. It is not disputed that initially registration was granted to the petitioner institution for such school on 22.12.1998. In the past also, there was some litigation going on due to the irregularities found in the institution which was run by the petitioner and some action was taken by the respondents due to that irregularities. Due to the order made by this Court, renewal to registration was granted for some time, but the period of renewal expired on 31.3.2015. The learned counsel is relying on clause (7) of the aforesaid G.R. showing that the management of the institution cannot be transferred to other institution and if that is done, then the registration would stand cancelled automatically. The provision further provides that penal action can be taken against the institution which makes such

transfer as per the Central Act of 1995. Clause (6) shows that under the Central Act of 1995, the registration given in favour of one institution to run such school cannot be transferred.

3. In the present matter, there is no transfer of registration. Further, the registration given in favour of the petitioner has come to an end. There is separate registration given to respondent No. 3 and the school is transferred in favour of respondent No. 3. It is the contention of the respondent Government that every step was taken by the respondents to see that the management improves and the dispute between the members of the management is resolved. The dispute was going on from prior to year 2001. There was the grievance of the employees that the Management was not paying salary to them. Some dispute is pending in the office of Charity Commissioner also. The Assistant Charity Commissioner also refused to make order in favour of the management of petitioner institution and so, there was no legal body in existence for management of the

institution. It is the case of respondents that it has power to transfer the management of the school under the provisions of Maharashtra Educational Institutions (Transfers of Management) Act, 1971 and due to aforesaid circumstances such decision is taken. It is also contended that since the transfer of the Management in favour of respondent No. 3, there is no dispute of any kind raised by anybody and there is no complaint received against respondent No. 3.

4. The learned counsel for petitioner placed reliance on some observations made by this Court in the case reported as **2015 (6) ALL MR 766 [Radhabai w/o. Vitthal Sawant and Ors. Vs. The State of Maharashtra and Ors.]**. The facts of the reported case were totally different. In the present matter, relevant facts are already quoted. More than sufficient opportunity was given to the persons, who were managing the school for blind, handicapped persons, but the management did not improve. There is force in the submission of the respondents that under

the provisions of other Act, it has power to transfer Educational Institution. Further, such decision needs to be taken in the interest of the persons for whom the school is created. This Court sees no reason to interfere in the order made by the respondent. The appellate authority has also considered the grounds raised. In the result, the petition stands dismissed. Civil Application is also disposed of.

[SANGITRAO S. PATIL, J.] [T.V. NALAWADE, J.]

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