

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 591 OF 2016**

1. Shri Shantaji R. Naik Gaonkar,
s/o. late Ram Shaba Naik Gaonkar,
aged 70 years, Chairman of
Managing Committee of Institute
of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of H.No.122,
Kindle, Canacona, Goa.
2. Shri Rajesh D. Dessai,
s/o. late Dattu Dessai, aged about
45 years, Vice-Chairman of
Managing Committee of Institute
of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of Kindle, Canacona, Goa.
3. Shri Ranjit G. Dessai, s/o late Ganba
Dessai, aged about 45 years,
Secretary of
Managing Committee of Institute
of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of Pansula, Canacona, Goa
the Power of Attorney Shri Shantaji R.
Naik Gaonkar (Petitioner No.1.)
4. Shri Darshan P. Gaonkar, s/o. Pissolo
Gaonkar, aged 48 years, Treasurer of
Managing Committee of Institute
of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of H.No.106,
Kindle, Canacona, Goa.
5. Shri Rupesh P. Dessai, s/o. Pandu J. Dessai,
aged about 35 years, Member of
Managing Committee of Institute

of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of Kindle, Canacona, Goa.
the Power of Attorney Shri Shantaji R.
Naik Gaonkar (Petitioner No.1.)

6. Shri Kishor K. Dessai, s/o. Late
Mr. Kustha Dessai, aged about 43 years,
Member of the Managing Committee of Institute
of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of Pansula, Canacona, Goa.

7. Shri Damodar M. Dessai, s/o. Madhukar
Dessai, aged about 42 years,
Member of Managing Committee of Institute
of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of Pansule, Canacona, Goa.

8. Shri Umanath S. Dessai,
s/o. Late Shripad Dessai, aged about
48 years, Member of
Managing Committee of Institute
of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of Pansule, Canacona, Goa.

9. Ms. Anuradha A. Dessai, wife of
Mr. Anand K. Dessai, aged about 40 years,
Member of Managing Committee of Institute
of Institute de Educacao Progressiva
Kindle-Pansule, Canacona,
resident of Kindle, Canacona, Goa.
the Power of Attorney Shri Shantaji R.
Naik Gaonkar (Petitioner No.1.)

..... **Petitioners.**

V/s.

1. State of Goa,
through the Chief Secretary,
Secretariat, Porvorim, Bardez, Goa.

2. Director of Education,
Directorate of Education,
Porvorim, Bardez, Goa.
3. District Registrar and
Inspector General of Societies (South),
Osia Commercial Complex,
Margao, Goa.
4. Mr. Kusta P. Dessai, President (former)
of General Body Committee, Institute of
Institute de Educacao Progressiva
Kindle-Pansule, Canacona, Goa
r/o. Pansule, Cancona, Goa.
5. Shri Ulhas R. Dessai,
s/o. Late Ramchandra Desai,
aged about 66 years, Vice President (former)
of General Body Committee, Institute of
Institute de Educacao Progressiva
Kindle-Pansule, Canacona, Goa
r/o. Pansule, Cancona, Goa.
6. Shri Krishna M. Desai,
Chairman of Managing Committee,
Major of age, s/o. Molu Desai,
7. Shri Amar R. Desai,
Headmaster of Shri Katyayani Baneshwar
Vidhayalaya,
8. Shri Dhananjay B. Desai,
Secretary of Managing Committee,
9. Shri Pramaod R. Desai,
Member, P.T.A.,
10. Shri Umakant Power,
Teacher Representative of Shri
Katyayani Baneshwar Vidhayalaya,

11. Smt. Chaya D. Desai,
Retired Teacher of Shri Katyayani Baneshwar
Vidhayalaya,

12. Mrs. Sneha D. Desai,
Member of Managing Committee,

13. Mr. Mahabaleshwar S. Desai,
Member of Managing Committee,

14. Mr. Suhas J. Desai,
Vice President of Managing Committee,
Respondent Nos. 6 to 14, all are major
of age, purported Members of the
Managing Committee of
Institute de Educacao Progressiva
Shri Katyayani Baneshwar Vidyalyaya,
Kindle-Pansule, Canacona.

..... **Respondents.**

Mr. Vivek A. Rodrigues, Advocate for the petitioners.

Mr. Dattaprasad Lawande, Advocate General with Ms. P. Bhandari
Additional Govt. Advocate for the respondents No.1 to 3.

Mr. A. D. Bhobe, & Ms. S. Bhobe, Advocates for the respondents No. 4
to 6, 8, 12 to 20.

**CORAM :- F.M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date : - 02/08/2017

ORAL JUDGMENT : (PER F.M. REIS, J.)

Heard Mr. Vivek Rodrigues, learned Counsel appearing for
the petitioners, Mr. Dattaprasad Lawande, learned Advocate General

appearing for the respondents No. 1, 2 and 3 and Mr. A. D. Bhobe, learned Counsel appearing for the respondents No. 4 to 6, 8, 12 to 20.

2. Rule. Learned Counsel appearing for the respondents waive service. Heard forthwith, with the consent of the learned Counsel.

3. A short point for consideration, at this stage, in the above writ petition is whether the impugned Order dated 1st July, 2015 stands vitiated for non-compliance of the principles of natural justice.

4. Mr. Rodrigues, learned Counsel appearing for the petitioner points out that though the respondent No.3 has no jurisdiction to pass the impugned order, or deal with the matter in controversy, nevertheless, the impugned order is vitiated as the principles of natural justice have not been followed. The learned Counsel further points out that such an order will create civil effects and, as such, it was incumbent upon the respondent No.3 to give a hearing to the concerned parties before passing such an order.

5. Mr. A.D. Bhobe, learned Counsel appearing for the

respondents No. 4, 5, 6, 8, 12 to 20 , however, disputes said contentions and points out that the order has been correctly passed by the respondent No.3.

6. Mr. Dattaprasad Lawande, learned Advocate General appearing for the State and its Authorities, however, submits that as the impugned order dated 01/07/2015 was passed without giving a hearing to the petitioners, the respondent No.3 shall withdraw the said order and give a hearing to the petitioners and all other concerned parties and take a decision afresh within three months, in accordance with law. The issue of jurisdiction raised by the petitioner may also be kept open which can be agitated before the respondent No.3.

7. In view of the above, we pass the following :

O R D E R

(I) The impugned order dated 1st July, 2015 passed by the respondent No. 3 is quashed and set aside

(II) The respondent No.3 shall proceed to take a decision on the application dated 24th June, 2015 afresh, after hearing the petitioners and all other concerned parties in the light of the observations made herein above within three months from today, in accordance with law.

(III) Rule is made absolute in the above terms.

(IV) It is made clear that we have examined the merits of the matter and all the contentions of both the parties, including the point of jurisdiction, are left open.

NUTAN D. SARDESSAI, J.
ssm.

F.M. REIS, J.