

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG) NO. 2653 OF 2017

Bhavik S/o. Jitendra Shah
and 7 Ors.

....Petitioners

V/s.
The State of Maharashtra
and 5 Ors.

....Respondents

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Mr. S.B. Talekar a/w. Ms. Madhavi Ayyapan i/by. M/s.
Talekar and Associates, Advocate for the petitioner.

Mr. Kedar Dighe, Assistant Government Pleader, for the
State, respondents no.1, 4, 5 and 13.

Mr. Pravin Samdhani, Senior Counsel a/w. Mr. Viraj
Maniar, Mr. Harsh Behary, , Mr. Hiral Vora i/by. M/s.
Maniar Srivastava and Associates, Advocate for
respondent no.2.

Ms. Sunita Sonawane, Advocate for respondent no.7.

Mr. Sagar Patil, Advocate for respondent no.8, M.C.G.M.

CORAM :-

B.R.GAVAI &

SANDEEP K. SHINDE, JJ.

DATE :-

27TH NOVEMBER, 2017.

P.C. :-

1. There are number of petitions filed before this Court including the present petition opposing the prayer of the Management for redevelopment of the buildings wherein various Schools conducted by the Management are run. It is the contention of the Management that, the building is dilapidated and therefore required to be pulled down and new building is to be constructed. However, it is the contention of the parents who have filed series of petitions that, this is a game plan of the Management to utilise the vast stretch of land for commercial exploitation.

2. The matter has been heard by us on number of occasions. To do away with the apprehension of the petitioners, we have asked the Management to file an Undertaking that after reconstruction, building would be used only for housing the Schools and other Institutions. Not only that, but the Management has also prepared an

Undertaking. Copies of the Undertaking were supplied to the Counsel for the petitioner. Today, there were further deliberations as to what should be the additional points to be incorporated in the Undertaking. We have suggested Mr. Samdhani, Learned Senior Counsel appearing for the petitioner to incorporate additional Clauses in the Undertaking so as to take care of the apprehension of the parents.

3. We have postponed the hearing of the said matters so as to enable the Trust to file a modified Undertaking which would take care of the apprehension of the petitioners.

4. We may state that from the beginning the attitude of the Management has been responsive. The Management has accepted the suggestion from time to time which has been given by the Court so as to take care of the interest of the students. Mr. Samdhani, has not

opposed entertaining other petitions filed by the other parents. He, however, submits that, the present petition is liable to be dismissed with costs, in as much as, the reliefs claimed in the petition travel much beyond the interest of the students and also give an impression that the petition is at the behest of the some other vested interest.

5. The petitioners have claimed for various reliefs in the petition. It would be relevant to refer to the following prayers :-

“(H.) To direct the State Government to dissolve the existing Management of the School and further direct transfer of entire management of the school from the hands of respondent No.2 to a competent and independent authority by issuing writ of mandamus, orders, directions or any other appropriate writ in like nature;

(J.) To direct the respondent No.2 to refund the excess fees of 12% collected since

2013 till date, by issuing a writ of mandamus or any other appropriate writ, order or direction as the case may be;

(L.) To direct the respondent No.1 to take over the Management of the respondent Nos.1 and 2 for a limited period of 3 years by issuing a writ of mandamu or any other writ, order or direction as the case may be;

(N.) To seize and attach the properties including bank accounts of the respondent No.2, pending hearing and final disposal of this petition.”

6. The perusal of the aforesaid prayer clauses would reveal that the petitioners have prayed for various reliefs including, direction to the State to take over the Management of respondents no.1 and 2. One of the reliefs claimed is, for refund of excess fees from 2013 alongwith interest. Another prayer is to seal and attach the property including the bank accounts of respondent no.2. It could thus be seen that, under the garb of protecting the

interest of the students, the petitioners have made a direct attack on the Management. No doubt, a litigant would be entitled to make such attack, however, the same has to be on a foundation in the petition. No whisper as to how the Management of respondents no.1 and 2 is indulging into mismanagement/misappropriation etc. are to be found in the petition. We find that the apprehension of the respondent, Management that the present petition is filed at the behest of some other vested interest, cannot be said to be without substance.

7. Since we are already entertaining other petitions which would take care of the interest of the students including the children of the present petitioners, we find that the continuation of the present petition would not be necessary.

8. Entertaining such a petition seeking wild reliefs without there being a foundation would give a

wrong signal to disgruntled litigants. The petition is therefore dismissed with costs which are quantified at Rs.1,00,000/- (Rs. One Lakhs only).

9. At this stage, Mr. Samdhani, states that the respondent, Management is not interested in cost and requests that the said amount be donated as donation on part of respondents no.1 and 2 to Tata Cancer Hospital, Mumbai.

10. The petitioners to deposit the aforesaid amount of Rs.1,00,000/- with Tata Cancer Hospital and produce a receipt thereof within a period of one week from today.

(SANDEEP K. SHINDE, J)

(B.R. GAVAI, J)