

(1)

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

PUBLIC INTEREST LITIGATION NO.108 OF 2018

1. Shri. Mansoor Sikander Pathan (Patel),
Age: 30 years, Occu: Social Worker/Agriculture,
R/o: Plot No.156, N-2 Cidco, Main Road,
Mukundwadi, Indira Market, Tq. Aurangabad,
Dist. Aurangabad (Maharashtra)
2. Shri. Shaikh Azeem Shaikh Kasem,
Age: 37 years, Occu: Social Worker/Agriculture,
R/o: H. No.1184/504, Lane No.6, Kiradpura,
Aurangabad, Tq. Aurangabad,
Dist. Aurangabad (Maharashtra) ..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Minority Development Department,
Mantralaya, Mumbai-400032
2. The State of Maharashtra,
Through its Secretary,
School Education and Sports Department,
Mantralaya, Mumbai-400032
3. The Divisional Commissioner,
Aurangabad
4. The Collector, Aurangabad
5. Education Officer (Primary and Secondary),
Zilla Parishad, Aurangabad ..RESPONDENTS

Mr T. Y. Sayyad, Advocate holding for Mr Ajinkya Reddy, Advocate for petitioners;

Mr S. Y. Mahajan, A.G.P. for respondent Nos.1 to 3;

Mr Vishal Bakal, Advocate holding for Mr V. S. Kadam, Advocate for respondents

(2)

**CORAM : PRASANNA B. VARALE
AND
MANISH PITALE, JJ.**

DATE : 19th September, 2018

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioners.

2. The petitioners submit that they are espousing cause of public and are aggrieved by malfunction and mismanagement in Madarsas run under Dr. Zakir Hussain Madarsas Modernization Scheme. The prayers are prayer clauses (B), (C) and (D).

3. Insofar prayer clause (B) is concerned, learned Asstt. Govt. Pleader submitted that the exercise of conducting an inquiry is already undertaken by the competent authority and notices are also issued to certain Madarsas wherein the authority found that there is mismanagement. He further submitted that that the notices are issued to these Madarsas for seeking recovery of the amount. The grievance raised in terms of prayer clause (B), as such, is already redressed.

4. Insofar as prayer clause (C) is concerned, the prayer is for initiation of the criminal action/prosecution. It is not in dispute that the petitioners are not prevented by criminal law to initiate action, if any, for the acts as alleged by them is covered under the scope of penal provisions. As such, the petitioners are at liberty to take necessary steps.

(3)

4. Insofar as prayer clause (D) is concerned, the said prayer is for seeking cancellation of registration of the societies. Learned Counsel appearing on behalf of the petitioners fairly submits that the Madarsas are being conducted through the Wakf Board administration and he be permitted to approach Wakf Board raising his grievance for cancellation of registration of societies, namely, Madarsas.

5. In view of prayers of the petitioners seeking liberty to approach competent authority, insofar as prayer clause (D) is concerned, we are of opinion that the public interest litigation itself can be disposed of by granting liberty to the petitioners to approach competent, authority either the Wakf Board or other competent authority, for which registration is granted either by the Charity Commissioner or the Wakf Board, in respect of their grievance for cancellation of registration of the societies.

With this liberty, the public interest litigation is disposed of.

(MANISH PITALE, J.)

(PRASANNA B. VARALE, J.)

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