

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11839 OF 2018

SHAIKH GAYASODDIN ZAHIRODDIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner :

Dr.godbole R.J.

AGP for Respondents No. 1 & 2:

Mrs. V. N. Pail Jadha

Advocate for Respondents No. 3 & 7 :

Mr. H. V. Patil

Advocate for Respondents No. 5 & 6 :

Mr. S. A. Deshpande

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 20th FEBRUARY, 2019

PER COURT :

1. It is not disputed that respondent no. 3 / institution is a minority institution.
2. The contention of the petitioner is that he is a seniormost teacher and he is eligible to be appointed as Headmaster. There is dispute amongst the members of the management.
3. The letter has been issued by the office of

the Assistant Charity Commissioner that as there are various change reports pending, the Assistant Charity Commissioner cannot opine as to which body is in management.

4. It appears that the Assistant Charity Commissioner has not considered Section 22 (2) (a) and (b) as amended of the Maharashtra Public Trust Act. As per proviso to Sub-Section 2 of Section 22 in case of change in the names and addresses of the trustees and the managers or the mode of succession to the office of the trusteeship and managership, the Deputy or Assistant Charity Commissioner may pass order provisionally accepting the change within a period of 15 working days and issue a notice inviting objections to such change within 30 days from the date of publication of such notice.

5. The Assistant Charity Commissioner shall exercise its powers under the afore referred provision and take decision within 15 working days

from today the change which the Assistant Charity Commissioner is provisionally accepting. The persons whose change would be provisionally accepted by the Assistant Charity Commissioner shall within eight days thereafter by exercising powers under Section 3 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 read with Rule 3 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 forward the name of Headmaster / In-charge Headmaster to the appropriate authority.

6. Writ Petition is disposed of. No costs.

7. Authenticate copy be provided.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

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