

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

30 CIVIL APPLICATION NO.13699 OF 2019
IN FA/3067/2016 WITH CA/13705/2019 IN FA/3065/2016

RAJESH PURUSHOTTAM SHAH
VERSUS
RAMESH SHIVDAS DESALE AND ORS

...

Advocate for Applicant : Mr. V.D. Salunke & Mr. V.D. Hon, learned Senior
Council, h/f Mr. Sawant Amol S.

Advocate for Respondents No. 1 to 4 : Mr. Mahesh S. Deshmukh.

CORAM : MANGESH S. PATIL, JJ.

DATE : 25/11/2019

PER COURT :

The learned advocate for the respondents tenders across the Bar reply with the Annexures, which is taken on record.

2. By these applications a Member of the Trust Sindkheda Taluka Education Society Ltd., Sindkheda is soliciting directions similar to the one which were solicited by the appellants in these appeals last time around and this Court had passed an order on 21.11.2014 giving certain directions in a similar set of facts, where the two sides had fixed the elections on two different dates, directing that the elections be held on 30.11.2014 under the supervision of the Assistant Charity Commissioner himself or a Senior Officer from his

office as an Observer.

3. It appears that pursuant to such directions an attempt was made to hold elections on that date i.e. on 30.11.2014 but the Observer appointed by the Assistant Charity Commissioner submitted a report dated 25.11.2014 pointing out the sequence of events that had taken place on that day. Needless to state that as far as the facts mentioned by the Observer in his report, those would be under scrutiny of the Assistant Charity Commissioner in a Change Report proceeding filed pursuant to the election stated to have taken place on that day. The learned advocate for the appellants submits that even the deposition of the Observer has been recorded by the Assistant Charity Commissioner. Obviously, this Court should not comment upon veracity or otherwise of the observations by the Observer, being a matter which is sub judice.

4. The fact remains that yet again, there seems to be a scene which has been created wherein now the two groups who are at loggerheads have now decided to hold elections on two different dates when the Change Report pursuant to the election held according to the order of this Court, has not reached finality. Suffice for the purpose to observe that legality or otherwise of the election to be held now would depend upon the validity of the change reports submitted earlier

pursuant to the elections held last time around i.e. 30.11.2014.

5. After hearing both the sides extensively, in my considered view, one can easily foresee what would happen if a similar direction is issued even now as was issued last time around by the order dated 30.11.2014. Without indulging into any enquiry further it would be appropriate to let the things remain as it is and the possible consequences would follow logically and legally. Both the applications are therefore disposed of.

6. It would be appropriate for the Assistant Charity Commissioner to make an endeavour to dispose of the pending Change Reports at the earliest.

7. List the matter for admission on 06.01.2020.

(MANGESH S. PATIL, J.)

mkd