

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

PUBLIC INTEREST LITIGATION NO. 51/2018.

Nagari Hakka Saurakshan Manch and another.

-VERSUS-

The State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.R. Ingole, Advocate for Petitioners.
Shri S.Y. Deopujari, G.P. for Respondent Nos.1 to 3.
Shri P.A. Abhyankar, Advocate for Respondent Nos.4 & 5.
Shri A.D. Mohgaonkar, Advocate for Respondent No.6.

CORAM : R.K. DESHPANDE &
VINAY JOSHI, JJ.

DATE : JANUARY 10, 2019.

Heard.

2. This Public Interest Litigation claims relief in terms of prayer clause (a), which is reproduced below :

“(a) by an appropriate Writ, Order or Direction direct the respondent no.1 – State of Maharashtra, Education Department, through Secretary, Mantralaya, Mumbai to take over the administration of the respondent no.5 – Gurunanak Primary High School and

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Junior College, Nagpur from the management of respondent no.4- Sikh Education Society, Nagpur through its Secretary for providing free and compulsory education to the children from backward class taking education in the respondent no.5-school as provided under Section 3 of the Act of 2009 and Article 21 (A) of the Constitution of India.”

2. In view of the decision of this Court on 29.02.2018 in Writ Petition No. 3554/2017 (Sikh Education Society, Nagpur .vrs. The State of Maharashtra and others), the management cannot be prevented from voluntarily closing down the School. The management decided to close down the school from the academic session 2017-18. However, during the pendency of the petition, respondent nos. 4 and 5 Management agreed to continue to run the school for one academic session only, so that the State Government can take appropriate steps to absorb the teachers and students in accordance with law in different schools.

3. Respondent nos. 4 and 5 have expressed that they are not interested in running the school and

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they want to close down the same from the academic session 2019-20. It is not possible for us to direct respondent nos. 4 and 5 to continue the school, if they have voluntarily decided to close it down for the reasons best known to them.

4. The possibility of transfer of the management of the present school to respondent no.6 – Utkarsha Shikshan Sanstha, Bezonbagh, Nagpur, a Society of teachers and non-teaching employees of the same school or any other society, was explored. The Department of Education and Sports has informed vide its communication dated 29.08.2018, that there is no provision in any enactment to compulsory take over the management of a private aided school, except the provisions under the Maharashtra Educational Institution (Transfer of Management) Act. According to the State Government, the said provision would not be applicable in the present case, since no material is placed on record to invoke the provisions under Sections 3 and 6 of the above Act.

5. It is however, expressed that to honour the expression by this Court, the permission to close down the school was given on certain terms and conditions

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which are stipulated in the said communication dated 29.08.2018. We have already referred to the decision of this Court, wherein in it is held that no such permission is required for voluntary closure of the school. The condition imposed would not have any significance. The issue therefore, does not survive.

6. In absence of any statutory provision compelling the State Government to take over the management of a private school, which is voluntarily closed down by the management, it is not possible for us to grant any relief as claimed in the petition.

7. If the land is allotted to respondent nos. 4 and 5 for the purpose of running aided educational institution, then it shall be open to the Nagpur Improvement Trust to take appropriate steps as are permissible in law, if the institution is to be closed down. Such steps may include to take back the land by canceling such allotment or lease, if permissible in law.

8. Public Interest Litigation is, dismissed. No costs.

JUDGE**JUDGE**

Order

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Rgd.