

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5132/2017

Kelapur Education, Pandharkawda and another
 ..Vs..
 Joint Charity Commissioner, Amravati and others

WRIT PETITION NO.5136/2017

Kelapur Education, Pandharkawda and another
 ..Vs..
 Joint Charity Commissioner, Amravati and others

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri R.L. Khapre, Advocate for the petitioners.
 Shri N.R. Patil, A.G.P. for respondent No.1.
 Shri P.A. Gode, Advocate for respondent Nos.2 to 4.

CORAM : Z.A. HAQ, J.

DATED : 12.6.2019.

Heard.

In earlier round, while deciding Writ Petition Nos.3646/2015 and 3648/2015, this Court permitted the present respondent Nos.2 to 4 to get themselves impleaded as the appellants in appeal Nos.40/2013 and 41/2013 pending before the Joint Charity Commissioner, provisionally, to prosecute the appeal. The issue of *locus* of respondent Nos.2 to 4 to prosecute the appeals, raised by the petitioners, at that time, was kept open for consideration by the learned Joint Charity Commissioner. This Court had observed that the issue of *locus* of respondent Nos.2 to 4 to prosecute the appeals should be

decided by the learned Joint Charity Commissioner at the time of hearing of the appeals on merits after considering the material on record.

The petitioner again filed applications (Exh. No.57 and 67) before the Joint Charity Commissioner on 7th July, 2017 praying that the application (Exh. Nos.41 and 45) filed by the respondent Nos.2 to 4 seeking permission to get themselves impleaded as appellants be decided first, before considering the merits of the appeals. Learned Joint Charity Commissioner has not acceded to the request made on behalf of the petitioner and has directed the petitioner to proceed with the hearing of the appeals on merits. The petitioner contend that in view of the judgment passed by this Court in Writ Petition Nos.3646/2015 and 3648/2015 learned Joint Charity Commissioner is under an obligation to decide the issue of *locus* of respondent Nos.2 to 4 and he cannot take up the appeals on merits.

The apprehension of the petitioner that the Joint Charity Commissioner will decide the appeals on merits without adjudicating the issue of *locus* of the respondent Nos.2 to 4 is ill-founded. Learned Joint Charity Commissioner has to adjudicate the issue of *locus* of respondent Nos.2 to 4 as directed by this Court while deciding Writ Petition Nos.3640/2015 and 3648/2015. Only point left at the discretion of the Joint Charity Commissioner is, at what stage the adjudication on the issue of *locus* of respondent Nos.2 to 4 has to be.

With the above clarification, the writ petition

is **disposed**. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.