

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

4 WRIT PETITION NO.999 OF 2019

THE MANAGING COMMITTEE MADARSE MADINATUL ULOOM
EDUCATION SOCIETY NANDED AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. Mantri Ramesh R. and Kakani Rohit R.
AGP for Respondent/State: Mr. S.B. Narwade
Advocate for Respondent : Mr. Pulkundwar Santosh B.

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**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 15/01/2020

PER COURT :

1. We have heard Mr. Mantri the learned advocate for the petitioner. The learned advocate submits that the order rejecting the proposal seeking approval to the appointment of petitioner no.2 as a Headmistress is illegal and does not stand to reason. There is no dispute in the Management. Since beginning the Trust is administered by the Management of whose Md. Bahauddin s/o Ahmedoddin is a Secretary. The orders are passed from time to time by the A.C.C., Joint C.C. and this Court confirming that the day today management vest with the person who has filed the petition. The learned counsel refers to the order dated 05.02.2014 in Writ petition No.2689/2011 with Writ Petition No.2690/2011. The learned counsel further refers to the acceptance of the change report in Inquiry No.46/2011 and the same being confirmed by the Joint Charity Commissioner Aurangabad in appeal under judgment dated 19.09.2017.

The learned counsel further submits that fresh election has taken place and change report proceedings are submitted bearing Inquiry No.636/2019. In the said change report proceedings order below Exh.9 is passed by the learned A.C.C. Nanded, thereby, provisionally accepting the change report. The said order is passed in view of the amended provision to Section 22 of the Maharashtra Public Trust Act. The learned counsel submits that in spite of all these orders, the Education Officer is contending that there is a dispute in the Management and the proposal for approval to the appointment of petitioner no. 2 as a Headmistress is not considered and is rejected. The said order is erroneous. Erroneous statements are made by the Education Officer. The action deserves to be taken for such false and irresponsible statement made by the Government Officer.

2. Mr. Pulkundwar the learned advocate for the Education Officer of the Zilla Parishad submits that complaints have been received by another person even information is received that there are two inquiry applications pending bearing No.693/2018 and No.636/2019. In view of the dispute the Education Officer did not consider the proposal for grant of approval to the petitioner no.2 as the Headmistress, however, has passed an order giving authority to the petitioner no.2 to process the bills for payment of salary to the approved employee. According to the learned counsel the Education Officer does not have a personal interest in the matter. Considering the dispute the said order is passed.

3. We have considered the submission canvassed by the learned

counsel for the respective parties. The petitioner institution appears to be a Minority Institution. The Management has right to appoint the head of the institution as per its choice.

4. It is contented that petitioner no.2 is the senior most teacher and the same fact also appears to have been accepted by the Education Officer.

5. As far as the dispute amongst Management is concerned we certainly would not enter into the debate in that regard. The petitioner has placed on record along with the civil application the order dated 21.09.2019 passed by the A.C.C. Nanded Region, provisionally accepting the change report pursuant to the Inquiry No.636/2019. The persons named in the change report have right to manage the affairs as the change report is provisionally accepted.

6. In light of the order passed by the A.C.C. on 21.09.2019 in Inquiry No.636/2019 the impugned order is set aside. We direct the Education Officer to consider the proposal submitted by the petitioner no.1 seeking approval to the appointment of petitioner no. 2 as Headmistress on its own merits and if the said proposal is submitted by the person who is shown in the change report in Inquiry No.636/2019 as an office bearer shall accept the same to be submitted by a competent person. The decision shall be taken within three months from today.

(MANGESH S. PATIL, J.)

(S. V. GANGAPURWALA, J.)

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