

Shailaja**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.9811 OF 2017**

The Secretary	]	
Shivtejkrida and Shikshan Mandal	]	
Tapkirnagar, Kalewadi, Pune -17.	]	Petitioner

Versus

Administrative Officer School Board	]	
Pimpri Chinchwad Municipal	]	
Corporation, Pimpri-18, Dist. Pune.	]	
and others.	]	Respondents

Mr. R.S. Apte, Senior Counsel i/b M.S. Lagu, for the Petitioner.

Mr. D.R. More, for Respondent No.1.

Ms. Nisha Mehra, A.G.P, for Respondent No.3-State.

CORAM: R.K. DESHPANDE &**PRITHVIRAJ K. CHAVAN, J.J.****DATE: 11th MARCH, 2020.****P.C:**

Rule is made returnable forthwith. By consent of learned Counsel appearing for the parties, the Petition is taken up for final hearing.

2. The challenge in this Petition is to the order dated 29th March, 2017 passed by the Director of Education (Primary)

Maharashtra State, Pune in exercise of the power conferred under section 3(1) of Maharashtra Educational Institutes (Management) Act, 1976.

3. On 1st September, 2017, this Court passed an order as under;

“ Heard the learned Senior Counsel for the petitioner. In view of the averments made in paragraph 13 of the Petition and also in view of the Hon’ble Supreme Court’s Judgment in case of Gulllapalli Nageswara Rao Vs. A.P. State Road Transport Corpon – AIR 1959 SC 308, and as the impugned order was not passed by the authority/person, who has heard the matter, we, in order to avoid further complications, grant ad-interim in terms of prayer clause (c) of the petition till the next date/order”.

Issue notice to respondents, returnable four weeks i.e on 29th September, 2017”.

4. It is not in dispute that the Director of Education who passed an order had not heard the matter. The matter was heard

by the Assistant Director and not by the Director. In view of the judgment referred to above delivered by the Apex Court, the impugned order needs to be quashed and set aside with a direction to re-hear the parties concerned and pass an appropriate order.

5. In the result, Writ Petition is allowed. The order dated 29th March, 2017 in respect of taking over the management is quashed and set aside. Director of Education (Primary) Maharashtra State, Pune to grant a fresh hearing to the parties concerned and pass an appropriate order in accordance with law on or before commencing next academic year. Consequently, the order dated 2nd April, 2018 passed by the State Government would not survive.

[PRITHVIRAJ K. CHAVAN, J.]

[R. K. DESHPANDE, J.]