

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

WRIT PETITION NO.4944/2021

1. Ashok Shikshan Sanstha,
Ashok Nagar, Tah. Dhamangaon Railway,
Dist. Amravati, through it's President
Mr. Sudhirkumar Narayanrao Shende,
aged about 65 Yrs., Occ. Agriculturist,
R/o Ashok Nagar, Tah. Dhamangaon
Railway, Dist. Amravati.

2. Pramod S/o Shriramji Hatwar,
aged about 50 Yrs., Occ. In-charge
Headmaster, Devrao Thakre Vidyalyaya
Ashoknagar Ex-officio Secretary,
Ashok Education Society, Ashoknagar,
Tah. Dhamangaon Railway,
Dist. Amravati.

..Petitioners.

..Vs..

1. Director of Education (Secondary and
Higher Secondary), Maharashtra State
Central Building, Pune.

2. Education Officer (Secondary),
Zilla Parishad, Amravati.

3. Deputy Director of Education
(Secondary), Amravati Division,
Amravati.

4. The State of Maharashtra,
through it's Principal Secretary,
Department of Education and
Sports, Mantralaya, Mumbai.

..Respondents.

Mr. M.P Khajanchi, Advocate with Mr. V.R. Mundra, Advocate for the petitioners.
Mr. K.L. Dharmadhikari, A.G.P for respondent Nos.1 to 4.

CORAM :- SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.
DATED :- 4.12.2021.

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

Heard Mr. M.P. Khajanchi, learned counsel for the petitioners and Mr. K.L. Dharmadhikari, learned A.G.P. who appears by waiving notice for all the respondents.

2. The issue involved in this petition lies in a narrow compass and, therefore, we are of the view that this petition can be disposed of immediately on taking note of grievance of the petitioners. Hence, **Rule.** Rule made returnable forthwith. Heard finally by consent.

3. The grievance of the petitioners is about the need for speedy disposal of the appeal which petitioner No.1 has filed under the provisions of Section 3(4) of the Maharashtra Educational Institutions (Management) Act, 1976 (for short “Act of 1976”). Learned counsel for the petitioners submits that the decision impugned in the appeal which is dated 1st November, 2021 taken by respondent No.1 directs taking over of the management of schools run by petitioner No.1 and even though this can be done, under the Act of 1976, there is a procedure prescribed for doing so under the said Act. He submits that

the first pre-requisite is of nurturing of satisfaction by respondent No.1 that the management in educational institution has neglected to perform any of the duties imposed on it under any law for the time being in force. He submits that this condition can be fulfilled only when there is available before an authority like respondent No.1, some objective material to satisfy about the neglect of performance of the duties.

4. The second condition, as submitted by the learned counsel for the petitioners, is of giving of reasonable opportunity of showing cause against the proposed action by an officer like respondent No.1. It is submitted that after the first condition is fulfilled, it is necessary for authority like respondent No.1 to issue a show cause to the management in order to give it a reasonable opportunity of explaining it's stand against the proposed action.

5. Learned counsel for the petitioners submits that in the present case, after the inspection report was made available to respondent No.1, respondent No.1 was required to issue a show cause notice to the petitioners as required under Section 3(1) of the Act of 1976 and then proceed to pass the order which he deems fit on the date of hearing conducted by him. But, learned counsel further submits that

this procedure has not been followed in instant case and directly without giving any reasonable opportunity of showing cause against the proposed action, the impugned order of taking over management of the schools run by petitioner No.1 society has been passed by respondent No.1 which is clearly violative of not only the procedure prescribed in Section 3(1) of the Act of 1976 but also of principles of natural justice which flow from Articles 14 and 21 of the Constitution of India.

6. Learned counsel for the petitioners submits that with this grievance, an appeal has been filed before respondent No.4 but, it is not being heard and, therefore, it is apprehended that the automatic stay which operates on the impugned order for a period of 15 days, now, would come to an end and the petitioners would lose the right to manage their schools without being heard in the matter.

7. In view of the above, we find that the purpose of this petition can be served by issuing appropriate directions.

(i) The petition is partly allowed.

(ii) Respondent No.4 is directed to dispose of the appeal filed against the impugned order, as per law, as expeditiously as possible and preferably within two months from the date of the order. Till the

time appeal is decided in terms of this order, there shall be stay to the effect and operation of the impugned order and for a further period of 15 days in case the appeal is decided against the petitioners.

(iii) Rule accordingly. There shall be no order as to costs.

JUDGE

JUDGE

Tambaskar.