

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7917 OF 2021

Mahatma Phule Shikshan Prasarak Mandal
Through its President Shambhau Dhondiba RautPetitioner

Versus

The State of Maharashtra and OthersRespondents

Advocate for Petitioner : Mrs. Anjali Dube (Bajpai)
AGP for Respondent Nos. 1 to 3 : Mr. S.R. Yadav-Lonikar

CORAM : A.S. GADKARI & S. G. MEHARE, JJ.

DATE : 01.02.2022

P.C. :-

1. There was dispute about having control over the Mahatma Phule Shikshan Prasarak Mandal, Kanadi (Mali), Taluka Kaij, District Beed. While disposing of the Miscellaneous Civil Application No. 58/2013, in paragraph Nos. 2 and 3 of operative part of Order dated 18.09.2014, the learned District Judge-3, Ambejogai, has directed as under :-

“2. Assistant Charity Commissioner shall appoint responsible officer from his office to act as election officer;

who shall conduct the election of the trust in accordance with by laws of the constitution of the trust, within two months from receipt of record and proceeding. In the mean while existing body shall act as interim body and run trust as well as school in consultation with Joint Charity Commissioner, Latur.

3. They shall not take any major policy decisions or financial decisions until election are held and new body takes over charge.”

2. A substantive Second Appeal arising from the said Order dated 18.09.2014, is pending for adjudication before this Court. As of today, in furtherance of Order dated 18.09.2014, the petitioner has been appointed as ‘interim body’ to run the trust as well as school in consultation with Joint Charity Commissioner. It is an admitted fact of record that, till today the elections of said trust could not be conducted as the substantive Second Appeal is pending before this Court.

3. In view of the aforestated facts, we find that, the impugned communication dated 31.12.2019, issued by respondent No. 3 is in conformity with the provisions of law and is proper. We find no perversity in the said communication. The petitioner instead of availing the remedy of pursuing the said Second Appeal has filed the present petition at interlocutory stage.

4. In view thereof, the present Writ petition is disposed off by granting liberty to petitioner to pursue the said Second Appeal, if permissible under the law.

(S. G. MEHARE, J.)

(A.S. Gadkari, J.)