

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

WRIT PETITION NO.11066 OF 2021

**JAWAHAR EDUCATION SOCIETY PARLI THROUGH
DATTAPPA GANPATAPPA ITKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. S.R. Barlinge
AGP for Respondent / State : Mr. K.N. Lokhande
Advocate for Respondent No.2 : Mr. S.G. Chapalgaonkar
Advocate for Respondent No.3 : Mr. Pradeep L. Shahane
Advocate for Respondent No.4 : Mr. S.V. Munde

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WITH
CIVIL APPLICATION NO.247 OF 2022
IN
WRIT PETITION NO. 11066 OF 2021

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**CORAM : C. V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**

DATE : JULY 7, 2022

PER COURT :-

1. By this petition under Article 226 of the Constitution of India, the petitioner - Society is challenging the order dated 26.08.2021 passed by the Respondent No.2 - University thereby approving the appointment of the Respondent No.3 as an In-charge Principal at Vaidyanath College, Parali run by the petitioner trust.

2. We have heard the learned Counsel for the parties and perused record.

3. Mr. Barlinge, the learned Counsel for the petitioner submitted that there is no proposal supported by any resolution passed by the competent authority of the trust thereby appointing respondent no.3 as the Principal or In-charge Principal of the college. He, therefore, submitted that the respondent - University could not have granted approval to the appointment of the respondent no.3 as In-charge Principal, placing reliance on the Government Resolution dated 15.03.2012. It is submitted that the said resolution only applies to the minority institutions and the petitioner is not a minority institution. The University was not justified in placing reliance on the said Government Resolution while granting such approval. It is submitted that even otherwise the said resolution will not be applicable, inasmuch as it envisages that a qualified lecturer to be appointed as the Principal. The learned Counsel has further placed reliance upon the order dated 27.10.2017 passed by the Joint Charity Commissioner, Latur in Inquiry Application No.59 of 2017 by which Mr. Sadashiv Munde and Mr. Trimbak Munde (respondents in the said enquiry) are restrained from interfering with the day to day affairs of the society by themselves or through others. The learned Counsel, however, did not dispute that the respondent no.4 is the Vice president of the Trust. However the contention is that he had no authority to send or seek approval to the so called appointment

of the respondent no.4 as an In-charge Principal. The learned Counsel pointed out that the authorized body of the petitioner - trust has duly appointed one Mr. Jagatkar as the Principal of the college who has also assumed charge and the University could not have interfered with the internal working of the trust by granting such approval. Except this, there are no other contentions raised.

4. The learned Counsel for respondent no.2 - University submitted that the Government Resolution of the year 2012 is not limited to the minority institutions. It is submitted that there is nothing in the said resolution so as to limit its application to minority institutions. It is pointed out that there is internal disputes between the trustees / members of the petitioner trust and various change reports are pending before the Charity Authorities. It is submitted that the University with a view to ensure that the day to day management of the College is not adversely affected and in the interest of the said institution placing reliance upon the 2012 Government Resolution granted to the respondent no.4 for a period of one year, which would expire on or about 25.08.2021. He, therefore, submitted that no case for interference is made out.

5. The learned counsel for respondent no.3 as well as respondent no. 4 submitted that the approval is for the purpose of the day to day management of the College and the respondent no.3 having already assumed charge and in view of the fact that the approval is granted for a limited period, may not be interfered

with.

6. We have carefully considered the rival submissions made by the learned Counsel appearing for the respective parties.

7. It appears that there is a dispute amongst the members of the petitioner trust and about 5 Change Reports are said to be pending before the Charity Authorities. The petitioner had filed an application under Section 41-E of the Maharashtra Public Trusts Act, 1950 being Inquiry Application No.59 of 2017 in which there are only two respondents, namely, Sadashiv Munde and Trimbak Munde. It is significant to note that the respondent no.4 is not specifically made a party in the said application. There is an interim order passed by the Joint Charity Commissioner below Exh.3 in the said enquiry proceedings on 27.10.2017 thereby restraining the respondents, (i.e. Sadashiv Munde and Trimbak Munde) or anybody on their behalf from interfering with the day to day administrative work of the institution. As noticed earlier, it is not disputed that the respondent no. 4 is the Vice Chairman, as per the entry in Schedule-I maintained by the office of the Assistant Charity Commissioner, Latur.

8. So far as the Government Resolution dated 15.03.2012 is concerned, we are unable to accept that it only applies to minority institutions. The title of the said Government Resolution and perusal of the actual decision / resolution does not show that it

is limited in application to the minority institutions. The said Government Resolution is issued with the object of ensuring that the working of the education institution/s is not adversely affected on account of any inter-se dispute between the members of the trust. Thus, the University after taking note of the fact that there were inter-se disputes amongst the members had granted the approval to the respondent no.3 as an In-charge Principal for a period of one year, which would expire on or about 25.08.2021. The object of the approval is only to see that the day to day working of the institution / college is not adversely affected. Considering the overall circumstances and further having regard to the fact that the said approval is operating for about 11 months now and would expire in the last week of August – 2022, we do not find any case for interference is made out.

9. We note that, according to the respondent – University, the senior-most lecturer Dr. M.G. Landge, Dr. V.B. Gaikwad and Dr. R.D. Rathod had given No Objection Certificate (NOC) and thus respondent no.3 - Mr. D. V. Meshram was the seniormost in the seniority list. In our considered view, the approval has only to be seen in the context of the provisions of 2012 Government Resolution with a statutory object of smooth running of the college in the wake of inter-se dispute between the members of the trust. We would prefer to give priority to such smooth running of the institution. In the result, the petition stands **dismissed**. No order as to costs.

10. We, however, make it clear that we have not expressed any opinion on the inter se disputes and / or appointment made by the members of the trust.

11. The Civil Application stands disposed of.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

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