

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

906 CRIMINAL WRIT PETITION NO.1501 OF 2022

NEHAL AHMAD ZAMEER MULLA ANSARI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Sanket N. Suryawanshi.

APP for Respondent/State: Mr. G. O. Wattamwar.

...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 19th October, 2022.

Per Court:

. Heard Mr. Sanket Suryawanshi, leaned counsel for the petitioner and Mr. G. O. Wattamwar, learned APP for respondent No.1 / State.

2 The dispute in narrow compass is about running a *Madarsa* situated at Dhule. There are two groups in the trustees. One group is claiming possession of *Madarsa* as well as another group is putting forth the same claim. Ultimately, the dispute rushed to the Executive Magistrate / Tahsildar by way of proceedings under Section 145 of the Code of Criminal Procedure. The learned Executive Magistrate / Tahsildar, Dhule was pleased to dispose of that proceedings under Section 145 of the Code of Criminal Procedure vide order dated 28th July, 2022. Clauses 1 to 3 of the operative part of the

order passed by the Executive Magistrate / Tahsildar dated 28th July, 2022 read thus:

- “1. वडजाई रोड रियाजुल जुन्नाह मदरसा या ठिकाणी सामनेवाले नं 1 व सामनेवाले नं 2 या बाजुनी दोन्ही सन 2002 ते 2017 या कालावधीत ट्रस्ट डिड मधील सदस्य, आणि मुख्याध्यापक, उपमुख्याध्यापक, वस्ताद व शिक्षण घेणारे विद्यार्थी, स्टाफ यांचा कब्जा सामनेवाले 1 व सामनेवाले 2 यांनी मान्य केला असल्याने त्यांचा कब्जा आहे.
2. सदर ठिकाणीच्या ट्रस्ट डिड बाबत मा.वक्फ बोर्ड कडेस दाद मागुन व्यवस्थापन समिती निश्चिती करुन घ्यावी.
3. रियाजुल जुन्नाह मस्जिद व मदरसाचे कुलुप उघडून शिक्षण देणारे शिक्षक व विध्यार्थीसाठी खुली करण्यात यावी.”

3 It is further revealed during the course of argument that in view of the decision given by the Executing Magistrate-cum-Additional Tahsildar, Dhule City, the premises of *Madarsa* was open for one day on 20th August, 2022. The aggrieved party preferred Criminal Revision Application No.61 of 2022 before the Sessions Court at Dhule. The learned Additional Sessions Judge, Dhule, was pleased to grant stay to the order passed by the Executive Magistrate, Dhule by passing order on Stay Petition below Exhibit-4 in Criminal Revision Application No.61 of 2022.

4 It is further revealed during the course of argument that a stop gap arrangement is made in order to protect the students of

Madarsa and they are now accommodated in the *Dargah*. The dispute is about control over the *Madarsa* and management of the trust. The scheme is yet to be approved.

5 Mr. Suryawanshi, learned counsel for the petitioner has raised two points during his submissions. One, whether the police officer can reseal the *Madarsa* after orders of the Executive Magistrate, Dhule City, without following due procedure, and second, whether stay was obtained after execution of the order passed by the Executive Magistrate, Dhule City.

6 These are the legal points raised by Mr. Suryawanshi, learned counsel for the petitioner, which require adjudication at the hands of the Additional Sessions Judge, Dhule dealing with the above said criminal revision application.

7 Mr. Suryawanshi, learned counsel for the petitioner also vehemently prays for interim relief. However, in view of the nature of dispute between the parties, I am of the view that if the criminal revision application preferred by the opposite side / respondent Nos.2 to 6 is finally disposed of, it would serve the purpose and put end to the litigation. It would be in the interest of both the sides.

8 Having regard to the above reasons and discussion and having regard to the nature of dispute regarding the management of *Madarsa* in question, the following order is passed:

ORDER

- I. The criminal writ petition is disposed of as under:
- II. The learned Additional Sessions Judge, Dhule, is hereby requested to dispose of Criminal Revision Application No.61 of 2022, as expeditiously as possible, within four weeks from the date of receipt of writ of this Court by taking into consideration two points raised on behalf of the present petitioner discussed in paragraph No.5 of this order.
- III. Needless to state that the learned Additional Sessions Judge, Dhule shall decide Criminal Revision Application No.61 of 2022 after giving an opportunity of being heard to both the sides.
- IV. In view of the above directions, criminal writ petition stands disposed of.

[SHRIKANT D. KULKARNI, J.]