

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.2602/2019

Nandkishor Shyamkumar and others V Smt. Amrutabai and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. A.C. Dharmadhikari, Advocate for petitioners.
Mr. R.C. Hirkane, Advocate for resp. nos. 1 and 2.

CORAM : AVINASH G GHAROTE, J.
DATE : 24-08-2022

Mr. A.C. Dharmadhikari, learned counsel for the petitioners and Mr. R.C. Hirkane, learned Counsel for respondent nos.1 and 2.

2. This Petition challenges the order dated 20-11-2018 passed by the in-charge Assistant Commissioner in Scheme Application No.483/2017 to the extent it permits the proposed intervenor no.4/Head Master of the High School managed by the trust to be joined as intervenor, who is the present respondent no.2.

3. It is contended in a scheme application filed under Section 50-A of the Maharashtra Public Trusts Act (for short, 'MPT Act') by the petitioners. The respondent no.2, who at that time was the Headmaster of the school being run and managed by the trust, was neither necessary nor a proper party as he had no interest in the affairs of

trust and was not a person who could be said to have interest under Section 2(10) of the MPT Act. It is not disputed by Mr. Hirkane, learned counsel for the respondent nos.1 and 2 that the respondent no.2 was never member of the trust in question, but was a Headmaster of the school being run and managed by the trust. It is also an admitted position that the respondent no. 2 has since retired as a Headmaster on 30-11-2021, considering which the plea raised in application of intervention to join him as a party also does not survive. Since the respondent no. 2 is not a person falling within the definition of person having interest as defined in Section 2(10) of the Act, he would not be the person, who could be permitted to intervene in the scheme proceeding.

4. The reliance placed upon the judgment of this Court in the the case of *Jeejau Shikshan Sanstha and another vs State of Maharashtra and others* (Writ Petition No.1261/2010 with connected matters, decided on 17-02-2011 Coram-A.B. Chaudhari, J.) is misconceived, for the reason that this is not a case of transfer of a school from one Management to another and there is no question of the interest of the employees of the school being affected. In the judgment of this Court passed at Principal Seat in the case of *Janta Shikshan Sanstha, Dapodi and others vs Ajit Kashid and others*, in First Appeal No.262/2019 with Civil Application No.989/2019, decided on 16-08-2019 Coram-K.K. Tated, J.), there were two groups of trustees and therefore intervention as allowed on that ground as there were rival claimants. Which is not the position in the present matter.

5. In view of what has been discussed above, the impugned

order dated 20-11-2018, is quashed and set aside, in so far as it relates to the respondent no. 2 herein. The petition is allowed in above terms. No costs.

JUDGE

Deshmukh