

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

Writ Petition No. 3887 of 2021

[Urdu Education Association through its Managing Trustee, Abdul Wasiq Abdul Latif ..vs.. Director of Education, (Secondary & Higher Secondary), M.S. Pune and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. J. Mirza with Mr. M. D. Lakhey, Advocates for the petitioner
Mr. N. S. Rao, AGP for respondents 1 to 3

**CORAM : ROHIT B. DEO AND
ANIL L. PANSARE, JJ.**

DATED : 25-8-2022

The petitioner is taking exception to the communication dated 4-8-2021 addressed by the Director of Education (Primary and Secondary) to the Divisional Deputy Director of Education. The said communication states that the letter dated 5-3-2021 issued by the Directorate of Education is stayed.

2. We note that vide letter dated 5-3-2021, the Director of Education had directed all the Deputy Directors of the concerned Divisions in the State of Maharashtra that wherever there is an *inter se* dispute between the management of the institution, the concerned Deputy Director shall issue instructions to the management to consider the entries in the public trust register and to treat the trustees whose names are

recorded therein as the lawful management, and to further continue with the management whose names are recorded in the P. T. register, till the change report is approved.

3. We note that the letter dated 5-3-2021 itself appears to be beyond the administrative domain and jurisdiction of the Director of Education. *Inter se* disputes between the management are to be adjudicated by the authority under the Maharashtra Public Trusts Act. In this view of the matter, there was no propriety in addressing such a letter to the Deputy Directors of the respective divisions. We are further not inclined to accept the submission that by suspending the effect of the letter dated 5-3-2021, the Director has exercised power of review. Firstly, the letter impugned merely suspends the earlier communication and more importantly, the earlier communication does not affect any specific right of any party as would bring into play the doctrine of review and absence of jurisdiction to exercise power of review. The Director of Education issued certain administrative instructions to his subordinates which he in the first place ought not to have issued since the subject is clearly within the

jurisdiction of the authorities under the Maharashtra Public Trusts Act.

4. The view which we have taken finds support from the observations of the coordinate Bench in the case of *Murlidhar s/o Janrao Kale and ors. Vs. State of Maharashtra and ors. [2011(1) Mh.L.J. 849]*, particularly in paragraph 9 which reads thus :

“9. In the light of the above discussion, we hold that the Deputy Director of Education had no authority, power or jurisdiction to decide which board of trustees or trustees shall run the management of the Trust and the Schools but the jurisdiction is with the Assistant Charity Commissioner. We therefore hold that the order dated 30-1-2010, passed by the Deputy Director of Education, Amravati Division, Amravati holding that the elected Management led by President in the election on 16-3-2008 and the members shown in the Change Report No. 119/2008 are the authorized trustees to look after the management of the Trust and the school, is without any authority and without jurisdiction. It is noteworthy that this Court while remitting the matter to the Deputy Director of Education while deciding Writ Petition No. 3983/2009 on 11-1-2010 had never asked the Deputy Director of Education to decide this question as to who shall run the Trust and its institutions.”

5. The petition is dismissed.

6. We have clarified that we have not considered the merits of the matter and the petitioners are free to approach the appropriate authority, if they have not already approached, with the grievance.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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