

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

WRIT PETITION No. 4648 OF 2021

Punyashlok Ahilyadevi Shikshan
Sanstha, Mansar. Petitioner.

VERSUS

The Deputy Director of Education,
Nagpur and others. Respondents.

Mr. A.D. Bhate, Advocate for the Petitioner.
Mr.A.A. Madiwale, A.G.P. for Respondent Nos.1 & 2.
Mr.S.D. Chande, Advocate for Respondent Nos.3 & 4.

WRIT PETITION No. 1201 OF 2022

Subhash P. Joshi
and others. Petitioners.

VERSUS

State of Maharashtra
and others. Respondents.

Ms.S. Dashputre, Advocate h/f. Mr.S.U. Ghude, Advocate for
Petitioners.
Mr.A.A. Madiwale, A.G.P. for Respondent Nos.1 to 4.

WRIT PETITION No. 894 OF 2022

Ashok Atmaram Jawade. Petitioner.

VERSUS

Assistant Charity Commissioner,
Wardha and others. Respondents.

Ms. A. Lanjewar, Advocate for the Petitioner.
Mr.A.A. Madiwale, A.G.P. for Respondent Nos.1 & 2.

**CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.**

DATE : 28 MARCH 2022.

P.C.

In all these petitions the genesis of the dispute is the pendency of change reports under Section 22 of the Maharashtra Public Trust Act, 1950 before the Charity Authorities.

2. In Writ Petition No.4648/2021 Respondent Nos.3 and 4, teachers and employees of the Petitioner – Education Society were terminated after an enquiry. The appeal filed by Respondent Nos.3 and 4 before the School Tribunal was withdrawn. Respondent No.2 – Education Officer vide order dated 5 June 2020 ordered stoppage of disbursement of salaries to Respondent Nos. 3 and 4. Later on

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4 October 2021, the Education Officer while exercising powers of review set aside his earlier order and also the termination order of Respondent Nos.3 and 4, and proceeded to decide the *inter se* dispute of the management. This order is subject matter of challenge in this petition.

3. In Writ Petition No.120/2022 prayer of Petitioners – an Education Institute is to direct Respondent No.3 Assistant Charity Commissioner, Wardha to decide Application No.270/2017 along with Change Report No.845/2017 within a period of three months.

4. In Writ Petition No.894/2022 prayer of Petitioner is to direct Respondent No.1 Assistant Charity Commissioner, Wardha to decide Application No.40/2019 filed under Section 41A of the Maharashtra Public Trust Act, 1950. A change report is also stated to be pending before the Charity Authorities. New Executive Committee was elected on 18 December 2017, and change was to be brought in Schedule-I. Change report under Section 22 of the Public Trust Act was filed before the Assistant Charity Commissioner, Wardha on 21 December 2017, which was accepted on 21 February 2018 and directions to amend the Schedule-I was issued. In revision filed by Respondent Nos.3 and 4, the Joint Charity Commissioner, on 16 September 2020 set aside the order and remanded the Change Report No.926/2017 for fresh enquiry.

5. In all these petitions, pendency of the change reports has

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given rise to disputes within the management of their educational institute. Dispute between the Trustees of the Educational Trust directly affects the education in which State has interest, grants are given to these institutes out of Public Exchequer to impart education.

6. The learned Counsel for the parties have drawn our attention to the proviso to Section 22 which has been inserted by the Maharashtra Act No.55 of 2017. The proviso has introduced a methodology for interim arrangement. The first proviso states that in the case of change in the trustees, the Deputy or Assistant Charity Commissioner may pass order provisionally accepting the change within period of fifteen working days and issue a notice inviting objections to such change within thirty days from the date of publication of such notice. Thereafter it is provided that if no objections are received within the said period of thirty days, the order accepting the change provisionally shall become final and entry thereof shall be taken in the register kept under Section 17 in the prescribed manner. It is also provided that if objections are received within the stipulated period, the Deputy or Assistant Charity Commissioner may hold an enquiry in the prescribed manner and record a finding, as provided, within three months from the date of filing objections. Therefore, it appears that the Legislature has taken note of the need to have a time bound disposal, at least by passing a provisional order.

7. The learned Counsel for the parties state that objections

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have been lodged in these matters, however, no provisional order have been passed as yet. Ideally as per proviso, provisional orders should have been passed within fifteen working days and if the objection is received to be decided within a period of three months. If the objections are not received, then the provisional order is deemed to have become final.

8. In view of the fact that objections have been lodged and considering the Legislative intent for bringing the amendment, we direct that the pending change reports in these cases be decided, if not already decided, within a period of two months from today.

9. Once the Charity Authorities give their decision, the Education Officer will proceed as per law, based on the decision and pass suitable order. The aggrieved parties will have their remedies open.

10. Writ Petitions are accordingly disposed of.

(ANIL L. PANSARE, J) (NITIN JAMDAR, J)

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