

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

**948 WRIT PETITION NO.1275 OF 2023**

SANJAY HANUMANT BORADE AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...  
Advocate for Petitioners : Mr. Vikram S. Kadam.  
AGP for Respondent Nos.1, 2 & 7 : Mr. S. G. Karlekar.  
Advocate for Respondent Nos.4 to 6 : Mr. V. D. Salunke.  
...

CORAM : **RAVINDRA V. GHUGE &  
SANJAY A. DESHMUKH, JJ.**

DATE : 01<sup>st</sup> February, 2023.

**Per Court :**

1. These are two petitioners before us. One is an agriculturist and another is a retired person. Both claim to be the office bearers of Vidya Vikas Mandal, Pathrud, Taluka Bhoom, District Osmanabad (hereinafter referred to as the "Trust"). These petitioners have put forth prayer clauses 'B' to 'D' as under:-

"B) Hold and declare that, the impugned action of Respondent Nos. 2 and 3, granting NOC and permission to Respondent Nos. 4 and 5 to issue advertisement and permission for filling up various vacancies in Respondent No. 6 College is illegal, arbitrary and violative of provisions of law and liable to be quashed and set aside and for that purpose issue necessary orders;

- C) Issue writ of mandamus or any other appropriate writ, order or directions in the like nature of writ of mandamus, directing the Respondent No. 7 Learned ACC, Osmanabad to decide pending change reports in respect of Vidya Vikas Mandal, Pathrud bearing Registration No. F-150-Osmanabad within stipulated period and as much as within a period of 4 weeks from today and for that purpose issue necessary orders.
- D) Pending hearing and final disposal of present writ petition, restrain the Respondent Nos. 4 and 5 or their agent or anybody acting on behalf of Respondent Nos. 4 and 5 to conduct any interviews scheduled to be held on 03.02.2023 in respect of filling up various vacancies in Respondent No. 6 College and from taking any policy decision in respect of Vidya Vikas Mandal Trust and filling up the vacancies as per the advertisement dated 09.12.2022 and for that purpose issue necessary orders;”

2. We have considered the strenuous submissions of the learned advocates for the petitioners and on behalf of respondent Nos.4 to 6 and the learned AGP for respondent Nos.1, 2 and 7.

3. After considering the submissions of the learned advocates and upon perusing the petition paper-book, it hardly needs any explanation to draw a conclusion that this education Trust is in doldrums. According to the petitioners, there are 3 Chairmen and 3 Secretaries. There are 3 factions. Litigation and internal squabbles

between these three groups is said to be brewing for the last more than 15 years. Per contra, Respondent Nos.4 and 5 claim to be the President and Secretary of the said Trust. According to them, for the last decade, there has been no groupeeism. It is the petitioner's faction, which is creating obstacles at every stage in the smooth functioning of the Trust.

4. There are around 9 change reports pending. The litigation before the Charity Commissioner has also reached upto this Court. In an earlier petition filed by some petitioners, who are said to be from the group of the present petitioners, this Court (Coram: S. V. Gangapurwala and Shrikant D. Kulkarni, JJ.) has observed in paragraph Nos.2 to 7, in the order dated 5<sup>th</sup> February, 2022 passed in ***Writ Petition No.2256 of 2020 (Vaijinath Narhari Morale and others Vs. The Incharge Joint Charity Commissioner Aurangabad and others)***, as under:-

“2. Mr Kadam, learned Advocate for the petitioners submits that there are various change reports pending before the office of the Joint Charity Commissioner, Latur and the petitioners have also filed application for deciding the change reports. The applications are filed by the petitioners in the pending change reports, however, the Joint Charity Commissioner at Latur is not available. The In-charge Joint Charity Commissioner, Aurangabad is not

taking up the matter. According to the learned counsel, there are allegations against the present respondents. The petitioners had also raised objection before the University. The Assistant Charity Commissioner has Communicated to the University that many change reports are pending and as such he cannot opine of the body in the management. Learned counsel submits that ad hoc appointments are already made for the academic year 2019-20 for the same posts, they can be continued. The respondents are trying to create evidence to show that they are in management by such advertisement. Learned counsel further submits that administrator was appointed because of the illegal acts of the respondents.

3. Mr. Salunke, the learned counsel submits that the appointment of the administrator has been revoked and the charge is restored to the present respondents. According to the learned counsel, the proper procedure has been followed, the University has granted sanction to the advertisement. The University has formed the selection committee and the Joint Director of Higher Education has nominated his representatives.

4. In the present writ petition we would not be deciding as to who is in the management. That would be in the domain of the office of the Joint Charity Commissioner/ Assistant Charity Commissioner where the change reports are pending. It is for the parties to move the office of the Joint Charity Commissioner/ Assistant Charity Commissioner where the change reports are pending and

request to pass order in view of the amended provisions of Section 22 of the Maharashtra Public Trust Act. The parties may avail the same.

5. In the present case, the University has approved the advertisement and pursuant to the approval granted by the University, the advertisement was published on 1<sup>st</sup> November, 2019. The selection committee is constituted by the University and the Joint Director has also nominated its representatives on the committee. It is only after the interviews and the proper procedure is followed, the appointments of the staff would be made pursuant to the advertisement. Their appointment will also have to be approved by the office of the University and the joint Director of Higher Education. The parties may raise objection before the appropriate authority.

6. As the change reports are already pending, we would not comment upon the party in management as it is only a case of issuance of advertisement upon approval by the University and the selection committee constituting the representatives of the government authority. Moreover all the objections of the parties are open. Objections can be raised before the authorities upon submission of the proposal for grant of approval to the appointments. As such we are not inclined to comment anything on the merits of the matters.

7. With the aforesaid observation, the writ petition is disposed of”

5. It is beyond debate that this Court cannot entertain the issue of deciding as to who is the elected representative on the Trust and who can be said to be the office bearers of the Trust. So also, this Court cannot go into the aspects as to whether any group in the Trust has misled the University. It is for the University to consider as to whether it has been misled on any issue. Bald allegations being levelled by these groups against each other, would not take the case of the Trust, forward. So also, the very locus of these two petitioners as office bearers, is questionable. Their names are not mentioned in Schedule-I and as such, they are not the office bearers of the Trust.

6. In view of the above and considering the earlier order dated 5<sup>th</sup> February, 2020 passed by this Court, it would be obvious that if the selection process is taken to its logical end, the University would be the competent authority to consider the legality of the appointments made. It is within the domain of the University to deal with these aspects. If it finds that any person is illegally selected and appointed, it can surely interject in the said process and refuse approval.

7. In light of the above, we would not cause any interference in the advertisement at issue, which is said to be after the grant of approval by the University. It is informed that the selection committee

is also appointed by the University. The said committee would do its duty strictly in accordance with law. This Court need not delve into the disputed issues, by entertaining this petition.

8. In view of the above, this petition is dismissed.

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[ SANJAY A. DESHMUKH, J. ]

[ RAVINDRA V. GHUGE, J. ]