

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO.2518 OF 2023**

Maulana Mohammad Ali Johar  
Education Society, Sillod Tq. Sillod,  
District Aurangabad through its President  
Shaikh Mohammad Kaisar Azad Abdul Gafur      ...      **PETITIONER**

**VERSUS**

1.    The State of Maharashtra  
      through Secretary,  
      School Education and Sports  
      Mantralaya, Mumbai - 32
2.    Deputy Director of Education  
      Aurangabad Division, Aurangabad  
      Bhadkal Gate, Aurangabad
3.    Education Officer (Primary),  
      Zilla Parishad, Aurangabad  
      Railway Station Road, Old Chelipura  
      High School, Aurangabad.
4.    Education Officer (Secondary)  
      Zilla Parishad, Aurangabad  
      Railway Station Road, Old Chelipura  
      High School, Aurangabad.
5.    Imran Ahmed Anis Ahmed Deshmukh      ...      **RESPONDENTS**

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Advocate for Petitioner : Mr. Deshmukh Sachin S.  
AGP for Respondent/State : Mr. S.B. Yawalkar  
Advocate for Respondent No.3 : Mr. P.P. Kothari  
Advocate for respondent No.5 : Mr. A.S. Deshpande

...

**CORAM    :    MANGESH S. PATIL &  
                     SHAILESH P. BRAHME, J.J.**

**DATE        :    14.09.2023**

**PER COURT :**

Heard both the sides finally.

2. The petition is filed on behalf of an Education Society by the person stated to be holding the Management. By communication dated 31.10.2022 the petitioner had sought permission from the respondent No.3 – Education Officer (Primary) Zilla Parishad, Aurangabad, to suspend the respondent No.5 who has been serving as an assistant teacher. By the impugned communication dated 08.02.2023, the Education Officer has refused to consider the request by observing that a dispute regarding the Management was *sub judice* and it is only the authorized management which can take such a decision.

3. It is being pointed out on behalf of the petitioner that in a proceeding under Section 41E of the Maharashtra Public Trust Act, 1950, by the order dated 01.08.2022 the Joint Charity Commissioner has temporarily restrained the respondents therein which is the rival group from taking any policy decision in the matters of Trust till final decision of the main petition or acceptance of the change report. It appears that only a week prior thereto the Education Officer had informed the petitioner on 27.07.2022 (Exhibit-K) not to take any policy decision since the proceeding under Section 41E of the Maharashtra Public Trust Act and a change report under Section 22 were pending.

4. It appears that subsequently, even the persons in the Management had approached this Court in the Writ Petition

No.11087/2022 and by the order dated 16.11.2022 following direction was issued :

*“2. As such, we called upon the petitioners to indicate as to whether the latest Schedule-I, containing the names of the authorized representatives, is placed on record. The answer is in the negative. There are no pleadings in the memo of the petition, declaring that the names of these petitioners are approved in the Schedule-I, indicating that they are the authorized representatives of the Trust.*

*3. In view of the above, this petition is dismissed.*

*4. Considering the impugned communication, the Trust is at liberty to address the Education Officer, by placing the relevant record, maintained by the Maharashtra Public Trust department, before it, indicating that these petitioners are the authorized representatives of the Trust.”*

5. The long and short of the facts is that the petitioner who claims to be in power and are seeking permission of the Education Officer for suspending the respondent No.5 are facing a deadlock. In the light of the observation of this Court as also the order passed by the Joint Charity Commissioner on 01.08.2022 it was expected of the petitioners to satisfy the respondent Education Officer as to how they could have legally taken the decision to suspend the respondent No.5. The Education Officer seems to oblivious of the order passed by the Joint Charity Commissioner as well as passed by this Court referred to herein above.

6. In our considered view, it would be in the fitness of things to call upon the respondent No. 3 – Education Officer (Primary) to take decision afresh on the petitioner’s proposal on its own merits bearing in mind the order passed by the Joint Charity Commissioner dated

01.08.2022 and one passed by this Court in Writ Petition No.11087/2022.

7. We allow the writ petition partly. Impugned communication dated 08.02.2023 is quashed and set aside. The Education Officer (Primary) shall take a fresh decision by extending the petitioner an opportunity of being heard.

8. The Education Officer shall take the decision as expeditiously as possible and in any case within four weeks.

**(SHAILESH P. BRAHME, J.)**

**(MANGESH S. PATIL, J.)**