



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO. 11273 OF 2023

Sharda Shikshan Prasarak Mandal
Kolhapur & Others .. Petitioners.
v/s.
The State of Maharashtra & Others .. Respondents.

WITH
INTERIM APPLICATION (ST.)NO.16934 OF 2023
IN

WRIT PETITION NO.11273 OF 2023

Mr. Bharmu S. Patil .. Applicant.

In the matter between
Sharda Shikshan Prasarak Mandal
Kolhapur & Others .. Petitioners.
v/s.
The State of Maharashtra & Others .. Respondents.

Mr. Prashant Bhavake, for the Petitioners.
Mr. S. S. Pakale with Mr. Nilesh Desai i/b. Ms. Padmaja Malgaonkar, for
the Applicants/ Intervener.
Ms. A. A. Purav, AGP for Respondent Nos. 1 to 5.

**CORAM: SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ.**
DATED : 12th SEPTEMBER, 2023.

PC:-

This Petition is at Serial No.40 on the daily board and at the request of the learned Counsel for the Petitioners, who cited urgency, this Petition has been taken up out of turn.

2 The reason given by learned Counsel for the Petitioners is that, because appointment of Petitioner No.3 as Head Master is not being approved by the Respondents, there is stoppage of salary of the entire staff of the school.

3 Shri Pakale, learned Counsel appearing for the intervenor submits that intervenor has filed an application seeking leave of the Court to intervene in the matter on the ground that this Petition has been filed by the Managing Committee which is not authorized to represent Sharda Shikshan Prasarak Mandal, Chandgad, Dist. Kolhapur. Learned Counsel further submits that the real Managing Committee is different and the names of the members of the Managing Committee are also duly recorded in the office of the Assistant Charity Commissioner. Therefore, according to him, the intervenor has right to file a Petition and intervene, he being authorized representative of the Managing Committee in power which has not taken any decision to file any Writ Petition. The intervention application has not been placed before us today. Therefore, it may not be possible for us to verify the submissions made on behalf of the Intervene Applicants. However, learned Counsel for the Petitioners submits that all his submissions made on behalf of the intervenor/ applicant, are incorrect and the present Managing Committee has filed this Petition after an appropriate resolution in that behalf was passed. He also submits that present Managing Committee is as per the list of recorded trustees and, therefore, the intervenor has no right to intervene in the present matter.

4 On going through the memo of Petition and the cause title of the Petition and also going through the verification clause, we find that this Petition has not been appropriately filed by the Petitioners. Petitioner

No.1 has been shown to be Sharda Shikshan Prasarak Mandal which is represented through its President/ Secretary which creates vagueness about the office bearer who is actually authorized to file Writ Petition on behalf of Petitioner No.1. It cannot be said that both the President as well as Secretary would file this Petition unless they are jointly authorized by the trustees to do so. On going through the memo of Petition, we also find that there is not even a whisper about any resolution having been passed by the Managing Committee of the Trust.

5 Verification clause shows that Petition has been verified and affirmed by one Jayvant Jotiba Kokitkar but his occupation has been shown as service. He is also Petitioner No.3 and the cause title shows his occupation as service. There is no averment in the Petition as to in what capacity Petitioner No.3 has been joined as Petitioner No.3. Any person who is an employee of a trust or society, by virtue of holding that position, does not get any authority in law to file the Petition on behalf of the Trust or Society.

6 Thus, we find that this Petition has been defectively filed and it is not maintainable in its present form before this Court.

7 Petition stands dismissed as not maintainable in the present form. We grant liberty to the Petitioners to file fresh Petition which is properly drafted and duly supported by the necessary resolution.

8 Intervention Application is disposed of in terms of final order passed in the Writ Petition.

(FIRDOSH P. POONIWALLA,J.)

(SUNIL B. SHUKRE,J.)