

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13712 OF 2023

Sharda Shikshan Parasarak Mandal,
Yashwantnagar Thr. The
Secretary Shr. J. B. Patil & Ors.
Vs.

..Petitioners

The State of Maharashtra Thr. Its
President Secretary School Education & Sport
Department & Ors.

..Respondents

WITH
INTERIM APPLICATION NO. 16898 OF 2023
IN
WRIT PETITION NO. 13712 OF 2023

Bharmu Subrao Patil Thr. President
Sharda Shikshan Prasarak Mandal
Vs.

..Applicant

The State of Maharashtra Thr. Its
President Secretary School Education & Sport
Department & Ors.

..Respondents

Mr. Prashant Bhavke, for Petitioner.
Mr. Suresh Pakale, Sr. Adv. a/w Mr. Nilesh Desai i/b Padmaja Malgaonkar,
for Applicant/intervenor.
Ms. P. N. Diwan, AGP for Respondent Nos.1 to 3.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATE : NOVEMBER 1, 2023.

P.C.:

1. We have heard Mr. Bhavke, learned counsel for the petitioner, Ms. Diwan, learned AGP for Respondent Nos. 1 to 3 and Mr. Pakale, learned Senior Advocate for intervenors.

2. A perusal of the title of this petition indicates that this is a petition although filed for the benefit with interest of Petitioner No.3 who is claiming to be appointed as the Head Master of the Bhaveshwari Vidyalaya, Basarge, Tq. Chandgad District Kolhapur, the petition is in fact in the interest of a group within the society nation purportedly managing the said School, impleaded as Petitioner No.2. There is an intervention application filed by Mr. Bharmu Patil, applicant who claims to be Vice President of the Sharda Shikshan Parasarak Mandal, Yashwantnagar, i.e. Petitioner No.1 in the petition. The title of the Interim Application is required to be noted which reads thus:

“Bharmu Subrao Patil Through President Sharda Shikshan Prasarak Mandal

Vs.

The State of maharashtra Through Its President Secretary School Education & Sport Department & Ors.”

3. After hearing learned counsel for the parties, it is clear that there are rival groups who are asserting control of the management of the Sharda Shikshan Parasarak Mandal, Yashwantnagar (“**the Society**”). The society is running Petitioner No.2-School, as also some other schools.

4. The case of the petitioners is that the Petitioner No.3 came to be appointed as a principal of petitioner No.2 Bhaveshwari Vidyalaya,

Basarge, Tq. Chandgad District Kolhapur, in pursuance of a promotion order issued to him on 1 September 2022 (Exhibit-G page 58) and in pursuance of which he has taken charge of the said post.

5. This is being disputed by the group who is represented by the intervenors, who contend that not only the resolution dated 28 August 2022 (Exhibit-F page 57) to the effect that the Petitioner No.3 be promoted to the post of Principal but also the transfer of Petitioner No.3 from Sai Vidyalaya, Ibrahimpur to Bhaveshwari Vidyalaya, Basarge, Taluka Chandgad, District Kolhapur, is illegal and at the behest of the person namely Janba Patil, who illegally declared himself to be a Secretary of the Society - Sharda Shikshan Parasarak Mandal, Yashwantnagar. It is the contention of the intervenors that the said Shri. Janba Patil, had no authority to act in the capacity as Secretary and issued the communication as annexed to the petition. Mr. Pakale, learned Senior counsel who appears for the intervenor also states that this issue has already raised in the proceedings before the Charity Commissioner, which are pending.

6. It appears that during the pendency of such dispute between the two rival groups who claim to be administering the Society, the employees of the Petitioner No.2 are suffering, inasmuch as no proposal has been sent

for last 15 months for release of the salary grants of these employees of Petitioner No.2-School, who are stated to be seven employees to be released. We are quite astonished at this. Merely for the reason that there is a dispute in the management of the society it cannot affect the very livelihood of the employees, who are discharging their duties. They cannot remain unpaid. We are thus of the clear view that payment of salary to those who have worked cannot wait till the disputes between these two groups, as stated to be pending are resolved. Such unmanagable state of affairs as brought about by the two fighting groups assuming control over the society which has already affected the employees of the Schools, would also affect the students. We are thus of the opinion that this is a fit case, where we need to direct the Deputy Director of Education appoint an Administrator to conduct Petitioner No.2-School (Bhaveshwari Vidyalaya, Basarge, Tq. Chandgadh District Kolhapur), *inter alia* for better administration and management of Petitioner No.2-School. Also the salary proposals can be immediately prepared by the Administrator and submitted to the Education Officer, for release of salary grants of the employees of the school in question. The Deputy Director of Education is accordingly directed to appoint a competent official as an Administrator, forthwith, on receipt of a copy of this order.

7. The Administrator shall take charge of Petitioner No.2-School, and forward the salary proposals, as also look after the day to day working of the school till the disputes between two factions of the Society are resolved.

8. We also direct that the Administrator shall make an appropriate report to the Deputy Director of Education in regard to the actual status of the Head Master and in the event, the Deputy Director is satisfied that Petitioner No.3 was in fact working as a Head Master, we shall permit the Petitioner to discharge duties of the post of Head Master.

9. The Deputy Director / Education Officer shall pass an appropriate order on a proposal for grant of an approval on the appointment to the post of Head Master, as may be permissible in law.

10. The Administrator shall continue to administer Petitioner No.2-School, till the rival parties in the Society declare, before the Deputy Director that the disputes between them have finally stand resolved.

11. Needless to observe that all contentions of the intervenors as also of any other persons who assert their respective contentions in regard to the

management of Sharda Shikshan Parasarak Mandal, Yashwantnagar are expressly kept open to the adjudicated in the appropriate proceedings.

12. The Administrator shall forthwith forward the proposals to the Education officer and the Education Officer shall release the salary grants by following the procedure within a period of one week from the receipt of the proposals including that of petitioner No.3.

13. We accordingly, dispose of this petition in terms of the above order. Interim Application would also not survive which stands disposed of.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]

corrected as per speaking to minutes of order dated 09.11.2023