

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

WRIT PETITION NO. 989/2021

(TRIRATNA KRIDA AND SHIKSHAN PRASARAK MANDAL, KAPSHI **VERSUS** STATE OF
MAHARASHTRA & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Mahesh Rai, counsel for the petitioner.
Shri A.A. Madiwale, Assistant Government Pleader for the respondent nos.1 and 4.
Shri P.S. Gavai, counsel for the applicant in C.A.W. No. 1128/2021.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : APRIL 21, 2023.

Heard.

2. The petitioner which is a public trust through its Secretary seeks issuance of a direction to the Education Officer (Secondary) to handover the charge of the school that is being run by the public trust to it. An application for intervention has been filed by another group of trustees claiming entitlement to similar relief.

3. On hearing the learned counsel for the parties, we find that there are disputes among the trustees based on various change reports. Initially this Court had entertained Writ Petition No. 1413 of 2013 at the behest of the public trust and after noting that since the tenure of the Administrator who had been appointed under the provisions of the Maharashtra Educational Institutions (Management) Act, 1976 (for short, 'the said Act') had expired, the charge was directed to be handed over to the Headmistress of the said school. This was subject to the rival groups approaching the Competent Authority under the said Act for securing necessary orders in the interest of justice. In the meanwhile, the respondent no.5-Headmistress has superannuated and now the charge is with the respondent no.6 who is currently the Headmaster.

4. We find that various trustees are relying upon different change reports to substantiate their contentions. While the Secretary seeks to rely upon Enquiry No. 383 of 1996 decided on 05.04.2019, the other group that has filed C.A.W. No. 1128 of 2021 for intervention seeks to rely upon Enquiry No. 613 of 2002 decided on 03.02.2022 to stake its claim. In the light of such disputes pending between the parties and as the Authority under the said Act is seized of the same we find that the interests of justice would be served by directing the learned Joint Charity Commissioner to consider the issue in exercise of the powers under Section 41A of the said Act and thereafter issue directions keeping in mind the proper management of the school. Accordingly, the following order is passed:-

- I. The learned Joint Charity Commissioner, Amravati is directed to be impleaded as the respondent no.7 in the writ petition. Learned Assistant Government Pleader waives notice for the said Authority.
- II. The learned Joint Charity Commissioner shall initiate proceedings under Section 41A of the said Act to determine whether directions need to be issued to handover the charge of the school to the proper Management so as to look into the affairs of the said school. Due opportunity be given to all interested parties and after considering the same appropriate orders in that regard be passed.
- III. Necessary exercise be completed within a period of three months from the date of receipt of the copy of this order.

5. The writ petition and the civil application are disposed of in aforesaid terms with no order as to costs.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

APTE

Signed By: Digitally signed
by ROHIT DATTATRAYA
APTE
Signing Date: 24.04.2023 10:59