

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

WRIT PETITION NO.6772/2022

Manavata Pragati Shikshan Sanstha, Malkapur Vs. Education Officer (Primary), Zilla Parishad, Buldhana and Ors.

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

Court's or Judge's order

.....
Mr. P B. Patil, Advocate for Petitioner.

Ms. S. S. Jachak, Advocate for Respondent No.1.

Mr. Anand Parchure, Advocate for Respondent Nos.2 and 3.

CORAM : A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI,JJ..

DATED : 27.07.2023

. Heard.

2. The challenge raised in the present writ petition is to the order dated 28.09.2022 passed by the Education Officer (Primary) thereby seeking to adjudicate complaints received by the said office pertaining to running of the Urdu Primary and Middle School, Cyclepura at Malkapur. By the said order, the Education Officer (Primary) has noted the fact that there were disputes pending between two factions of the Management. The order passed by the petitioner's faction suspending the services of the respondent No.2 on the post of Headmaster has been set aside. The request made by the petitioner for grant of Administrative and Financial Authority has not been considered.

3. The scope of the powers to be exercised by the Education Officer when is confronted with disputes in the Management has been considered by this Court in ***Ganesh s/o. Mahadeorao Thawre Vs. Central Hindu Military***

Education Society, Nashik and Anr. [2008 (1) ALL MR 205] as well as ***Murlidhar s/o. Janrao Kale & Ors. Vs. State of Maharashtra and Ors. [2011 (1) ALL MR 374]***. From the aforesaid decisions, it is clear that insofar as *inter se* disputes in the Management is concerned, the same cannot be resolved or gone into by the office of the Education Officer (Primary). To that extent the order dated 28.09.2022 setting aside the order of suspension of the respondent No.2 is liable to be set aside as the Education Officer (Primary) has relied upon such disputes in that regard. It is however informed by the learned Counsel for the petitioner that pursuant to the liberty granted by this Court on 01.11.2022, the enquiry against the respondent No.2 has concluded and services of the respondent No.2 have been thereafter terminated on 02.11.2022. These facts were disputed by the learned Counsel for the respondent No.2. It is not necessary for this Court to adjudicate upon the validity of the termination order in the present proceedings.

4. In these facts, the following order would serve the interest of justice :-

i] The observations of the findings made in the order dated 28.09.2022 with regard to the *inter se* disputes in the Management of the public trust would not operate to the prejudice of the either parties.

ii] Direction No.5 thereof setting aside the order of suspension is set aside since the Education Officer (Primary) has no jurisdiction to go into that aspect.

iii] Insofar as the prayer for grant of Administrative and Financial Authority is concerned, the petitioners are free to make a request to the Education Officer (Primary) to hand over such powers to the appropriate Assistant Teacher/Headmaster. If such request is received, the Education Officer (Primary) shall consider the same in accordance with law and decide such request accordingly.

5. The writ petition is disposed of in aforesaid terms. No costs.

(MRS.VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

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