



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6752 OF 2023

Mahatma Basveshwar Education Society
Latur, Through it's Secretary
Madhavrao Hanmantrao Patil (Taklikar)
age 58 years, Occ. Business,
R/o. Latur, Tq. & Dist. Latur. Petitioner

VERSUS

1. The State Of Maharashtra
Through It's Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai – 32.
2. Dr. Babasaheb Ambedkar Technological University,
Lonere, Vidhya Vihar, Lonere,
Tq. Mangaon, Dist. Raigad,
Through its Registrar.
3. Basawraj s/o Vishwanath Dharne,
age 57 years, Occ. Nil,
R/o Shivaji Nagar, Sindhi Colony,
Latur, Tq. & Dist. Latur. Respondents

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Advocate for the Petitioner : Mr. N.P Patil Jamalpurkar

AGP for Respondent 1: Mr. S.K.Shirse

Respondent No.2 – served.

Advocate for Respondent no.3 : Mr. T.G. Gaikwad

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CORAM : SMT. VIBHA KANKANWADI
AND
S. G. CHAPALGAONKAR, JJ.

Reserved on : February 08, 2024

Pronounced on : February 22, 2024

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JUDGMENT :- (Per S.G. Chapalgaonkar, J.)

1. Rule. Rule made returnable forthwith. With consent of the parties, heard finally at admission stage.

2. The petitioner approaches this Court under Article 226 of the Constitution of India, with following prayer :-

“A] For a writ of certiorari order or direction in the nature of certiorari calling for the record and proceedings of the extension of approval order dated 4.5.2023 as well as order of approval dated 3.10.2022 issued by the respondent no.1 University thereby granting approval in favour of respondent no.3 as in-charge Principal of M.S. Bidve Engineering College, at Latur and after examining the legality, validity and propriety thereof, extension of approval order dated 4.5.2023 as well as order of approval dated 3.10.2022 issued by the respondent no.2 University thereby granting approval in favour of respondent no.3 as in-charge Principal of M.S. Bidve Engineering College, at Latur may kindly be quashed and set aside.”

3. Mr. N.P. Patil Jamalpurkar, learned advocate appearing for the petitioner submit that respondent no.3 was serving with ‘M.S. Bidve Engineering College’, at Latur which is run by Mahatma Basaveshwar Education Society. The Society had initiated departmental inquiry against respondent no.3. The charge-sheet for misconduct and misappropriation was served upon respondent no.3. The inquiry was conducted. As per the recommendations of inquiry committee, respondent no.3 was terminated from service vide order dated 14.9.2022. The information regarding action taken by the Management was given to respondent no.2 University.

4. Mr. Patil, learned advocate would further submit that Mr. Shivshankar Malikarjun Bidve, who is Ex-Member of the Society, without any authority forwarded a letter to the University seeking grant of approval to the appointment of respondent no.3 as in-charge Principal of 'M.S. Bidve Engineering College'. The University, without ascertaining authority of Mr. Shivshankar Bidve, granted approval to such appointment vide order dated 3.10.2022 for period from 12.9.2022 to 11.3.2023. After getting knowledge of the aforesaid order, Secretary of the Society made a representation to University, pointing out that respondent no.3 was found guilty of misconduct during discharge of his duties as a in-charge principal in the year 2016. Therefore, his services have been terminated. Further, appointment of respondent no.3 is by unauthorized person, therefore, it was requested to withdraw approval granted in favour of respondent no.3. Mr. Patil, would submit that aforesaid correspondence was not replied by the University and on expiry of six months term of appointment of respondent no.3, he has been further continued as in-charge principal vide order dated 4.5.2023. He would therefore submit that appointment of respondent no.3 as in-charge principal and consequential approvals granted by the University are illegal and liable to be quashed and set aside.

5. Mr. T.G. Gaikwad, learned advocate appearing for the respondent no.3 would submit that there is dispute between two groups of Management. The respondent no.3 is the senior and qualified teacher and entitled to be appointed as

in-charge Principal. He would submit that so-called inquiry and consequential order of termination of his services is by incompetent/unauthorized persons, who were never in-charge of Management of the Society. He would further point out that the Deputy Charity Commissioner, Latur affirmed the change report in favour of group of Management, who has appointed the petitioner as in-charge principal. On the other hand, change report submitted by the petitioner i.e. Madhavrao s/o Hanumant Patil has been rejected. The appeal no.35 of 2022 filed before the Joint Charity Commissioner, Pune against the order of Deputy Charity Commissioner has been rejected thereby confirming the order dated 31.7.2023 passed by the Deputy Charity Commissioner in change report No.1420 of 2019. Mr. Gaikwad would therefore submit that the petitioner has no authority to proceed with the present writ petition and seek any relief against the respondents.

6. We have considered the submissions advanced on behalf of the respective parties. We have perused the record tendered into service. Apparently, it is a case of typical dispute between two groups of Management and consequential attempts to takeover control of Management of Educational Institutions run by the Society. It is not in dispute that the petitioner is employed with 'M.S. Bidve College of Engineering', at Latur run by Mahatma Basaveshwar Education Society, at Latur. Respondent no.3 was appointed as in-charge principal and his services were approved by the University vide communication dated 6.1.2016. It appears that thereafter, there were disputes between two groups of Management. The

University had undertaken requisite inquiry to appoint appropriate person as in-charge principal and ultimately respondent no.3 has been granted approval to discharge the duties as in-charge principal. Petitioner, who claims to be the Secretary of Society raised challenge to the appointment and continuation of respondent no.3 on the post of in-charge Principal. Pertinently, petitioner had submitted change report regarding election dated 5.5.2019, however, suffered rejection before Deputy Charity Commissioner, at Latur. On the other hand, change report submitted by the other group of Management came to be accepted. The aforesaid orders have been confirmed by the Joint Charity Commissioner. Resultantly, the petitioner is neither in-charge of Management nor he has any authority to proceed with the present writ petition in the capacity of Secretary of Mahatma Basaveshwar Society. On this count, writ petition cannot be entertained.

7. At this stage, Mr. Patil, learned advocate appearing for the petitioner submit that when action was taken against respondent no.3 or present petition was filed, petitioner was authorized to file writ petition and also raise objection to the appointment and approval granted in favour of respondent no.3. However, in our opinion, such submissions are not acceptable for the simple reason that dispute between two groups of the Management has been now governed by the order passed by Joint Charity Commissioner in appeal. Although, writ petition is pending before this Court, no orders are passed to uphold entitlement of the petitioner to continue with the petition.

8. Pertinently, respondent no.3 is appointed as in-charge principal, which is an Adhoc arrangement for conducting day-to-day activities of College in the interest of students and staff. It does not create right in favour of the petitioner pending dispute between two management groups. It is trite that in-charge principal can be appointed with limited power and for specific period. In the present case, no other employee of the institution has challenged appointment of respondent no.3 as in-charge principal. The petitioner, who is not holding the charge of Management and lost his battle before the competent authority under Maharashtra Public Trusts Act cannot be permitted to challenge such appointment. Resultantly, we do not find any merit in the writ petition. Hence, writ petition is dismissed. Rule discharged.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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