



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

WRIT PETITION NO. 1758 OF 2019

(Shubham Bahuuddeshiya Sanstha, through its President Vs. The Education Officer
(Secondary), Zilla Parishad, Nagpur & Ors.)

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

Court's or Judge's orders.

Mr. N.S. Warulkar, Counsel for the petitioner.
Mr. A.M. Kadukar, A.G.P. for respondent no.1/State.
Mr. A.Z. Jibhkate, Counsel for respondent nos. 2 to 4.

.....

CORAM : ANIL L. PANSARE, J.
NOVEMBER 12, 2024

The petitioner assails order dated 7/8/2018 passed by the District Judge – 9, Nagpur, in Miscellaneous Civil Application No. 694/2017. The learned District Judge has rejected the application filed by the petitioner to restore Regular Civil Appeal No. 328/2013, which was dismissed in default.

2] Having heard both sides and having gone through the material placed before me, it appears that the District Court rejected the application on the ground that the petitioner has not placed on record any document to show that he is the President of the Trust and has been authorized to prosecute the appeal by appropriate Resolution.

3] The learned Counsel for the petitioner has placed on record copy of Resolution dated 25/11/2018 passed by the alleged Managing Committee authorizing the petitioner to prosecute the appeal. The petitioner has also placed on record copy of change report submitted

before the Assistant Charity Commissioner, Nagpur, being Enquiry No. 1423/2017. The learned Counsel seeks permission to permit him to place on record these documents before the District Court.

4] The learned Counsel for respondent nos. 2 to 4, though has no objection to permit the petitioner to place on record these documents, he seriously disputes existence of the Managing Committee, as shown in the change report. According to him, change report prior thereto showing different Managing Committee, is also filed and is pending decision before the Assistant Charity Commissioner, Nagpur. The said change report, being first in time, ought to be recognized in terms of the judgment passed by the Division Bench of this Court in the case of *Adarsh Vidyalaya Shikshan Samiti, Manatha, through President, Marotrao and Another Vs. State of Maharashtra and Others* [2015 SCC OnLine Bom. 1162].

5] I need not go into the validity of change report. The purpose of filing the petition will be served if the petitioner is allowed to place on record, before the District Court, the documents, which were found absent and for which reason, the application filed by the petitioner, for restoration of appeal, came to be rejected.

6] The writ petition is accordingly partly allowed. Order dated 7/8/2018 passed by the District Judge – 9, Nagpur, in Miscellaneous Civil Application No. 694/2017, is quashed and set aside. The petitioner is permitted to place on record the documents in support of its claim that Mr. Eknath Tukaramji Pise is the President

of the Trust and has been authorized to prosecute the appeal by Resolution of valid Managing Committee. Miscellaneous Civil Application No. 694/2017 is restored on file for consideration afresh in accordance with law and what has been stated in the body of the order.

7] It will be appropriate to mention here that it will be in the interest of the Trust to get decided pending change reports expeditiously in order to resolve the issue once and for all. The Assistant Charity Commissioner, Nagpur, shall accordingly take endeavor to decide pending change reports as expeditiously as possible and preferably within six months from today. The parties herein shall co-operate to decide the change reports within the stipulated time.

8] All contentions are kept open. The parties shall appear before the District Court, Nagpur, on 2/12/2024.

9] The writ petition is disposed of in above terms. No costs.

(ANIL L. PANSARE, J.)

Sumit