

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 18280 OF 2024

Shri Ganga Bhagirathi Shikshan Prasarak
Mandal And Ors.

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Prashant Bhavake, Advocate for the Petitioners.

Ms. Pooja Deshpande, AGP for the Respondent – State.

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

DATE : 29th JANUARY, 2025

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P.C. :-

1. Petitioner No.1 is the Trust through its President.
Petitioner No.2 is the Trust through its Headmaster. Petitioner No.3
is the Headmaster in person.

2. The order impugned in this Petition is dated 28th
August, 2024, passed by the Education Officer (Secondary) Zilla
Parishad, Kolhapur informing the Trust that the permanent approval
to the appointment of the Headmaster cannot be granted, since the
Deputy Charity Commissioner, Kolhapur Division, Kolhapur has

passed an order dated 6th August, 2024 in Miscellaneous Application No.444 of 2024, directing the Trust to hold the charge of the said Management only on temporary basis until a final decision on the Application under Section 47 of the Maharashtra Public Trusts Act, 1950. The Trust would operate through its President only to handle the day-to-day affairs and should not take any policy decision. If the Trust desires to take a policy decision, it is at liberty to approach the said Authority and make out a case for leave to take a decision.

3. The learned Advocate for the Petitioners submit that appointment of a regular Headmaster, is not a policy decision.

4. The learned AGP submits that the permanent approval for the appointment of regular Headmaster has not been granted, considering the order of the Authority dated 6th August, 2024.

5. It is obvious that the learned Authority has used the words ‘Dhormatmak Nirnay’, meaning that a policy decision should not be taken. This are words, which are normally used to ensure that the Trust does not take any major decision.

6. The change report is pending. The dispute is before the said Authority. To balance the equities, a detailed order has been passed, and the operative part of the order is to be read in tune with the reasons assigned by the said Authority. It is stated in Paragraph No.17 that the Trust must function on day-to-day basis and there has to be somebody, who has to handle the affairs of the Trust. But since a final adjudication has not yet occurred, it is recorded that the Chairman of the Trust would operate in his capacity only on temporary basis and the day-to-day working of the Trust, should be dealt with.

7. Considering the meaning and effect of the language used by the Authority in the order, it is obvious that the concerned Authority had created an embargo on the Trust to not take any major decision. In our view, appointment of a Headmaster on regular basis is a major decision. Suppose we approve the decision of the Trust to appoint Petitioner No.3, as a regular Headmaster and if the Deputy Charity Commissioner later on concludes that the present Chairman is not elected on the said post, and if the change report is rejected, such a major decision of appointment of a regular Headmaster would create further complications.

8. In view of the above, **this Petition stands disposed off** with liberty to the Management to approach the Deputy Charity Commissioner to seek leave to appoint a regular Headmaster. If such Application is filed, the concerned Authority would grant a reasonable opportunity of hearing to all the stakeholders and would take a decision on its merits.

9. We deem it appropriate to observe that, while dealing with the Application seeking permission of the Deputy Charity Commissioner, the stakeholders are at liberty to cite the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, and The Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, as also, as to who is the senior most eligible teacher, who can be appointed as the Incharge Headmaster of the said school.

10. We make it clear that we have not made any observations on the claim of the Trust that Petitioner No.3, deserves to be appointed as a Headmaster.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)