

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

WRIT PETITION NO. 7621 OF 2021

Yunus Mubarak Shaikh. ... Petitioner
Versus
The Education Officer(Primary) & Ors. ... Respondents.

**WITH
INTERIM APPLICATION NO. 7245 OF 2024
IN
WRIT PETITION NO. 7621 OF 2021**

Anita Mansingh Rathod. ... Applicant.

In the matter between

Yunus Mubarak Shaikh. ... Petitioner
Versus
The Education Officer(Primary) & Ors. ... Respondents.

Mr. Narendra V. Bandiwadekar, Senior Advocate a/w. Mr. Yogesh G. Thorat i/b. Mr. Ashok B. Tajane, for the Petitioner.
Mr. Rupesh K. Bobade a/w. Ms. Shradha Nakadi, for Respondent Nos. 1 and 4.
Mr. Ashwin Kapadnis i/b. Mr. Rahul B. Vijaymane, for Applicant in IA.
Mr. Anant Vadgaonkar, for Respondent No. 5.
Mrs. P.N. Diwan, AGP for Respondent/State.

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

DATE : 3rd APRIL, 2025

P.C. :

1. After hearing the learned Advocates for quite some time, we

find that the observations of this Court [Coram Nitin Jamdar (as His Lordship then was) and M.M. Sathaye, JJ] in paragraphs 3 and 5 of the order dated 12th June, 2024 have been violated by the Management as well as by the Education Officer. The Education Officer is Shri Qadar Shaikh.

2. We find in paragraph 4 of the order dated 12th June, 2024, a statement made by the Education Officer that entire details were not available with him and therefore, an interim seniority list was prepared by him. This Court disapproved of such a conduct and recorded in paragraph 5 that “*Respondent - Management will submit all the necessary documents to the Education Officer with copies to the Petitioner and Respondent No. 7. Thereafter, the Education Officer, upon giving an opportunity to all the concerned parties, will pass an order under Rule 12 of the MEPS Rules within a period of four weeks.*”

3. Today, the situation is that the Education Officer has passed an order under Rule 12 of the MEPS Rules dated 19.7.2024. We called upon the Management to indicate whether it prepared a compilation of all necessary documents to be submitted to the Education Officer with copies to the Petitioner and Respondent No. 7? There is nothing on

record to indicate the acknowledgement of the Petitioner of having received such documents.

4. We then called upon the Education Officer to state whether he verified that the Petitioner was served with such documents, keeping in view the direction of this Court that it is only after service of the documents that the Education Officer would commence the hearing. The learned Advocate representing Education Officer and Zilla Parishad submitted on instructions that the copies were served upon the Petitioner. When we called upon the learned Advocate to show us the acknowledgement receipt of service of documents, he confessed that he had not verified whether the documents were served upon the Petitioner.

5. In the light of the above, we could have initiated contempt proceedings against the Management and the Education Officer. Both prayed for leniency. We refrain from doing so and instead, we are showing leniency by imposing cost of Rs. 15,000/- each on the Education Officer Shri Qadar Shaikh as well as the Management, to be deposited in this Court within 30 days from today. By recording the consent of the Petitioner, the Registry is directed to transfer the said amount in favour of the following establishments :

1. Children Aid Society, Mumbai

Account No.02370100005612

Bank Name: UCO BANK

Branch - Matunga

IFSC: UCBA0000237

2. In Defense of Animals

Account No.04060100019102

Bank Name: Bank of Baroda

Branch - Chandavarkar Road Branch, Matunga

IFSC: BARBOCHANDA ('O' is a digit not alphabet)

MICR No.: 400012046.

6. The order dated 19.7.2024 stands set aside in the light of the above and the proceedings are relegated back to the stage at which this Court had passed the order on 12th June, 2024. We clarify that if the Management has tendered a compilation of documents to the Education Officer, a proper list of documents with the compilation shall be prepared and served on the Petitioner as well as the Respondent No. 7 and they will give acknowledgement of receipt of documents. This exercise be completed within 15 days from today.

7. It is contended by the Petitioner that two reports were tendered by the Management and the Head Master, after hearing was earlier concluded pursuant to the order dated 12th June, 2024, without

supplying copies to the Petitioner. Therefore, we direct that if these reports are to be relied upon, the Management shall produce those reports along with its list of documents and serve those reports on the Petitioner and the Respondent No. 7.

8. Thereafter, all the stakeholders shall appear before the Education Officer on 25th April, 2025 and the hearing in the matter shall commence. A reasoned order shall be passed by the Education Officer on or before 5th June, 2025.

9. The order passed by the Education Officer shall be placed before the Court on 11th June, 2025. This Petition be listed on **11th June, 2025** in the “**Urgent Admission**” category. Ad-interim order passed earlier would continue.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)