RAMESHWAR LAXMAN DILWALE

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 8147 OF 2025
IN
WRIT PETITION NO.9790 OF 2024

Dombivli Shikshan Prasarak Mandal's K. V. Pendharkar College of Arts, Sciecne & Commerce. .. Applicant/Petitioner

Vs.

State of Maharashtra & Ors. .. Respondents

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Mr. S. C. Naidu with Ms. Anjali Purav, Mr. Pradeep Kumar, Advocates for the applicant in IA No.8147 of 2025 and for the petitioner in WP No.9790 of 2024.

Mr. Pralhad Paranjape, Special Counsel with Mr. N. C. Walimbe, Additional Government Pleader with Mrs. Reena A Salunkhe, Assistant Government Pleader for the respondent nos.1 to 3-State.

Mr. Yuvraj Narvankar, Advocate for the respondent no.4-University.

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CORAM : A.S. CHANDURKAR &
DR. NEELA GOKHALE, JJ

DATE : 9th MAY 2025.

P.C. :

1. By this Interim Application, the applicant-Original Petitioner prays that the order dated 29/04/2025 passed by the Director of Education (Higher Education), Maharashtra State, Pune passed in exercise of powers conferred by Section 3(1) of the Maharashtra

Educational Institutions (Management) Act, 1976 (for short, 'the Act of 1976') be held to be illegal and bad in law. It is further prayed that as the respondent no.3 has illegally taken possession of the affairs of the management of the College run by it before the expiry of the period when an appeal for challenging that order could have been filed, the respondents be directed to restore the possession of the College to the applicant.

2. In Writ Petition No.9790 of 2024, the petitioner has challenged the show cause notice dated 29/06/2024 issued by the Director of Education (Higher Education) calling upon it to show cause why the management of the said College run by it should not be taken over under the provisions of the Act of 1976. By an interim order dated 20/02/2025, it was directed that the request made by the petitioner to the Director of Education to supply necessary documents for meeting the show cause notice came to be accepted. It was directed that the documents demanded should be supplied and thereafter the petitioner should reply to the show cause notice. It is pursuant to this direction that the show cause notice dated 29/06/2024 came to be decided and on 29/04/2025 the Director of Education (Higher Education) passed an order taking over the management of the aided Senior College and its

management. The Deputy Director of Education, Kokan Division came to be appointed as Administrator on the said College.

3. It is submitted by the learned counsel for the petitioner that the order dated 29/04/2025 as passed is contrary to law without considering relevant aspects that were highlighted in the reply submitted by the petitioner to the show cause notice. It was further submitted that despite the fact that under Section 3(4) of the Act of 1976 an appeal against the order passed under Section 3(1) of the Act of 1976 could be filed, the management of the College and its affairs were taken up on the same day when the order was passed. According to him for a period of fifteen days by which an appeal could be filed, the impugned order could not have been executed so as to render any appeal intended to be filed infructuous. Placing reliance on the order passed by the learned Single Judge in Writ Petition No.4973 of 2021 *(Kulgaon Badlapur Nagar Parishad Vs. The Regional Provident Fund Commissioner II, Compliance III, Regional Officer, Thane)* with connected writ petitions dated 22/02/2022 as well as the judgment dated 04/12/2021 passed in Writ Petition No.4944 of 2021 *(Ashok Shikshan Sanstha & Ors. Vs. Director of Education (Secondary and Higher Secondary), Maharashtra State Central Building, Pune)* at

the Nagpur Bench, it was submitted that the petitioner was entitled for an interim order restoring the management of the College to the petitioner. It was also submitted that by the impugned order the Deputy Director of Education was required to manage only the administrative work relating to the aided Senior College and not the affairs of the unaided section of the College. According to him, under the garb of implementing the order dated 29/04/2025 passed by the Director of Education, the affairs of the entire College including the unaided sections had been taken over by the said authority. It was thus submitted that the reliefs as sought be granted to the petitioner.

4. The learned Special counsel appearing for the respondent nos.1 to 3 opposed the prayers made in the Interim Application. At the outset, he submitted that since the remedy of filing an appeal under Section 3(4) of the Act of 1976 was available, no indulgence be shown to the petitioner. It was further submitted that for implementing the order dated 29/04/2025, the Deputy Director of Education had taken over management of the College. On the premise that an appeal could be preferred within a period of fifteen days from the date of receipt of the order, the same would not mean that the order could not be executed in the meanwhile.

He submitted that there was no basis to contend that such order could be implemented only after expiry of the period of appeal. According to him for implementing the impugned order in its true letter and spirit such steps have been taken in the larger interest of the members of the staff and the students taking education in the senior College. It was further submitted that there was no distinction whatsoever as regards part of the College being aided and the other part being unaided as urged by the petitioner. The management of the College had been taken over in terms of the order dated 29/04/2025. If the petitioner was successful in having the said order is set aside in appeal, the question of restoring the management would then arise. He therefore submitted that no relief be granted to the petitioner.

5. The learned counsel appearing for the applicants who had sought intervention in the present proceedings by filing Interim Application Nos.3680 of 2025 and 8149 of 2025 submitted that the management of the College was rightly taken over and that presently the staff was satisfied with the working of the Administrator from 29/04/2025. Keeping larger interest of the staff members as well as the students in question, no interim relief as prayed for in the matter of restoring the status quo ante

be granted.

6. We have heard the learned counsel for the parties and we have perused the documents on record. At the outset, it may be stated that by virtue of the provisions of Section 3(4) of the Act of 1976 the remedy of preferring an appeal within a period of fifteen days from the date of receipt of the order is maintainable before the State Government. The learned counsel for the petitioner submits that the petitioner would avail such statutory remedy and file an appeal by 15/05/2025. He however submits that till the time the said appeal is decided or atleast till the prayer for interim relief is adjudicated, the status quo ante be restored especially as the management of the College was taken over prior to the expiry of the period of appeal. In other words, it was urged that till the time the limitation for filing an appeal expired, no steps to implement the same could have been taken.

7. The contention raised on behalf of the petitioner that an original order when passed cannot be executed till the period of preferring a statutory appeal is over requires detailed deliberation. While it is true that a party ought to have sufficient and reasonable opportunity to avail the statutory remedy within the time permitted, the absence of any

provision in the Act of 1976 making an order passed under Section 3(1) of the Act of 1976 operative only on the expiry of the period of preferring an appeal is also relevant. We therefore keep the said contention open for further consideration.

8. Undisputedly, the remedy of filing an appeal under Section 3(4) of the Act of 1976 is available to the petitioner for challenging the order dated 29/04/2025. For this reason, we are not inclined to examine the grievance raised on behalf of the petitioner on merits as to the illegality of the said order or that the said order was passed without considering the reply filed to the show cause notice. All these contentions can be raised before the Appellate Authority.

9. The fact remains that after the order dated 29/04/2025 was passed appointing the Deputy Director of Education as Administrator, the charge of the affairs of the College are stated to be taken over at 5:00 PM on the same day. The communication dated 30/04/2025 issued by the Deputy Director to that effect substantiates this aspect. Considering the fact that educational activities are being undertaken at the College and there are serious disputes between the petitioner on one hand and the

applicants who have filed Interim Application Nos.3680 of 2025 and 8149 of 2025, in the facts of the present case, we are not inclined to direct restoration of status quo ante as prayed for by the petitioner. Instead, the interests of justice would be served if the prayer for interim relief is considered by the Appellate Authority on its own merits. At the same time, it may be noted that the impugned order directs taking over of the affairs of the management of the College as regards the grant-in-aid sections of the College. Thus while permitting the Deputy Director of Education to continue to have charge over the management of the College subject to outcome of the appeal to be filed, the same ought to be restricted to the aided Sections of the said College in terms of the order dated 29/04/2025.

10. Accordingly, the following order is passed:-

i) The petitioner is permitted to file an appeal before the Appellate Authority by 15/05/2025 in view of the fact that after the management of the College was taken over, the premises were sealed and the petitioner did not have access to the records of the College. The Administrator is directed to open the seals that have been put on the office premises of the College to enable the petitioner to have

access to the relevant documentary material to enable it to file an appeal.

ii) Along with the said appeal, it is open for the petitioner to file an Interim Application seeking stay of the order dated 29/04/2025 with a further interim prayer seeking restoration of status quo ante, if so advised.

iii) If such application for interim relief is filed, the same shall be decided in accordance with law after giving due opportunity to all parties within a period of three weeks of the same being filed.

iv) It is clarified that all issues on merits are kept open for being raised and considered in the statutory appeal. With aforesaid directions, the Interim Application is disposed of.

[DR. NEELA GOKHALE, J.] **[A.S. CHANDURKAR, J.]**