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IN THE HIGH COURT OF ORISSA AT CUTTACK
W.A. No. 968 of 2026
ODHC010518002026

St. Xavier's Educational & Charitable Trust, Cuttack .... ***Appellant***

-versus-

State of Odisha and others .... ***Respondents***

Advocates appeared in this case:

For Appellant : Mr. Srinivas Mohanty, Advocate
Ms. Kabita Patra, Advocate

For Respondents : Mr. Saswat Das, Addl. Government Advocate

Mr. Asok Mohanty, Senior Advocate
Mr. Subir Palit, Senior Advocate
Mr. Durga Prasad Nanda, Senior Advocate
Mrs. Pami Rath, Senior Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR JUSTICE CHITTARANJAN DASH

J U D G M E N T

Date of hearing: 6th August, 2026
Date of Judgment: 29th October, 2026

HARISH TANDON, CJ.

1. The instant appeal is at the instance of the writ petitioner assailing the orders dated 23rd June, 2026 and 2nd July, 2026 passed

in W.P.(C) No.16931 of 2026, whereby and whereunder, a direction was passed upon the Collector, Cuttack and the S.P. (Rural), Cuttack to look into the matter and take necessary steps to maintain law and order and continuance of the said order till the next date.

2. The said writ petition was filed by the appellant challenging the proceedings of the meeting dated 12th May, 2026 by which, a direction was passed by the Sub-Collector, Athagarh upon the rival groups claiming rights in respect of the Trust and the Management of the school to desist from taking the law in their own hands and pursue their respective remedies before the competent Court, no person or group shall create obstruction, intimidation, forceful entry, lockout, disturbances or any situation effecting the normal functioning of the school or disturbing public peace and tranquility, the existing Principal, teaching staff, non-teaching staff and the office bearers, who are presently running and administering the school to continue in discharging their respective functions and responsibilities in the same manner as prevailing on the date of the said order and no forcible step shall be taken by either group to replace or remove the present Principal, staff or administrative

functionaries of the school, except in accordance with law and subject to the orders of the competent Court.

3. The facts so unfurled would indicate that the Saint Xavier Group of Schools is comprised of two distinct legal entities, namely, Saint Xavier's Educational Society, founded in the year 1999 and Saint Xavier's Educational & Charitable Trust, founded in the year 2006 and were registered under the Societies Registration Act, 1860 and under the Indian Trusts Act, 1882 respectively. The Society operates two schools at Barabati Stadium (Gallery No.2) and Jaripada (Krishnamurty World School); on the other hand, the Trust operates and governs three schools, namely, Saint Xavier's High School, Nayabazar, Cuttack, Saint Xavier's High School, Gallery No. 5, Barabati Stadium, Cuttack and Saint Xavier's High School, Athagarh, Cuttack.

4. Subsequently, the amended Trust deeds were executed in the interregnum duly registered with the Registering Authority till the year 2026. The said reconstitution not only includes certain persons as the board of trustees but also removed the trustees from such status, which led the dispute between the parties and one of

such parties approached the District Judge, Cuttack with an application under Section-9 of the Arbitration and Conciliation Act, 1996 giving rise to the registration of ARBP No. 6 of 2026, as the said trust deed contains an arbitration clause for adjudication of the disputes.

5. The preliminary objection was taken on the maintainability of the said petition, which was turned down by the District Judge and the said order was assailed before this Court in W.P.(C) No.12181 of 2026, which was duly admitted and an interim order to stay the said proceedings was also passed by this Court. The said matter is still pending before this Court. In the meantime, the dispute further arose in relation to the management of the school, the removal of the Principal or some of the staff, which created a ruckus therein and several FIRs were lodged by several persons. On the basis of the complaints lodged from several squatters, the Sub-Collector, Athagarh called a meeting on 12th May, 2026 and passed a direction as succinctly narrated in the preceding paragraph.

6. As indicated above, the appellant filed the writ petition challenging the said direction passed by the Sub-Collector, primarily

on the ground that the dispute relates to the management and the administration of a private educational institution and, therefore, the Sub-Collector cannot assume a jurisdiction to interfere with the management, the control, the administration and the affairs of the said private educational institution. The writ petition is taken out to challenge the said usurpation of powers by the Sub-Collector and by the impugned orders, the Court has directed maintenance of the law and order without passing any interim order touching upon the said direction passed by the Sub-Collector. Though the impugned orders are passed in the writ petition filed by the appellant, yet the appellant felt aggrieved by not staying the operation of the said directions, more particularly, when it relates to the continuance of the Principal, staff and the other employees of the said private educational institution and, therefore, we do not find any fetter put into the appellant to maintain the instant appeal.

7. At the very outset, a plea is taken that the administration cannot interfere with the affairs of the private educational institution, which enjoins autonomy to a greater extent and the Single Bench ought to have stayed the operation of the said direction which touches upon such autonomy. It is no gainsaying that right to

education which was previously under Part-IV of the Constitution of India as Directive Principles have now been considered as Fundamental Rights under Part-III by introduction of Article-21A. It is one thing to say that right of education is a fundamental right but so far as the management and/or the administration of the private educational institutions are concerned, it stands on different footing.

8. In recent times, the private educational institutions have gained a greater significance and momentum for imparting quality education and are one of the most dynamic and fast growing sectors in the country. Though it is obligatory on the part of the State to provide requisite educational infrastructures in every nook and corner of the country yet, because of competing circumstances, it is far from the reality. The private educational institutions, thus, have acted as the catalyst to bridge the gap and provide an access to education to the students.

9. To borrow the inspiration from the observation made by the Supreme Court in the case of ***T.M.A. Pai Foundation v. State of Karnataka***, reported in ***(2002) 8 SCC 481***, "the idea of an academic degree as a 'private good' that benefits the individual rather than a

‘public good’ for society is now widely accepted”. Even the private educational institution enjoins autonomy in management and administration yet, it can be regulated by adequate measures by the State to ensure maintenance of proper academic standard, atmosphere and infrastructure.

10. Taking a clue from the above notion whether such private educational institution satisfies the definition of State engrafted under Article 12 of the Constitution of India is to be ascertained from the public law element and discharge of the public functions. Though the primary object of those educational institutions is to impart quality education to the students which at times, comes within the ambit of public element yet, the distinction has to be borne in this regard when the dispute centres on the internal management and the administration of such educational institutions. The moment the Court finds that such dispute comes within the folds of a purely private dispute, there is no ambiguity to perceive that it does not satisfy the ingredients of the public element and such disputes are amenable to be resolved and/or determined by the civil Courts.

11. There has been a catena of decisions rendered by the Apex Court which laid down a proposition that Article 226 of the Constitution of India is not a proper remedy to enforce the private law rights and such distinction has to be borne before the writ Court exercises its power under Article 226 of the Constitution. In ***Sushmita Basu v. Ballygunge Siksha Samity***, reported in ***(2006) 7 SCC 680*** and ***K.K. Saxena v. International Commission on Irrigation and Drainage***, reported in ***(2015) 4 SCC 670*** lend support to the above proposition of law in upholding that Article 226 of the Constitution would not lie to enforce the private law rights but the action of the authority must be in the domain of the public law as distinguished from private law.

12. However, in the case of ***Trigun Chand Thakur v. State of Bihar***, reported in ***(2019) 7 SCC 513***, a teacher was issued show cause notice as he remained absent on the Independence Day as well as the Teachers' Day and ultimately, the Managing Committee of the private school dismissed him from service. A writ petition was filed before the High Court and a pleas was taken that the same is not maintainable, the Apex Court held even if the private educational institution is receiving financial aid from the Government, it does

not make the Managing Committee of the school within the four corners of the meaning of the State under Article 12 of the Constitution of India.

13. From the proposition of law enunciated in the above reports, it is a consistent view that the private educational institutions though discharging the public duties in imparting the education yet the dispute between the teacher and the management or within the management does not satisfy the definition of the State under Article 12 of the Constitution of India. Logically, it follows that the Government cannot usurp the power to interfere with the management, the administration and the affairs of the private educational institutions nor can invade the autonomy well-nigh in the legal parlance.

14. We are conscious that the law and order is a State subject under Entry-1 of the State List in the Seventh Schedule of the Constitution of India but it does not loath the powers into the State to intrude into the management and the administration of a private educational institution under such garb. Though the impugned orders passed in the instant appeal do not find any fault when the Single

Bench directed the State to ensure the law and order situation, obviously that there cannot be any disruption, commotion and/or disturbance in public peace but the Single Bench ought to have considered that the other direction passed by the said Sub-Collector, Athagarh in protecting the Principal and the staff of the said institution was beyond the conceivable powers and the limits set forth in the Constitution and should have passed an interim order in this regard.

15. The record would further reveal that the parties have already approached the Court by filing an application under Section 9 of the Arbitration and Conciliation Act, 1996 and the matter is still subjudice and, therefore, interference by the State into the management is in colourable exercise of the powers so vested upon it and it is a fit case where the Court should have granted an interim order.

16. We, therefore, dispose of the instant writ appeal staying the operation of the direction impugned in the writ petition, so far as it relates to the management/administration and/or the affairs of the educational institution is concerned and do not intend to interfere

with the order by which the direction is passed to maintain the law and order, as we find that it is a constitutional obligation of the State to maintain the same under Entry-1 of the State List in the Seventh Schedule of the Constitution of India.

17. We, therefore, request the Single Bench to take up the writ petition by giving some priority, as it relates to the education and/or running of the educational institution and endeavour shall be shown to dispose of the same at the earliest.

I agree.

(Chittaranjan Dash)
Judge

(Harish Tandon)
Chief Justice

Signature Not Verified
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Signed by: SUMANTA BEHERA
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 03-Nov-2026 16:08:45

S. Behera