



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

83 WRIT PETITION NO. 13103 OF 2017

Bhokardan N L Girhe

VERSUS

The State Of Maharashtra And Others

Shri Rameshwr Education Society	}
Bhokardan, Tq. Bhokardan, Dist. Jalna	}
Through Its Assistant Secretary,	}
Shri. Nandukumar s/o Laxmanrao Girhe	}
Age: 41 years, Occ. Service,	}
R/o At Dagadwadi, Tq. Bhokardan,	}

Petitioner

Versus

1. The State of Maharashtra	}
Through Principal Secretary	}
Education Department	}
Mantralaya, Mumbai	}
2. The Director of Education	}
(Secondary and Higher Secondary)	}
Maharashtra State, Pune	}
3. The Deputy Director of Education	}
Aurangabad Division, Aurangabad	}
Tq. & Dist. Aurangabad	}
4. The Education Officer (Secondary),	}
Zilla Parishad, Jalna,	}
Tq. & Dist. Jalna	}

Respondents

...

Advocate for the Petitioner : Mr. N. B. Khandare Senior Advocate i/by
Mr. D. J. Choudhary

AGP for the Respondents : Mr. R. B. Dhaware

...

CORAM : **SIDDHESHWAR S. THOMBRE, J.**
DATE : **06.04.2026**

JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the parties at the stage of admission.

2. The petitioner is aggrieved by the orders dated 28th June 2017 and 28th September 2017, passed by respondent No.2 – Director of Education, Maharashtra State, Pune, as well as the order dated 6th October 2017, passed by the learned Minister of School Education, Maharashtra State, Mumbai, which came to be communicated to the petitioner vide communication dated 22nd January 2018.

3. **The brief facts of the case:-**

3.1 The petitioner is an education institution registered under the Maharashtra Public Trust Act, 1950 and also under the Societies Registration Act, 1860. The petitioner is running Shri Rameshwar Secondary and Higher Secondary School at Kedarkheda and Rameshwar Vidyalaya, Janephal (Pandit) of Taluka Jafrabad and also running a Junior College namely Rameshwar Arts, Commerce and Science Junior College at Bhokardan, with 8 divisions of 11th and 12th standards.

3.2. The elections of the Trust were held in the year 2005, and the change report came to be accepted by the learned Assistant Charity Commissioner vide order dated 10.02.2006 in Enquiry No. 503/2005.

Thereafter, upon completion of a period of five years, fresh elections were conducted and Change Report No. 764/2010 came to be filed. Subsequently, another Change Report No. 735/2015 in respect of the elections came to be submitted. The managing committee, in whose favour the last Change Report No. 735/2015 is submitted, is running the institution.

3.3. Various change reports dated 5th September 2015, 22nd November 2016 and 22nd June 2015 came to be submitted. Pursuant thereto, respondent No.2, vide order dated 28th June 2017, appointed an Administrator over Rameshwar Arts, Commerce and Science Junior College, Bhokardan.

3.4 The petitioner came to know about the said development upon publication of a news item in a daily newspaper dated 30th June 2017, reporting that the Director had passed an order appointing an Administrator, which subsequently came to be confirmed by the learned Minister.

3.5 A report dated 5th September 2015 came to be submitted to the Deputy Director of Education, Aurangabad by Education Officer, Jalna. Further, it reveals that vide report dated 25th November 2016, the Education Officer submitted the report to the Director of Education, Pune. Pursuant thereto, by order dated 28th June 2017, the Director of Education, Maharashtra State, Pune, appointed an Administrator for a

period of two years by exercising powers under Section 3 of the Maharashtra Educational Institutions (Management) Act, 1976 (for short, “the Act”).

3.6 Being aggrieved thereby, the petitioner preferred an appeal before the State Government. Pursuant to the said proceeding, the Director of Education directed the Divisional Deputy Director of Education, Aurangabad to submit names for appointment of an Administrator. Accordingly, a Committee consisting of four members under the supervision of the Block Education Officer came to be recommended.

3.7 The State Government, vide impugned order dated 28th September 2017, was pleased to appoint an Administrative Committee in exercise of powers under Section 4(1) of the Act. Being aggrieved by the order dated 28th June 2017 passed by the Director of Education appointing an Administrator, petitioner had preferred an appeal before the State Government under Sections 3 and 4 of the Act. The hearing of the said appeal took place on 6th October 2017, and pursuant thereto, the learned Minister confirmed the order of appointment of Administrator vide his order dated 28th June 2017. Being aggrieved by the aforesaid order the present petition is filed.

4. The learned counsel for the petitioner, Mr. N. B. Khandare, Senior Advocate instructed by Mr. D. J. Choudhary, submit that the change reports in question came to be submitted on account of political pressure

and that too without affording an opportunity of hearing to the petitioner. It is further submitted that the Administrator came to be appointed merely on the ground that there existed a dispute in the management.

5. The learned counsel invited my attention to the report submitted by the Educational Officer, which is at page No.22 of the petition. They further invited my attention to the Committee's report to contend that there was an internal dispute in the management and, therefore, after granting an opportunity of hearing, appropriate orders were required to be passed. It is further submitted that this Court, vide order dated 13th November 2017, granted interim relief, and pursuant thereto, the Administrator has not taken charge and the petitioner continues to run the said school.

6. Per contra, the learned AGP for the respondents, Mr. R. B. Dhaware, supports the orders passed by the Director of Education as well as the State Government. It is submitted that there existed a dispute in the management and that serious complaints were received against the management. It is further submitted that the educational atmosphere in the school was not proper and, therefore, an enquiry came to be initiated and a report was submitted. Pursuant thereto, the Director of Education, Pune has rightly appointed an Administrator in exercise of powers under Section 3 of the Act. It is further submitted that subsequently, the

Administrative Committee came to be appointed under Section 4 of the Act.

7. I have heard the learned counsel for the petitioner and the learned AGP for the respondents. I have also gone through the reports as well as the orders passed by the authorities. Before adverting to the issue involved, it is necessary to refer to Section 3 of the Act.

“3. Taking over management of educational institution.— (1) *Whenever the Director is satisfied that the Management of any educational institution has neglected to perform any of the duties imposed on it by or under any law for the time being in force, or the memorandum of association, or any instrument (including any rules, regulations or by-laws) which regulates its administration or is being managed in a manner detrimental to public interest, and that it is expedient in the public interest, and in particular, in the interest of education imparted in such institution to take over the management of such institution in so far as its activity relates to imparting education, he may, notwithstanding anything contained in any law for the time being in force, after giving the management of such institution, a reasonable opportunity of showing cause against the proposed action, by an order take over the management of such institution in so far as its activity relates to imparting education specified in the order for a limited period not exceeding three years :*

Provided that, where the management of an institution has been taken over for a period of three years, the Director may, if he is of opinion that in order to secure proper management of the institution, it is expedient that such management should continue to be in force after the expiry of the said limited period, he may from time to time, by an order issue directions for the continuance of such management for such period not exceeding one year at a time as he may think fit, so however, that the total period for which such management is taken over shall not, in any case, exceed five years :

Provided further that, no such show cause notice shall be necessary where the Director is satisfied that the Management or a majority of persons in control thereof are members of an organisation which is or whose members or persons in control thereof are or have been indulging in activities which are prejudicial to the internal security, the public safety and the maintenance of public order in the State and such activities are reflected in the course of management and administration of the institution.

(2) Whenever the management of any institution is taken over under sub-section (1), every person in-charge of the management of such institution immediately before the appointed date shall deliver possession of the property of the institution to the Director or any officer authorised by him in this behalf (being property which in the opinion of the Director is essential or necessary for the management of the institution).

(3) After taking over the management of any institution under this section, the

Director may, with a view to maintaining continuity of education imparted in such institution, and in the interests of the students attending it, arrange to manage the institution through one or more Administrators appointed under section 4.

(4) Any Management, which is aggrieved by the order of a Director under sub-section (1), may make an appeal to the State Government within a period of 15 days from the date of receipt of the order of the Director. The State Government may after considering the representation made by the Management and the order of the Director pass such order, including an order for the restoration of the Management or for the reduction of the period during which the management of such institution shall remain vested in the Administrator as it may deem fit.

(5) The decision of the Director, subject to the decision of the State Government in the appeal, and the decision of the State Government in the appeal, shall be final and shall not be called in question in any court.

(6) Where the management of an institution has been taken over under this section, the Administrator shall pay such rent as may be payable for the building of the institution to the person entitled to receive it as was being paid by the Management immediately before the appointed date. If the rent is payable to the Management, then such rent shall not be paid to the Management, but it shall remain at the disposal of the Administrator for the management, maintenance and administration of the institution.

(7) During such period as any institution remains under the management of an Administrator,—

(a) the service conditions, as approved by the Director, of the employees shall not be varied to their disadvantage ;

(b) such educational facilities as may be approved by the Director and which the institution had been affording immediately before the appointed date shall continue to be afforded ;

(c) all fees, all grants and all other receipts of the institution (being fees, grants or receipts as relate to its activity of imparting education therein) shall continue to be available to the Administrator for being spent for the purposes of the institution ;

(d) no resolution passed at any meeting of the Management of such institution shall be given effect to unless approved by the Director ; and

(e) it shall be lawful for the Administrator to terminate the services of any employee who in his opinion is acting in any manner detrimental to the interest of the institution or education imparted therein after giving the employee a reasonable opportunity of showing cause against the proposed action ;

(f) the employee who is aggrieved by any order of the Administrator may, within 21 days of receipt of the order terminating his services, appeal to the Director whose decision in the matter shall be final and conclusive and shall not be called in question in any court.”

On a careful consideration of the aforesaid provision, it is evident that the authorities are required to pass an order only if there is a breach

of the provisions contemplated therein.

8. I have also perused the reports on the basis of which the impugned orders came to be passed. The said reports do not disclose any illegality or irregularity in the management of the affairs of the College so as to invoke the provisions of Section 3(4) of the Act.

9. Insofar as the infrastructure and operational facilities are concerned, the reports nowhere reflect any deficiency in running the school/college. Merely because there was dispute in the management and several change reports were filed, the same cannot be a ground for appointment of an Administrator. The reports only indicate that there was a dispute in the management; however, the nature of such dispute is not reflected therein. The authority appears to have inferred an internal dispute in the management solely on the ground that the change report.

10. Upon perusal of the record, it appears that the impugned action was taken without there being any material to justify invocation of powers under Section 3(4) of the Act. The contention of the petitioner that the action was taken due to political rivalry, therefore, deserves consideration.

11. So far as the order passed by the learned Minister is concerned, it appears that the learned Minister has merely recorded the contentions of the parties without assigning any reasons for confirming the order passed by the authority. The order is cryptic in nature and records only that the

educational atmosphere was not proper and that it affected public interest. However, no cogent reasons are assigned as to how such a conclusion was arrived at. Thus, the order dated 6th October 2017, communicated vide communication dated 22nd January 2018, is an unreasoned order and cannot be sustained in the eyes of law.

12. In view of the above, the order dated 28th June 2017 passed by the Director of Education, Pune as well as the order dated 6th October 2017 passed by the learned Minister deserve to be quashed and set aside. Hence, I proceed to pass following order:-

ORDER

- i) The writ petition is allowed.
- ii) The orders dated 28th June 2017 and 28th September 2017, passed by respondent No.2 – Director of Education, Maharashtra State, Pune, as well as the order dated 6th October 2017, passed by the learned Minister of School Education, Maharashtra State, Mumbai are quashed and set aside.
- iii) Rule is made absolute in above terms.
- iv) Pending Civil Applications, if any, stand disposed of.

13. As regards the facilities of the School are concerned, the Education Officer is directed to verify the infrastructure facilities. If any deficiencies

are found, the Education Officer shall point out the same to the Educational Institution and grant an opportunity to rectify them.

[SIDDHESHWAR S. THOMBRE]
JUDGE