

(2022) 10 BOM CK 0086
In the Bombay High Court
Case No : Writ Petition No. 3955 Of 2022

Ashok Shikshan Sanstha And Others	Vs	APPELLANT
Education Officer And Others		RESPONDENT

Date of Decision : 13-10-2022

Acts Referred:

Citation : (2022) 10 BOM CK 0086

Hon'ble Judges : Sunil B.Shukre, J;Anil L.Pansare, J

Bench : Division Bench

Advocate : M.M. Agnihotri, N.S. Rao

Final Decision : Allowed

Judgement

Sunil B. Shukre, J

1. Rule. Rule is made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

2. The salary bills signed and forwarded by the President of the petitioner No.1-Society- Shri Sudhirkumar Narayanrao Shende has not been cleared by the respondent Nos.1 and 3 on the ground that the Change Report in respect of the newly elected office bearers of the petitioner No.1-Society, which is a Public Trust registered under the provisions of the Maharashtra Public Trusts Act, 1950, is awaited.

3. The facts on record, however, show that Shri Sudhirkumar Narayanrao Shende is the newly elected President and he was also the President of the Society/Trust in Bhatkuli. This can be seen from the copy of the extract of Public Trust Register filed on record at Page 24 by the petitioners. Then, there is also a view taken by the Division Bench of this Court at Aurangabad in the case of Adarsh Vidyalaya Shikshan Samiti Vs. State of Maharashtra and others, reported in 2015(4) Bom.C.R. 584, wherein, it is held, reiterating the view taken by the Division Bench of that Court in the case of Janata Shikshan Prasarak Mandal Vs. State of

Maharashtra (Writ Petition No.6073 of 2005, decided on 22-9-2005) that since the submission on the Change Report is a mere formality, till such time as orders are passed by the competent authorities rejecting the Change Report, the newly elected representatives cannot be prohibited from functioning and that merely because the Change Report is pending, it is not the law that the old body can be permitted to function on the ground that the Change Report is pending consideration before the appropriate authority. This view holds the field even today and, therefore, there was no reason for the respondent Nos.3 to have sent back the salary bills of the petitioner No.2 to the respondent No.1. Thus, the impugned communications are bad in law, requiring interference from this Court.

4. The petition is, therefore, allowed. The impugned communications dated 6-5-2022 issued by the respondent No.1 as well as dated 11-6-2022 and 22-6-2022 issued by the respondent No.3 are hereby quashed and set aside. The respondents are directed to clear the salary bills of the petitioner No.2 in accordance with law and in the light of the observations made hereinabove, as expeditiously as possible and in any case within two weeks from the date of the receipt of the order.

5. Rule in the above terms. No costs.