

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

WP No. 27769 of 2023

(ANIL SANGHVI AND OTHERS Vs REGISTRAR FIRMS AND SOCIETIES AND OTHERS)

Dated : 08-07-2024

Shri Piyush Mathur, learned Senior Advocate assisted by Shri Mohd. Ibrahim, counsel for the petitioners.

Shri Ardhendumauli Kumar Prasad, learned Senior Advocate assisted by Shri Ritesh Inani, counsel for respondent No.4.

Shri Sunil Jain, learned Senior Advocate assisted by Shri Hitesh Sharma, counsel for the Intervener.

Shri Piyush Parashar, counsel for the Intevenor.

Shri Siddharth Radhe Lal Gupta, counsel for the Intervenor.

Shri Kuldeep Pathak, counsel for the Intervenor.

Reserved on - 30.05.2024
Pronounced on - 08.07.2024

Heard on I.A.No. 4321/2024 which is an application filed on behalf respondent No. 4 society seeking permission to operate bank accounts and take financial decisions in order to do routine activities is being dealt with and disposed of.

2. Till the directions issued by this Court are complied with by the Registrar, and the new body comes into existence, the present order shall govern the arrangements pertaining to operation bank accounts and taking various financial decisions relating to the respondent No.4/society.

3. Through order passed previously on 23.04.2024 in the present petition, this Court had restrained the respondent society from operating bank accounts or from taking any financial other decisions related to the society in question. The aforesaid order was taken in appeal before the Hon'ble Supreme Court through SLP(C) No. 10151/2024, wherein the Court after hearing all the parties through its final order dated 15.05.2024 was pleased to partly allow the SLPs. In so far as the reliefs sought for by the Respondent No.4 society before the Apex Court for operation of the bank accounts is concerned, it was observed as follows :

*“iii. As regards clause (2) of paragraph 14 of the impugned judgment and order, in the event it is necessary to release the amounts in the bank account of Astha Foundation For Education Society for the purpose of running the colleges/educational institutions, **the parties are free to apply to the High Court by making appropriate applications for limited modification of the said direction.** The High Court will consider the same on its own merits;*

iv. Subject to modifications made above and limited order of remand, the impugned judgment and order is confirmed.

v. The Appeals are partly allowed on the above terms.”

4. From the above directions of the Apex Court, it is clear that the Supreme Court has left the aforementioned relief to be determined by this Court. Since the complete resolution of the dispute is likely to take time with Registrar holding elections, declaring the newly elected body and thereafter handing over charge to them, therefore certain interim arrangements for a limited time frame are necessary to be made so that various educational institutions being run by the respondent no. 4 society are not prejudicially affected or the future and interests of more than 1500 students being

jeopardised for want of proper management and running of the various educational institutions.

5. Shri Ardhendu M. Prasad, learned Senior Advocate drawing the Court's attention to para 6 of the interlocutory application pointed out various running heads of expenses to be incurred on a day to day/ weekly basis for smooth and efficacious operation of the college accounts. They are broadly as follows:

- (1) Payment of Bills of Electricity
- (2) Payment of Bills of Medicine, lifesaving drugs and essential medical equipment and other medical facilities
- (3) Payment of Bills towards education facilities of students, studying in college and institution of the Society
- (4) Payment of Bills towards Municipal Taxes and other taxes
- (5) Secured Loan Monthly Installment payable to:
- (6) Other expenses

6. It is stated by Mr. Prasad on behalf of the respondent society that disconnecting the flow of funds for the aforementioned heads of expenses will severely impact the institution, especially the clearing of outstanding dues relating to repayment of debts to various banks and financial institutions. He further contended that already for a period of five years from 2016 to 2021 due to disputes in the society, banks and lender institutions had initiated recovery proceedings and attached the college accounts, due to which a fully functional medical and dental college had to be shut down earlier. That stage and condition now must be averted is his vociferous submission.

7. Shri Prasad further argued that catering to aforementioned heads of expenses would not cause any prejudice to any party to the litigation, more so when the objective is to keep the institution running on the rails and further it cannot be intention of the petitioner even to see the running colleges with

around 1500 plus students being derailed or thrown midway out of their respective institutions.

8. Shri Piyush Mathur, learned Senior Advocate appearing on behalf of the petitioners, on the other hand, opposed the aforementioned prayer and argued that it would amount to handing over entire lock and key, administration and management of affairs in the hands of the incompetent and illegally inducted members of the society, whose very existence and functioning in the society is under cloud. Shri Mathur with equal vehemence contended that some mechanism must be evolved so that the funds are not misused. However, he also expressed agreement with the contention of the society that even the petitioners would not want various colleges to be shut down, for want of uninterrupted flow of funds.

9. Shri Siddharth R. Gupta, learned counsel appearing on behalf of intervenors, Shri Anupam Choksey and Shri Dharmendra Gupta, pointed out that the newly impleaded applicant-respondents (intervenors) are the members who had infused their personal equities to the extent of Rs. 200 Crores in the society after becoming its life members in 2021, transplanted from other societies and colleges, which are running in other cities of Madhya Pradesh and Chhattisgarh. By infusing this equity of around Rs. 200 Crores, the medical and dental college which was attached earlier by various banks has been revived and on their personal guarantee as guarantors, the loan amounts have been borrowed from various financial institutions. Mr. Gupta assiduously contends that if the restraint order freezing the accounts of the society is continued, then loan repayments / EMI's shall get defaulted, resulting into various loan accounts being classified as NPA, followed by institution of appropriate recovery proceedings before various forums like

NCLT, DRT, etc., which would in turn have a cascading effect on their other institutions where his clients are board /society members. Shri Gupta, counsel further contended that even the petitioner has not disputed anywhere, neither before the Supreme Court, nor before this Court that his clients are the one, who had actually revived the whole college financially and made it functional by infusing their personal equity and providing the life support through various loans and borrowings from around 5 to 6 banks/financial institutions to the quantum of around Rs. 250 Crores.

10. We have closely perused the documents filed along with the interlocutory application and find that 5 to 6 different institutions, including a medical college with an appended hospital are being run by the Respondent No. 4 society currently. There are multiple institutions imparting pharmacy, nursing and other allied courses, with a total strength of approximately 1500 plus students studying in various courses. We find ourselves in agreement with the counsel for the petitioners as well as the intervenor applicants that fund supply to the various institutions for various heads must not be disrupted, for it may lead to collapse and closure of the various educational institutions.

11. There is substance in the contention that for settlement of disputes between the petitioners and the other existing members of the Respondent No. 4 society, the future of the 1500 plus students cannot be put at stake, by squeezing the fund supply itself of the institutions in which they are studying. As the approval and the admission process for the forthcoming academic year 2024-25 has already commenced for most of the courses and the society might fall in need of uninterrupted supply of funds for meeting various dues and demands from various authorities. At the same time, the

apprehension expressed on behalf of the learned Senior Counsel representing the petitioners that appropriate safeguards and checks must be put in place to ensure that in the garb of meeting out expenses, the newly inducted members of the Respondent No. 4 society do not suck up the coffers of the society leaving it in a financial crunch.

12. Therefore we dispose of I.A. No.4321/2024 with the following directions:

(a) The Respondent No.4/Shree Astha Foundation for Education Society is permitted to operate the bank accounts, and take necessary financial decisions towards meeting out expenses relatable to routine activities of various educational institutions and other infrastructure appended to them like hospital, nursing home, etc. **for a limited period falling between the previously passed order dated 23.04.2024 and 31.07.2024.**

(b) The currently existing management/governing body of Respondent No. 4 society, stated to have been elected in the year 2021, is allowed to take such necessary decisions for withdrawal and disbursement of funds **pertaining only to and restricted to the heads mentioned vide Para 6 of the application and no other expenditure.**

(c) The transaction with the various bank accounts owned by Respondent No. 4 society **shall be done strictly through online/ RTGS/ NEFT/ IMPS mode and no cash transactions** shall be undertaken or subjected to whilst meeting out the afford expenses specified in the Para 6 of the application. In case of an emergency, for reasons to be reduced in writing by the governing body of the society, **not more than an amount of Rs.5 Lakhs/- as an urgent measure be**

allowed to be withdrawn or transacted in cash in a day, that too against payment/ utilisation of the said amount against voucher/ acknowledgment receipts of the payments/ utilisation/disbursal of the same.

(d) A separate block audit report and **statement of accounts & expenditure** shall be maintained of the expenses incurred and payments made under various heads by the Respondent No. 4 society for the aforementioned period as mentioned under clause A) above.

(e) The said statement of accounts & expenditure and audit report must be filed on a monthly basis before 10th day of the succeeding month before the Registrar /Assistant Registrar, Firms and Societies, who shall verify the payments and expenses being made by the Respondent No. 4 society towards various purposes as stipulated under Para 6 of the interlocutory application moved on behalf of the respondent society. In case, the Registrar /Assistant Registrar Firms and Societies finds any suspicious unaccounted transaction alien to the purposes specified under Para 6, then the said must be sought explanation from the Respondent No. 4 society and accordingly resolved. The Registrar, Firms and Societies shall be free and at liberty to bring aforesaid suspicious transactions carried out in contravention and directions of this Court to our knowledge, when appropriate orders may be passed if necessary.

(f) The present order passed by this Court shall be displayed at the home page on the official website of the Respondent No. 4 society, as also official websites of all the colleges being run by the Respondent No. 4 society, so that if there is any breach of the directions passed by this Court, then it is brought to its notice timely.

(g) The petitioners are also accorded liberty to seek a copy of the audit as well as statement prepared as aforementioned in terms of the directions of this Court for his knowledge and information. The petitioner shall also be at liberty to approach this Court in the event of finding any suspicious transaction not in consonance with the directions passed by this Court and seek appropriate orders as and when necessary. However, we make it abundantly clear that this order shall not encourage the petitioner to interfere in the day-to-day financial decisions being taken by the society or various payments, dues or demands being met by the Respondent No. 4 society.

13. I.A .No.4321/2024 is accordingly disposed of in terms of the aforesaid directions, applicable till 31.07.2024. However, Respondent No. 4 society shall be at liberty to seek extension of the aforementioned directions in case it is felt necessary to do so for any supervening reasons.

14. So far as final decision of the case is concerned, the matter was reserved for judgment after hearing of the parties extensively at length. However, we discovered new grounds with corresponding documents filed on behalf of both the parties as well as the interveners giving rise to more questions and riddles. Therefore, while dictating the order, this Court found that the matter requires rehearing particularly in the light of the various new grounds raised by the learned counsels which are as under :

- (1) Scope on interference under Article 226, Constitution of India by the writ Court in the affairs of respondent No. 4 Society (especially the amendment of bye-Laws, granting / withdrawing the membership to new members/ expulsion of existing members,etc.), being an unaided private self-

funded society, carrying out activities of public interest of running host of educational institutions.

- (2) Implications of suppression of the order dated 01.09.2017 passed by the Registrar, Firms and Societies by the petitioner in the writ petition rejecting their appeal. Further pursuit on behalf of the petitioners of the said rejection of appeal before appropriate remedial forum.
- (3) Fallout of delay and laches on the part of the petitioner in approaching this Court, especially when they already stood expelled way back in May, 2016, with the constitution of a new governing body without the petitioners being its part.
- (4) Legality of the amendment of the bye-laws in 2021-2022 by the respondent No. 4 Society, on the premise of which, it has been argued by them for treating the same as the basis/fulcrum for deciding the existing membership, as also the course of next elections to be convened in terms of directions of the Supreme Court dated 16.05.2024.

15. Apart from the aforesaid ground, the counsels would be free to advance their arguments based on the pleadings.

16. Above are the broad question and issues for which the matter is posted for rehearing. In view of the complexity of the present dispute, as also the fact that this Court is directed by the Apex Court to determine and decide various issues arising therein, parties are directed to file additional affidavits, if any, in support of their contentions to arrive at a proper conclusion. Moreover, we expect that the Additional Advocate General would depute a competent Law Officer representing the State of Madhya Pradesh in the

matter. Learned counsel for the State may also seek instructions from the competent authority before the next date of hearing.

17. It is made clear that no further adjournment shall be granted on the next date of hearing and arguments shall be heard limited to the issues indicated hereinabove and as per the directions of the Hon'ble Supreme court.

18. List this case for rehearing on **18.07.2024**.

(S. A. DHARMADHIKARI)
JUDGE

(GAJENDRA SINGH)
JUDGE