

1981 May 29

[TRIANTAFYLIDES, P.]

IN THE MATTER OF THE CHARITIES LAW, CAP. 41.

“THE ORPHANAGE AND TRAINING SCHOOL,
DEMETRAKIS G. DIANELLOS OF LARNACA”,

Plaintiffs.

v.

THE ATTORNEY-GENERAL OF THE REPUBLIC,

Defendant.

(Charity Application No. 1/81).

Charitable trusts—Charity governed by a special Law—The Orphanage and Training School (Demetrakis G. Dianellos of Larnaca) Law, Cap. 353—Appointment of member of Board of Management—Sanctioned by the Court in exercise of its powers under section 13(b) of the Charities Law, Cap. 41 and in the exercise of its inherent jurisdiction—Section 8 of Cap. 353 (supra).

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The plaintiffs, a charity governed by a special Law, namely the Orphanage and Training School (Demetrakis G. Dianellos of Larnaca) Law, Cap. 353, sought, under section 13(b)* of Cap. 41, an order approving the appointment, as a member of the Board of Management of the Charity, of the headmaster of a school of secondary education in Larnaca, to be selected by the remaining members of the said Board of Management. The application was made in pursuance of clause 11(c) of the will of the late Demetrakis G. Dianellos which provided that one of the members of the Board of Management should be the from time to time headmaster of the recognised Communal School of Secondary education in Larnaca. Until now such headmaster was considered to be the headmaster of the Larnaca Lyceum who asked to be relieved of his duties as member of the Board.

* Section 13(b) provides:

“13. The Supreme Court shall have power and jurisdiction—

- (a)
- (b) to give all such directions and make all such orders as may appear to it necessary or expedient for the administration of any trust created for a charitable purpose;
- (c)

Held, that having considered all the relevant material which has been laid before it, as well as the views of the defendant Attorney-General of the Republic, this Court has decided to order, under section 13(b) of Cap. 41, as well as in the exercise of its inherent jurisdiction in this respect (see, in this connection, *The Cyprus Overseas Relief Fund v. The Attorney-General of the Republic* (1978) 1 C.L.R. 430) that the member of the Board of Management, pursuant to clause 11(c) of the will of the late Demetrakis G. Dianellos, should from now on be the senior in the educational service headmaster of a public, and not of a private, school of secondary education in the town of Larnaca; and that in case he refuses, or is prevented, from acting as a member of such Board, the remaining members of the Board should appoint in his place another one of the headmasters of the public schools of secondary education in the town of Larnaca.

Application granted.

Cases referred to:

The Orphanage and Training School, Demetrakis G. Dianellos of Larnaca v. The Attorney-General of the Republic (1977) 1 C.L.R. 302 at pp. 310-311.

Charity Application.

Application by the Trustees of the Charity known as "The Orphanage and Training School, Demetrakis G. Dianellos of Larnaca" under section 13(b) of the Charities Law, Cap. 41, for an order approving the appointment as a member of the Board of Management of the above charity of the headmaster of a school of secondary education in Larnaca, to be selected by the remaining members of the said Board of Management.

G. Nicolaidis with M. Nicolatos, for the plaintiffs.

G. Constantinou (Miss), Counsel of the Republic, for the defendant Attorney-General of the Republic.

Cur. adv. vult.

TRIANTAFYLLIDES P. read the following judgment. The plaintiffs are a charity governed by a special Law, namely the Orphanage and Training School (Demetrakis G. Dianellos of Larnaca) Law, Cap. 353.

Under the provisions of section 8 of Cap. 353, above, the Supreme Court can exercise, in respect of the said charity,

the powers which are vested in, and exercised by it, under the Charities Law, Cap. 41 (see, also, in this respect, *The Orphanage and Training School, Demetrakis G. Dianellos of Larnaca v. The Attorney-General of the Republic*, (1977) 1 C.L.R. 302, 5 310-311).

The plaintiffs are seeking, under section 13(b) of Cap. 41, an order approving the appointment as a member of the Board of Management of the charity in question—(pursuant to clause 11(c) of the will of the late Demetrakis G. Dianellos, of Larnaca, 10 by means of which the charity concerned has been created)—of the headmaster of a school of secondary education in Larnaca, to be selected by the remaining members of the said Board of Management.

As it is stated in an affidavit sworn on February 9, 1981, 15 by Andreas Minas, who is the Secretary of the plaintiffs, it is provided by the aforementioned clause 11(c) that one of the members of the Board of Management of the charity in question should be the from time to time headmaster of the recognized communal school of secondary education in Larnaca—(“τόν 20 ἐκάστοτε Διευθυντήν τῆς ἀνεγνωρισμένης κοινοτικῆς σχολῆς μέσης ἐκπαιδεύσεως ἐν Λάρνακι”)—and that until now there was considered to be such headmaster the from time to time headmaster of the Larnaca Lyceum, who is the oldest in existence secondary school in Larnaca.

It is stated, further, in the said affidavit that the at present 25 headmaster of the said Lyceum resides in Nicosia and, in view of the fact that the meetings of the Board of Management take place in Larnaca and on many occasions last late into the night, he wishes to be relieved of his duties as a member of 30 the Board.

Section 13(b) of Cap. 41 reads as follows:

- “13. The Supreme Court shall have power and jurisdiction—
- (a)
- (b) to give all such directions and make all such orders 35 as may appear to it necessary or expedient for the administration of any trust created for a charitable purpose;
- (c)

Having considered all the relevant material which has been laid before me, as well as the views of the defendant Attorney-General of the Republic, I have decided to order, under section 13(b) of Cap. 41, as well as in the exercise of the, in this respect, inherent jurisdiction of this Court (see, in this connection, 5
The Cyprus Overseas Relief Fund v. The Attorney-General of the Republic, (1978) 1 C.L.R. 430) that the member of the Board of Management, pursuant to clause 11(c) of the will of the late Demetrakis G. Dianellos, should from now on be the senior in the educational service headmaster of a public, 10
and not of a private, school of secondary education in the town of Larnaca; and that in case he refuses, or is prevented, from acting as a member of such Board, the remaining members of the Board should appoint in his place another one of the headmasters of the public schools of secondary education in 15
the town of Larnaca.

Application granted.