

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 163 OF 2012
IN WP/3854/2007

GRAMODYOGIC SHIKSHAN PRASARAK MANDAL
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Applicants : Mr. Deshpande Ajay S.
AGP for Respondents: Mr. S.D. Kaldate
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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 2nd SEPTEMBER, 2015

P.C. :-

1. The petitioner society moved writ petition No. 3854 of 2007 thereby challenging communication dated 29.4.2006 passed by the State Government withdrawing recognition of the school run by petitioner society, on account of certain shortcomings noticed during the inspection. The writ petition was filed in the month of July, 2007 and soon thereafter the effect of impugned order was stayed. The school survived and apparently flourished since then. The petition was dismissed vide order dated 12.6.2008, which is sought to be reviewed.

2. The learned counsel for the petitioner tried to suggest that while dismissing the writ petition a peculiar but important aspect of

the case was not taken into consideration. He stated that the main reason for withdrawal of recognition was failure on the part of school management to take steps in respect of one teacher by name Sonkamble. The school submitted reply saying that they were unable to take action in respect of Mr. Sonkamble because by that time Mr. Sonkamble had taken the matter to the Court and it was subjudice. This aspect of the case, according to him, was not taken into consideration while passing the order under review. We are doubtful as to whether we can examine this aspect of the judgment while examining it by exercising our powers under provisions of Order 47 of Civil Procedure Code. Still we are inclined to allow this review application and set aside the order under review. The reasons are however, different and are narrated as under:-

As said above, the impugned order withdrawing recognition was passed way back in the year 2007, was challenged in writ petition filed in the year 2007 and impugned order was stayed. The school continued to run. The writ petition was disposed of in the year 2008. Nonetheless the protection granted to the petitioner society continued because they approached the Supreme Court in time and obtained stay order from the Supreme Court. In December, 2011, the Special Leave petition was dismissed. Thereafter, the present review application was moved and again a protective order was obtained. This order is still in force. We have noted that much time is lapsed since then. Number of changes have occurred during last 7 to 8 years viz. Strength of students increased;

structure of the school is improved etc. Above all reason for withdrawal of recognition which existed in the year 2007 does not exists now.

3. In view of these changed circumstances, we are inclined to allow this review application and we pass the following order by replacing the earlier order:-

ORDER

- I. The review application is partly allowed.
- II. The Impugned order is set aside and the authorities are directed to reconsider the issue of recognition of the petitioner school in the light of present circumstances.
- III. The interim order passed by this Court earlier shall continue till the fresh decision is taken by the authorities and even for a period four weeks from the date communication of fresh decision to the petitioner.
- IV. Review application is disposed of accordingly.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

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