

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.2630 OF 2005

Shri Datta Bahuuddeshiya Seva
Bhavi Sanstha, Kandharewadi,
Tq. Kandhar, District Nanded,
through its President
Shri Malharrao Datta Dasre,
Age 55 years, Occ. President,
R/o Kandharewadi, Tq. Kandhar,
District Nanded

... PETITIONER

VERSUS

1. The State of Maharashtra,
through its Principal Secretary,
Social Welfare Department,
Maharashtra State,
Mantralaya, Mumbai – 32
(Copy to be served on
Government Pleader, High Court of
Bombay, Bench at Aurangabad)
2. The Director of Social Welfare,
Maharashtra State,
Directorate Office,
Pune – 1
3. The Chief Executive Officer,
Zilla Parishad, Nanded,
District Nanded.
4. The District Social
Welfare Officer,
Nanded, District Nanded.
5. Shri Saraswati Shikshan Prasarak
Mandal, At Post Shiradhon,
Tq. Kandhar, District Nanded
through its Secretary

... RESPONDENTS

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Shri R.R. Suryawanshi, Advocate for petitioner
Mrs. M.A. Deshpande, A.G.P. for State
Shri V.S. Panpatte, Advocate for respondents No.3 & 4
Ms Supriya L. Pansambal, Advocate holding for
Shri V.D. Gunale, Advocate for respondent No.5
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WITH

WRIT PETITION NO.2800 OF 2005

Gramin Vikas Mandal,
Kapsi (Bk.), Tq. Loha, District Nanded
through its President
Shri Bhimrao Sambhaji Kamble,
Age 40 years, Occ. President,
R/o Kapsi (Bk.), Tq. Loha, District Nanded ... PETITIONER

VERSUS

1. The State of Maharashtra,
 through its Principal Secretary,
 Social Welfare Department,
 Maharashtra State,
 Mantralaya, Mumbai – 32
 (Copy to be served on
 Government Pleader, High Court of
 Bombay, Bench at Aurangabad)
2. The Director of Social Welfare,
 Maharashtra State,
 Directorate Office,
 Pune – 1
3. The Chief Executive Officer,
 Zilla Parishad, Nanded,
 District Nanded.
4. The District Social
 Welfare Officer,
 Nanded, District Nanded.

5. Shri Santguru Vitthalrao
Shikshan Prasarak Mandal,
Cidco, New Nanded, District Nanded
through its Secretary ... RESPONDENTS

.....
Shri R.R. Suryawanshi, Advocate for petitioner
Mrs. M.A. Deshpande, A.G.P. for State
Shri V.S. Panpatte, Advocate for respondents No.3 & 4
Mrs. A.S. Rasal, Advocate for respondent No.5
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CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.

DATED: 17th March, 2015.

ORAL JUDGMENT (Per S.V. Gangapurwala, J.):

1. Mr. Suryawanshi, learned counsel strenuously contends that the petitioner in both these writ petitions had applied for running hostel on grant-in-aid basis. Even the proposals of the petitioner in both these matters were recommended, however, permission is granted to respondent No.5. According to the learned counsel, the proposal of respondent No.5 was not initially recommended, but the proposal of the petitioner was recommended. The learned counsel relies on the affidavit filed by the Divisional Social Welfare Officer, in which it is specifically stated that the proposal of the petitioner in Writ Petition No.2800/2005 was recommended. According to the learned counsel, the proposal of the petitioner was complete in

all respects. The proposal of respondent No.5 was submitted subsequently. It is only on account of the letter of the Hon'ble Minister the respondent No.5 is granted permission to run hostel on grant-in-aid basis. The same is illegal. On 23.8.2004 the recommendation was made and on 24.8.2004 the permission has been granted. On 24.8.2004 the Code of Conduct came into force. As such, no permission could have been granted. It is only because of the intervention of the Hon'ble Minister the respondent No.5 has been given the permission. The same is illegal.

2. The learned A.G.P. states that the Code of Conduct came into existence in the afternoon and in the morning the permission had been granted. According to the learned counsel, the proposal of the petitioner in Writ Petition No.2800/2005 was recommended, however, the proposal of the petitioner in Writ Petition No.2630/2005 was not recommended. Earlier all the proposals were turned down. However, it was directed to reconsider the proposal afresh. After fresh consideration, the three proposals were found eligible and respondent No.5 in each of the matter has been granted permission. No illegality has been committed by the respondents.

3. We have considered the submissions canvassed by the learned counsel for the parties. There is presumption that official act has been properly done unless the said presumption is rebutted. The Code of Conduct no doubt came into existence on 24.8.2004. On the said date the permission has been granted. It is stated that, the Code of Conduct came into existence in the afternoon and the permission has been granted in the morning. There is no reason to disbelieve the same. This Court would not sit in appeal over the decision taken by the authorities upon their subjective satisfaction based on objective assessment of the proposal. However, this Court would only consider the decision making process as to whether the same has been properly followed or not. There is nothing on record to show that the said procedure has not been followed. The proposal of the petitioner in Writ Petition No.2630/2005 was not even recommended.

4. Considering all the aforesaid aspects of the matter, the decision taken by the respondent in granting permission to the respondent No.5 to start hostel on grant-in-aid need not be interfered with.

5. In case the policy of the respondents to grant permission to run hostel on grant-in-aid still is in vogue, the

petitioner may apply afresh, which application would be considered by the respondents on its own merits in accordance with law and the policy in force, expeditiously on receipt of the said application.

6. Writ Petition is accordingly disposed of. Rule discharged. No costs.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)