

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO. 74 OF 2014

Dinesh Atmaram Ambhore
Age : years, Occ: Sarpanch
R/o Chondi (Kh.) Tq. Sengaon
Dist. Hingoli.

...Petitioner

versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Tribal Development Commissioner,
Maharashtra State, Nashik,
Dist. Nashik.
3. The Additional Commissioner, (Tribal)
Amaravati Dist. Amravati.
4. The Anudanit Adiwashi Ashram School,
At Chondi Fata (Boralwadi)
Tq. Sengaon, Dist. Hingoli
Run by Shri Shivaji Shikshan Sanstha
Bhatsavangi (Tanda),
Tq. Sengaon, Dist. Hingoli
Through its President.

...Respondents

.....
Mr. R. J. Nirmal, Advocate for the petitioner
Smt. S. A. Dhumal, A.G.P. for respondent nos. 1 to 3
Mr. H. H. Padalkar, Advocate for respondent no. 4

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**CORAM : R.M. BORDE AND
V. K. JADHAV, JJ.**

DATED : 24TH APRIL, 2015

JUDGMENT (PER V. K. JADHAV, J.) :-

1. Rule. Rule returnable forthwith. By consent of parties, heard finally at admission stage.

2. By way of this public interest litigation, the petitioner is seeking cancellation of permission granted to respondent No.4 to run Ashram School by the Hon'ble Minister, Tribal Development Department, State of Maharashtra, in appeal filed by the respondent No.4.

Brief facts, giving rise to this public interest litigation, are as under:-

3. According to the petitioner, on 3.9.1999, permission was granted to respondent No.4 institution to run Ashram school. However, respondent No.4 institution was not administering the affairs of the said school properly. In the academic year 2009-2010, during the course of sudden inspection of Ashram school carried out by the Commissioner of Tribal Development, certain deficiencies were found in the administration of the school. The said inspection was carried out in the month of February, 2010. Consequently, a show cause notice was served on respondent No.4 institution. In the said show cause notice, respondent No.2 has pointed out many

deficiencies viz. i) the school building is not owned by the institution, ii) no residential accommodations were provided to the students, iii) there are no sufficient books in the library of the school, iv) no separate science library, v) no separate laboratory for the students, vi) no lady attendant was appointed for the girl students at night time, vii) no medical checkup facilities were provided to the students, viii) no facilities of scout guide unit was provided. Besides this, it is also found in the inspection carried out by the Collector and the senior Officer of Amravati region on 7.9.2010 that there are no proper facilities, bathroom and toilets are not provided to the students. There are no separate toilets for boys and girls. It is also noticed that even though the attendance of the students is shown more on the record, less students were found present at the time of said inspection carried out by the Collector. It is also noticed during the course of said inspection that there are no desks, benches for the students and the students use to bring their own mattresses for sitting purpose. It was also noticed that the kitchen room is not in order.

4. Respondent No.4 accordingly had submitted its reply. The authorities of the respondents, on consideration of reply submitted by respondent No.4 institution to the show cause notice and after giving opportunity of being heard, the Commissioner, Tribal Development

Department, State of Maharashtra, by order dated 8.3.2011 de-recognized the Ashram School run by respondent No.4 institution.

5. Being aggrieved by the order passed by the State Government, respondent No.4 had preferred an appeal before the State Government. During the course of hearing of the said appeal, in order to avoid academic loss suffering by the tribal students, the institution was permitted to remove the deficiencies/irregularities noticed by the Commissioner. Respondent No.4 institution was directed to remove the said deficiencies and irregularities upto June, 2011. Thereafter, on consideration of the affidavit submitted by the institution about the compliance of said deficiencies, the Additional Commissioner of Tribal Development Department, was directed to verify the same. The Additional Commissioner has accordingly, on verification, submitted a report to the State Government on 20.9.2011. The State Government by order dated 11.10.2011 set aside the order passed by the Commissioner; Tribal Development Department dated 8.3.2011 and granted permission to respondent No.4 institution to run the Ashram school permanently.

6. According to the petitioner, even then respondent No.4 institution has not rectified the deficiencies, consequently again a show cause notice dated 5.3.2012 came to be issued by respondent

No.2 to respondent No.4. Respondent No.4 institution also submitted its reply to the said show cause notice. Even the remarks of the Project Officer were also called for the explanation tendered by respondent No.4 institution. The Commissioner of Tribal Development department, Maharashtra State, Nashik by order dated 7.6.2013 again cancelled the permission granted to respondent No.4 institution to run the said Ashram School.

7. Being aggrieved by the order dated 7.6.2013; respondent No.4 institution had preferred a statutory appeal before the Hon'ble Minister of Tribal Development Department, Maharashtra State. The Hon'ble Minister however, has granted permission to respondent No.4 institution to run the school on permanent basis as a last chance and accordingly the impugned order dated 18.2.2014 came to be issued. The petitioner has challenged the said order dated 8.2.2014 by filing this public interest litigation.

8. The learned counsel for the petitioner submits that even though the Commissioner of Tribal Development Department has cancelled the permission to run the Ashram School twice, the Hon'ble Minister has granted permission on permanent basis to respondent No.4 institution to run the Ashram school as a last chance. The learned counsel submits that there are no basic

facilities provided to the students and the staff members have also made complaints to the Project Officer and the Additional Commissioner, Tribal Development Department, regarding their harassment at the hands of the management. The learned counsel further submits that the Hon'ble Minister has not passed any speaking order and without considering the remarks submitted by the department, granted permission to respondent No.4 institution to run the Ashram School as a last chance. The learned counsel further submits that the order dated 18.2.2014, as recorded by the Hon'ble Minister does not contain any remarks and simply has expressed his desire in a single line. The learned counsel for the petitioner has further pointed out that this Court by order dated 4.3.2015 in the facts and circumstances of the case directed respondent No.3 to carry out the inspection of respondent No.4 and tender a report to the court informing therein as to whether proper infrastructure is made available by the school management for imparting education to the students and whether the school is being operated in accordance with the prescribed norms and that whether the deficiencies which were found earlier have been removed. Accordingly, the Project Officer of ICDS has visited the said school on 25.3.2015 and submitted a detail report alongwith the photographs and the relevant record. The learned counsel further submits that on careful perusal of said report, it appears that respondent No.4 institution has not

removed the deficiencies and no proper infrastructure is made available by the school management for imparting education to the students. It also appears from the said report that the school is not being operated in accordance with the prescribed norms and the deficiencies, which were found earlier, have not been removed. The learned counsel thus lastly submits that the decision taken by the State Government dated 18.2.2014 is liable to be quashed and set aside.

9. Learned A.G.P. for respondent Nos. 1 to 4 submits that the petitioner is having vested interest in filing writ petition under the garb of public interest litigation. The petitioner is politically motivated and so called Public interest litigation is a result of political rivalry in two groups. The learned A.G.P. further submits that the deficiencies which were pointed out in the order dated 7.6.2013 by the respondent No.2 Commissioner about the said Ashram School were the deficiencies of the academic year 2010-2011 which have already been removed or complied with by the respondent No.4 institution. The learned A.G.P. further submits that the impugned order came to be passed in the light to academic interest of the students and no illegality is committed by the State Government while issuing the impugned order dated 18.2.2014. The learned A.G.P. thus finally submits that the Public interest litigation filed by the petitioner is liable

to be dismissed with costs.

10. We have also heard the learned counsel appearing for respondent No.4 institution.

11. It appears from the record that permission granted to respondent No.4 institution was cancelled in the year 2011 by respondent No.2 and thereafter again it was cancelled in the year 2013 on the ground that there are no basic amenities provided by the school management to the students. It also appears that there is harassment of the staff members for some extraneous consideration. Respondent No.4 institution even after granting permission by the State Government has not rectified the deficiencies. On perusal of the record, it appears that respondent No.4 institution is not having its own building and there are no facilities of hostel to the students.

12. Even though the Commissioner of Tribal Development Department has cancelled the permission to run the school twice earlier, the Hon'ble Minister has granted permission on permanent basis to respondent No.4 institution to run the Ashram School as a last chance. On perusal of impugned order, it appears that though the department has submitted negative note, the Hon'ble Minister has not passed any speaking order and without considering the

remarks submitted by the department, has granted permission to respondent No.4 institution to run Ashram School as a last chance. The Hon'ble Minister has passed one line order stating therein that on the basis of conclusions drawn, respondent No.4 has been given last chance to run Ashram School. It is not clear from the impugned order that what are those conclusions drawn by the Minister to grant such last chance to respondent No.4 institution to run the Ashram School.

13. This Court by order dated 4.3.2015, in the facts and circumstances of the case, had directed respondent No.3 to inspect respondent No.4 school and tender a report to this Court informing as to whether proper infrastructure is made available by the school management for imparting education to the students and whether the school is being operated in accordance with the prescribed norms and that the deficiencies which were found earlier have been removed. Accordingly, the Project Officer of Integrated Child Development Scheme (ICDS) has visited the school on 25.3.2015 and carried out inspection, as directed above.

14. We have perused the said report dated 26.3.2015 submitted to this Court. It appears that respondent No.4 institution has not removed the deficiencies and no proper infrastructure is made

available by the school management for imparting education to the students. It also appears from the said report that basic amenities are not provided and the school is not being operated in accordance with prescribed norms. It also appears from the record that the deficiencies which were pointed out earlier, have not been removed. The order dated 12.2.2014 as recorded by the the Hon'ble Minister is without assigning any reason and it is only a desire expressed by the Hon'ble Minister in single line.

15. In view of the above, the permission granted to respondent No.4 institution to run Ashram School, vide Government Resolution dated 18.2.2014 is not sustainable and the same is liable to quashed and set aside. Hence, the following order:-

ORDER

- I. The Public Interest litigation is hereby allowed.
- II. The order dated 12.2.2014 passed by the Hon'ble Minister is hereby quashed and set aside. Consequently, the Government Resolution dated 18.2.2014 issued by the Tribal Development Department, State of Maharashtra (Exhibit "D") is also quashed and set aside.

- III. In the circumstances, there shall be no order as to costs.
- IV. Original record shall be returned to learned A.G.P. who represents respondent No.1.
- V. Rule is made absolute in the above terms. Public Interest Litigation is disposed of.

(V. K. JADHAV, J.)

(R. M. BORDE, J.)

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