

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

WRIT PETITION NO. 7789 OF 2015

Shri Shamgir Shikshan Sanstha,
Shivni Kotal, Tq. Nilanga, Dist. Latur,
Through its Director,
Jeevan Gunwantrao Patil,
Age : 80 Years, Occu. : Agril.,
R/o Shivni Kotal, Taluka Nilanga,
Dist-Latur. .. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
School Education and Sports Department,
Mantralaya, Extension Building,
Mumbai - 32.
2. The Director of Educational
(Secondary and Higher Secondary)
Maharashtra State,
Central Building, Pune.
3. The Divisional Deputy Director
of Education, Latur Division, Latur.
4. Education Officer (Secondary),
Zilla Parishad, Latur.
5. Raosaheb Deshmukh Institute of
Education and Defence,
through its Director,
Shri Shankarrao Ambegaonkar,
Age-Major, Occu.-Agril.,

R/o Ambegaon, Taluka-Nilanga
Dist-Latur.

6. Krushnabai Raosaheb Deshmukh
High School, Ambegaon, Tq. Nilanga,
Dist. Latur.
Through its Head Master .. Respondents

Shri N. B. Suryawanshi, Advocate for the Petitioner.
Shri P. P. More, A.G.P. for Respondent Nos. 1 to 4.
Shri Arun Kanade, Advocate h/f Shri R. B. Narwade Patil,
Advocate for the Respondent No. 5.
The Respondent No. 6 is deleted.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 29TH JULY, 2015.

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

. Heard. The learned counsel for the petitioner seeks leave to delete the respondent No. 6. Leave to delete the respondent No. 6 is granted at the risk of the petitioner.

2. Rule. The learned A. G. P. waives notice of rule for respondent Nos. 1 to 4. Mr. Kanade, the learned counsel waives notice of rule for the respondent No. 5. With the consent of parties taken up for final hearing.

3. Mr. Suryawanshi, the learned counsel for the petitioner submits that, the Secretary of the respondent No. 1 vide its judgment and order dated 19.01.2015 has confirmed the order

passed by the Deputy Director of Education transferring the school Krushnabai Raosaheb Deshmukh High School to the petitioner. The notice is issued by the Hon'ble Minister directing the petitioner to appear before it. The petitioner apprised the Hon'ble Minister that the Secretary has already passed the order and no review is maintainable before the Hon'ble Minister. Without considering the same, impugned order is passed. The learned counsel submits that, the order is also passed without assigning reasons. No reasons are given and only arguments are recorded and final order is passed. The learned counsel submits that, even no finding is given about the tenability of the said proceedings before the Hon'ble Minister, though the same was specifically raised.

4. Mr. Kanade, the learned counsel for the respondent No. 5 submits that, the Hon'ble Minister has considered arguments canvassed by the respective parties, has recorded the same and after appreciating the said submissions has passed the impugned order. The order of transfer was *per-se* and *ex-facie* is illegal. As such, the Hon'ble Minister has rightly interfered with the said order. The principles of natural justice are also followed.

5. We have also heard the learned Assistant Government Pleader.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. On 19.01.2015 there appears to be an order passed by the respondent No. 1/Secretary thereby confirming the order passed by Deputy Director of Education, Latur transferring the Krushnabai Raosaheb Deshmukh High School, which was initially run by the respondent No. 5 to the petitioner. Thereafter, it appears that, notice is issued by the Hon'ble Minister and the impugned order is passed.

8. From the order, it appears that, the Hon'ble Minister was exercising the powers of review. The contention of the petitioner is that, the Hon'ble Minister does not have powers of review, once the order is passed by the Secretary and even if powers of review are exercised, the same has to be exercised by the authority who has passed the said order. The said application could not have been dealt by the Hon'ble Minister. Perusal of order of Hon'ble Minister, it appears that, only contentions of respective parties are recorded and directly operative order is passed. The contentions of respective parties have not been dealt with by the Hon'ble Minister. In fact, no reasons are given by the Hon'ble Minister. The reasons are the life line of the administrative or quasi judicial order been passed. It is one of the facet of the principles of natural justice. Reasons depict the application of

mind of the authority passing the order. The impugned order is bereft of any reasons. Such an order cannot be sustained. The Hon'ble Minister was required to deal with each and every contention raised by the parties including the maintainability of review before him and ought to have given findings on the same.

9. In the light of the above, the impugned order is quashed and set aside. The parties are relegated before the Hon'ble Minister. The contentions raised by respective parties are kept open to be decided by the Hon'ble Minister. The Hon'ble Minister shall decide the proceedings after giving opportunity of hearing to the parties. The parties may appear before the Hon'ble Minister on 26.08.2015.

Rule accordingly is made absolute in above terms. No costs.

Sd/-
[V. K. JADHAV, J.]

Sd/-
[S. V. GANGAPURWALA, J.]