

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR
BENCH, NAGPUR.

WRIT PETITION NO.809 OF 2014

Mangrulpir Education Society, Mangrulpir, District Washim

..vs..

State of Mah. and ors

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
.....

Court's or Judge's order

Shri A.S. Mardikar, counsel for the petitioner.
Shri Khubalkar, AGP for the respondents.

CORAM

**: B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.**

DATE

: JANUARY 21, 2015.

Heard.

In light of hearing, learned AGP sought adjournment to obtain instructions. However, we have rejected his request.

The petitioner sought permission to start a new junior college on “no grant basis”. This request was rejected after finding out lacunae like non submission of Audit Report 2006-07, availability of Audit Report only to see year 2005 and existence of Arts and Science faculties in Urdu Medium at the same place. This was questioned by the petitioner by filing the petition under Section 11 of The National

.....2/-

Commission for Minority Educational Institutions Act, 2004 vide petition registered as F.No.2170 of 2010. It is allowed on 18.10.2011. The learned three members of the Commission recognized the need of establishing Urdu medium junior college at Mangrulpir by it. The Secretary, School Education Department of Government of Maharashtra and the Education Officer of Zilla Parishad were party respondents before that Commission.

After this order, the proposal submitted by the petitioner was restored back. On 20.11.2012, the Education Officer has submitted another report reiterating the need. However, vide impugned communication dated 11.10.2013, the Deputy Direction of Education has pointed that in existing situation, it was not possible to look into it.

Shri Mardikar, learned counsel, submits that being the minority educational institution and need being apparent, the reason put forth is incorrect. He also points out that, though in impugned order there are no details of “existing situation”, in reply affidavit filed by respondent

No.2 on 25.11.2014 those details are given. He submits that the petitioner has no objection if its proposal is processed in terms of the provisions of The Maharashtra Self-Financed Schools (Establishment and Regulation) Act, 2012.

Learned AGP is relying upon the reply affidavit. He submits that coming into force of new enactment and, therefore, new policy after order of commission, has necessitated a fresh application by the petitioner. After receipt of such application, it can be again processed in terms of said enactment and eligibility of the petitioner or need of such school can be looked into.

We find that need of school was admitted before the Commission in 2011. This need is again reaffirmed by the Education Officer on 27.11.2012. Thus, by passage of new enactment or by taking of a new policy decision, said need cannot be wiped out.

The proposal submitted by the petitioner is already pending and during its pendency, the new policy or new enactment has come into

force. There is nothing on record to show that pending application of the petitioner cannot be processed under new policy or new enactment. The petitioner has no objection if its application is accordingly processed. It also agrees to remove any lacuna to fulfill procedural requirements, if necessary, for the said purpose.

As the petitioner is minority institution and need of junior college is already recognized and the matter is pending since year 2008, we direct the respondents to process pending application of the petitioner in accordance with enactment mentioned *supra*. If any procedural compliances are necessary, the petitioner to comply with the same within a period of four weeks after receipt of intimation accordingly from the concerned respondents.

We direct the petitioner to appear before respondent No.4 at Amravati for said purpose on 16.2.2015. After necessary compliances are made, the Authority shall evaluate the proposal sent by the petitioner in accordance with law on its own merit within next three months.

The time limit is imposed only to see that, if the permission is granted, the petitioner should be in a position to start the junior college in Academic Year-2015-16.

Thus, the writ petition is partly allowed and disposed of with no order as to costs.

JUDGE

JUDGE

!! BRW !!