

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1091/2014

(SHRI SEVALAL MAHARAJ SHIKSHAN SANSTHA **VERSUS** THE STATE OF MAHARASHTRA &
OTHERS)

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

Court's or Judge's orders

Shri F.T. Mirza, counsel for the petitioner.
Shri N.R. Patil, A.G.P. for the R-1 to 3.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : JULY 7, 2015.

By this petition, the petitioner challenges the order of the Hon'ble Minister dated 30.09.2013 as also the orders of the respondent no.2-Director and the respondent no.3-Deputy Commissioner, dated 31.05.2013 and 07.02.2013 respectively, cancelling the recognition of the Ashram School run and administered by the petitioner-Sanstha.

The petitioner was managing the Ashram School specially meant for the students belonging to V.J., N.T., O.B.C. and S.B.C. categories since the academic session 1996-97. It is the case of the petitioner that the school was run and administered for more than a decade by the petitioner-Society without any complaint from any quarters. For the first time, according to the petitioner, the respondent no.3-Deputy Commissioner issued a show cause notice to the petitioner on 05.02.2013 alleging that on 04.02.2013, it was found by the concerned authority while inspecting the Ashram School that there were certain irregularities in administering the Ashram School. The petitioner was asked by the said show cause notice as to why the Ashram School run by the petitioner should not be closed down. The petitioner submitted its explanation to the show cause notice by the reply dated 25.04.2013, in detail. It is the case of the petitioner that the respondent no.2-Director, without

considering the documents that were a part of the record, cancelled the recognition of the Ashram School. The petitioner challenged the said order before the Hon'ble Minister. The Hon'ble Minister, by the impugned order dated 30.09.2013, upheld the order of the respondent no.2-Director and dismissed the appeal filed by the petitioner. The petitioner has challenged the orders of the three authorities in the instant petition.

Inter alia, it is submitted on behalf of the petitioner-Sanstha that though initially the petitioner was under an impression that the cancellation of the Ashram School of the petitioner was based only on the inspection reports dated 02.11.2012 and 04.02.2013, that were supplied to the petitioner, it appears from the affidavit-in-reply filed on behalf of the respondents that the cancellation of the recognition is also based on two more inspection reports dated 26.07.2012 and 14.08.2012. It is submitted by placing reliance on the affidavit-in-reply of the respondents that the respondents have considered some additional material in the form of the two inspection reports mentioned hereinabove for cancelling the recognition of the petitioner-Sanstha. It is submitted that though the order refers to two inspection reports dated 02.11.2012 and 04.02.2013, it is clear from the affidavit-in-reply that some more material, that was within the knowledge of the respondents and which was not supplied to the petitioner, was considered by the authorities while cancelling the recognition.

Shri Patil, the learned Assistant Government Pleader appearing on behalf of the respondents, states that the respondents have filed two affidavits-in-reply. It is further not disputed that in one of the affidavits, it is clearly stated that the cancellation of the recognition of the Ashram School run by the petitioner-Sanstha is based on the inspection reports dated 26.07.2012, 14.08.2012 and 04.02.2013. It is fairly admitted that the inspection reports dated 26.07.2012 and 14.08.2012 are not mentioned in the impugned

orders. It is, however, stated that the petitioner should not be granted the relief as from the other two inspection reports dated 02.11.2012 and 04.02.2013, it could be clearly gathered that there was several irregularities in conducting the Ashram School.

On hearing the learned counsel for the parties and on a perusal of the impugned orders as also the affidavit-in-reply dated 08.08.2014, it appears that the impugned orders are liable to be set aside and it is necessary to grant an opportunity to the petitioner to explain the deficiencies in the inspection reports dated 26.07.2012 and 14.08.2012, that were considered by the respondents while cancelling the recognition of the Ashram School. Though it appears from the impugned orders that the impugned orders are based on the inspection reports dated 02.11.2012 and 04.02.2013, it is clear from the affidavit-in-reply dated 08.08.2014 that the respondents have also considered the inspection reports dated 26.07.2012 and 14.08.2012 while cancelling the recognition. It appears that the respondents were not justified in cancelling the recognition on the basis of the inspection reports that were considered by the authorities, without granting an opportunity to the petitioner to show cause in respect of the deficiencies in the said reports.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned orders are quashed and set aside. The respondents are permitted to take appropriate action against the petitioner-Sanstha after granting a fair opportunity to the petitioner to explain whether the deficiencies do not exist and are cured. It is, however, made clear that as the petitioner is not running the Ashram School since the impugned order was passed by the respondent no.2-Director, the petitioner would not be entitled to run the Ashram School till the respondents reconsider the matter of cancellation of recognition after granting an opportunity to the petitioner. The respondent no.3-Deputy Commissioner of Social Welfare is directed to decide the matter as early as possible and positively within a period of three months.

Order accordingly. No costs.

JUDGE

JUDGE

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