

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

WRIT PETITION NO.3093/2015

Mahatma Phule Sarvajanik Vachanalay, Kothali Bk. Tq. Barshitakli, Distt. Akola
through its President

...Versus...

The State of Maharashtra, Through the Secretary Higher and Technical
Education, Mumbai-32 and others

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

Court's or Judge's orders

Shri C.A. Joshi, Advocate for petitioner
Ms N.P. Mehta, AGP for respondent nos.1 to 3

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 25.08.2015

By this petition, the petitioner impugns the order of the Assistant Director of Libraries dated 3.8.2014 withdrawing the recognition to the public library of the petitioner. The petitioner also challenges the order of the Hon'ble Minister for Higher and Technical Education dated 25.8.2014, dismissing the appeal filed by the petitioner.

The recognition of the petitioner – Vachanalay was cancelled by the Director of Libraries on the ground that the conditions of recognition were breached and the library was not maintained by the petitioner properly. The order of the Director of Libraries was challenged by the petitioner in an appeal before the Hon'ble Minister for Higher and Technical Education. The appeal was, however, dismissed by the order dated 25.8.2014. The petitioner has challenged the orders in this writ petition.

Inter alia, it is submitted on behalf of the petitioner – Vachanalay that the appellate authority – Hon'ble Minister was not justified in dismissing the appeal on the basis of an inspection of the library after the hearing in the appeal was concluded. It is stated that if the Hon'ble Minister had decided to base the appellate order on the inspection report, it was necessary for the Hon'ble Minister to grant an opportunity of hearing to the petitioner after supplying the additional material to the petitioner. It is submitted that independent reasons are not recorded by the Hon'ble Minister for dismissing the appeal and the appeal is dismissed only on the basis of a crosscheck-inspection that was sought to be carried out on Sunday when the employees and staff of the library were not present. It is submitted that it is well settled that if the order of the adjudicatory authority is based on additional material, the additional material is required to be supplied to the person aggrieved and a hearing is required to be granted in such a case, if necessary. It is stated that since the order of the Hon'ble Minister is based on the so-called crosscheck-inspection, the petitioner is required to be heard. It is stated that the Hon'ble Minister may call a fresh inspection of the library after issuing a notice to the petitioner and then pass appropriate orders.

On hearing the learned Counsel for the parties and on a perusal of the appellate order of the Hon'ble Minister, it appears that the Hon'ble Minister was not justified in dismissing the appeal on the basis of an inspection that was sought to be conducted after the hearing in the appeal was concluded. If the appellate order is based on the subsequent development that occurred after the hearing was concluded, it was necessary for

the Hon'ble Minister to grant a fresh opportunity of hearing to the petitioner for refuting the claim of the authority that the library was not well equipped and it was closed on the day on which it was sought to be inspected. It is rightly submitted on behalf of the petitioner that if the appellate order is based on a crosscheck-inspection that was sought to be conducted, the petitioner was entitled to an opportunity. Since the impugned order of the Hon'ble Minister in appeal is based on the additional material that was not existing at the time of conclusion of the hearing, the impugned order of the appellate authority is liable to be set aside and the matter is liable to be remanded to the appellate authority for a fresh decision in accordance with law.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order of the Hon'ble Minister dated 25.8.2014 is hereby quashed and set aside. The Hon'ble Minister would be free to cause the inspection of the library for crosschecking if desired, but the petitioner should have a notice in respect of the said inspection and if any deficiencies are found in the inspection, the petitioner should be heard. The appellate authority may decide the appeal as early as possible and positively within a period of three months from the date of appearance of the petitioner before the appellate authority. The office bearer of the petitioner - Vachanalay undertakes to appear before the Hon'ble Minister on 21.09.2015.

Order accordingly. No costs.

JUDGE

Wadkar

JUDGE