

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

17 WRIT PETITION NO. 4648 OF 2015

YOGESH RAMNATH CHINTAMANI
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Hemant Surve And Mr.
Kshitij Surve
AGP for Respondents 1 to 5: Mr. M. B. Bharaswadkar
Advocate for Respondent No.7 : Mr. H. B. Harwade
Advocate for Respondent No.8 : Mr. S. G. Rudrawar
Advocate for Respondent No.9 :Mr. Chandrakant K. Shinde

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 4th October, 2016

ORDER:

1. Leave to amend.
2. We have heard Mr. Surve, learned counsel for the petitioner, learned AGP for the State and Mr. C.K. Shinde, learned counsel for respondent No.9.
3. The proposal submitted by the petitioner is rejected on the ground that distance between the existing Typewriting Institution and the proposed Institution of the petitioner is less than 1 km. However, according to Mr. Surve, the learned counsel for the petitioner, even the said order is never communicated to the petitioner. In fact, the same does not appear to have been processed further after the

respondents noted that the distance is less than 1 km.

4. We have considered the affidavit filed by the Superintendent (Class-II), working in the office of Education Officer (Secondary), Zilla Parishad, Aurangabad. It is stated that with the odometer of two wheeler, distance is measured. The respondents ought to have secured certificate from the competent authority prior to coming to the conclusion about the distance. As per Rule 2.2(1) of the Maharashtra Commerce Department, Education Institutes (Typewriting, Stenography and Diploma Courses) Recognition and Conduct Rules, 1991 as relied by the respondents, the distance is required to be 1 km.

5. Considering the above, we pass following order:

- i. The finding on the proposal of the petitioner of the distance being less than 1 km. from the existing typewriting institute is set aside.
- ii. The respondents authorities may get the distance certificate from the appropriate authority. The petitioner may also submit the distance certificate after obtaining it from the appropriate authority, to the respondents. The

respondents shall, thereafter, process the proposal of the petitioner on its own merits and in accordance with law, expeditiously, preferably within three months from the receipt of the distance certificate from the concerned authority.

6. In view of the aforesaid directions, we have not considered the other contention of the respective parties on merits. Challenge to the Rules is also kept open. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC