

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11145 OF 2013
WITH
REVIEW APPLICATION STAMP NO. 22723 OF 2013
IN
WRIT PETITION NO. 736 OF 2011

The State of Maharashtra,
Through its Secretary,
School Education and Sports Department,
Mantralaya, Mumbai and others .. **Applicants**

Versus

Durgamata Bahuuddeshiya Sports
and Educational Institutions,
Through its Secretary and another .. **Respondents**

Smt. A. V. Gondhalekar , A. G. P. for Applicants.
Shri V. D. Hon, Senior Advocate for Respondent No. 1.
Shri S. B. Talekar, Advocate for Respondent No. 2.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 08TH JULY, 2016.

PER COURT :-

1. This court vide order dated 26th August, 2011 had disposed of the writ petition filed by the petitioner with certain directions. This court vide order dated 26th August, 2011 in Writ Petition No. 736 of 2011 with connected writ petition directed as under -

“5. We, therefore, pass the following order :

(i) The impugned order dated 20th october, 2010 is quashed and set aside.

(ii) The Committee as constituted as per Government Resolution dated 26th September, 1995 shall re-visit the proposed schools / Institutions and do the evaluation of the facilities available with all the applicants in accordance with the parameters laid down in the Circular dated 27th July, 2010. It is, however, made clear that when the inspection of the facilities available with the Institutions / Schools of the applicants will be carried out by the Committee, the presence of the persons of the Committee at Serial Nos. 3 and 4 shall be mandatory, inasmuch as these are the persons who are experts in the field of Military Education. The said Committee shall complete the inspection as far as possible within a period of three months from today.

(iii) It is further directed that the said Committee shall give an opportunity of hearing to all the applicants.

(iv) After the Committee inspects the facilities and hears the parties, the Committee shall also record its reasons for the evaluation that would be carried out by it. It is further directed that after the said Committee submits its report to the Government, the Government shall pass an order allotting the Girls Military School to the applicant who has secured highest marks as per the evaluation of the facilities.

(v) With the above directions, both the Writ Petitions are disposed of."

2. Pursuant thereto the original writ petitioner is granted permission to run Girls Military School on 21.08.2013.

3. The State has filed the Review Application with an application for condonation of delay of 677 days on the ground that as per the policy of the State permission can be granted to only one Girls Military School for a revenue division. Under the premise that Nanded revenue division is being constituted erroneously the statement was made with regard to the grant of permission to the Petitioner. However, no separate Nanded revenue division is formed and there is only one revenue division. One school run by Sadguru Shri Gajanan Baba Shikshan Prasarak Mandal, Buldhana is also granted permission in the year, 2005 to run the girls military school in the Aurangabad revenue division. This could not be brought to the notice of this court when the petition was decided. According to the learned A. G. P. there is a error apparent on face of record. The learned A. G. P. states that delay has been caused in filing the Review Application due to the administrative reasons. The Government while considering the matter realised that, as per the prevailing policy of the Government only one Girls Military School is permissible in the revenue division and one school is already functioning.

4. Mr. Hon, the learned senior advocate submits that the said contention of the Respondent / State that one Girls Military School is being run in the Aurangabad division is erroneous. Said Sadguru Shri Gajanan Baba Shikshan Prasarak Mandal, Buldhana was initially granted permission to run Girls Military School however within one year the said society was granted permission to convert the said girls military school into the Co-education Military School and there is no Girls Military School in the Aurangabad division. Pursuant to the permission granted by the Applicants herein on 21.08.2013 the present non applicant is running the said Girls Military School.

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

6. There is a delay of almost two years in filing the Review Application. Certainly the grounds enumerated for delay does not constitute sufficient cause. None the less we have considered the submissions of the learned A. G. P. on merits also. Time to time we had adjourned the matter to enable the learned A. G. P. to place on record the policy as contended in the Review Application that permission can be granted to only one Girls Military School for revenue division. No such scheme or policy is placed on record.

7. Even, it is submitted that the Girls Military School run by Sadguru Shri Gajanan Baba Shikshan Prasarak Mandal, Buldhana has been converted into a Co-education Military School and there is no Girls Military School in existence in the Aurangabad revenue division except the one run by the present non applicant.

8. Considering the above, there is no error apparent on face of record. As such, the civil application and the Review Application are dismissed. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

sam/July.16