

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

WRIT PETITION NO. 12358 OF 2015

Raje Sambhaji Bahuddeshiya Sevabhavi Sanstha,
Dagadi Shahajanpur,
Tq. & Dist.Beed.
Through it's Secretary,
Shivaji s/o Govindrao Chavan,
Aged : 42 years, Occupation : Agriculture,
R/o Shriramnagar, Beed.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
Through its Principal Secretary to
the Government of Maharashtra in
Social Welfare Department,
Maharashtra State,
Mantralaya, Mumbai-32.
- 2 The Hon'ble Minister,
Social Welfare Department,
Maharashtra State,
Mantralaya, Mumbai-32.
- 3 The Commissioner of Handicapped,
Maharashtra State,
3, Church Road, Pune-411001.
- 4 The Regional Deputy Commissioner,
Social Welfare Department,
Aurangabad.
- 5 The Chief Executive Officer,
Zilla Parishad, Beed.
- 6 The District Social Welfare Officer,
Zilla Parishad, Beed.

...RESPONDENTS

**WITH
CIVIL APPLICATION NO.1564 OF 2016
IN WP/12358/2015**

**SHINDESHOR SHANKAR WAGHAMDE AND OTHERS.
-VERSUS-
THE STATE OF MAHARASHTRA AND OTHERS.**

**WITH
CIVIL APPLICATION NO.3321 OF 2016
IN WP/12358/2015**

**LATE ANNASAHEB PATIL.
-VERSUS-
RAJE SAMBHAJI BAHUDDESHIYA SEVABHAVI SANSTHA AND OTHERS.**

...
Shri Kute Rajendra L., Advocate for the Petitioner.

Shri A.B.Girase, Government Pleader a/w Shri S.G.Karlekar, AGP, for the
Respondents/State.

Shri A.D.Aghav, Advocate for Respondent Nos.5 and 6.

Shri A.M.Gaikwad h/f Shri A.B.Hawale, Advocate for the Intervener in
Civil Application No.1564/2016.

Ms.S.V.Salunke h/f Shri V.D.Salunke, Advocate for the Intervener in Civil
Application No.3321/2016.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd July, 2016

Oral Judgment :

1 While issuing notice in this matter on 22.12.2015, it was
observed as under:-

- “1 *The Petitioner is aggrieved by the order dated 13.05.2015 passed by Respondent No.4 by which the recognition of the Petitioner School has been withdrawn. The grievance is that this order has been passed without hearing the Petitioner.*
- 2 *The Petitioner preferred an appeal before the Honourable Minister for Social Welfare, Maharashtra State, Mumbai. By the impugned order dated 24.11.2015, the appeal has been rejected.*
- 4 *With the assistance of Shri Kute, learned Advocate for the Petitioner and the learned AGP, I have gone through the impugned order dated 24.11.2015.*
- 5 *I do not find even a single sentence in the impugned order which can be said to be the reason assigned by the Honourable Minister for rejecting the appeal filed by the Petitioner and upholding the order dated 13.05.2015 passed by Respondent No.4.*
- 6 *Issue notice before admission to the Respondents, returnable on 25.01.2016.*
- 7 *The learned AGP waives service for Respondent Nos.1, 2, 3 and 4. Shri Aghav, learned Advocate waives service for Respondent Nos.5 and 6.*
- 8 *Till the next date of hearing in this matter, the impugned orders dated 13.05.2015 and 24.11.2015 shall stand stayed.”*

2 Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

3 Considering the order that I intend to pass in the light of the observations of the Honourable Supreme Court in paragraph 27 of it's

judgment in the case of *Sant Lal Gupta vs. Modern Cooperative Group Housing Society Limited*, (2010) 13 SCC 336, I am not required to advert to the entire submissions of the learned Advocates as well as deal with the respective contentions on the merits of this matter.

4 The order dated 24.11.2015 is impugned in this petition. On a bare reading of this order, notwithstanding the strenuous submissions of the learned Government Pleader, who has made a valiant attempt to justify the order, I do not find any strain or element of reason therein. So also, it is the specific contention of the Petitioner in paragraph 4 of its appeal memo, page 90 of the petition paper book, that the report of the Enquiry Committee dated 27.02.2015 was not supplied to the Petitioner on the basis of which the Regional Deputy Commissioner, Social Welfare Department, Aurangabad had passed the order dated 13.05.2015 thereby, cancelling the registration certificate of the Petitioner.

5 The Honourable Apex Court in *Sant Lal Gupta judgment* (supra) has observed in paragraph 27 as under:-

“27. It is a settled legal proposition that not only administrative but also judicial order must be supported by reasons recorded in it. Thus, while deciding an issue, the Court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the Court to record reasons

while disposing of the case. The hallmark of order and exercise of judicial power by a judicial forum is for the forum to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of the justice delivery system, to make it known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of the principles of natural justice.

"3. The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before Courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the Court concerned had really applied its mind."

The reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, the order becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons renders an order indefensible/ unsustainable particularly when the order is subject to further challenge before a higher forum. Recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected must know why his application has been rejected. [Vide: State of Orissa v. Dhaniram Luhar AIR 2004 SC 1794; State of Rajasthan v. Sohan Lal & Ors. (2004) 5 SCC 573; Vishnu Dev Sharma v. State of Uttar Pradesh & Ors. (2008) 3 SCC 172; Steel Authority of India Ltd. v. Sales Tax Officer, Rourkela I Circle & Ors. (2008) 9 SCC 407; State of Uttaranchal & Anr. v. Sunil Kumar Singh Negi AIR 2008 SC 2026; U.P.S.R.T.C. v. Jagdish Prasad Gupta AIR 2009 SC 2328; Ram Phal v. State of Haryana & Ors. (2009) 3 SCC 258; State of Himachal Pradesh v. Sada Ram & Anr. (2009) 4 SCC 422;

and The Secretary & Curator, Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity & Ors., AIR 2010 SC 1285].”

6 Considering the above, the impugned order passed by the Honourable Minister deserves to be set aside only for remitting the matter back to the Honourable Minister so as to hear the litigating sides including the interveners, who are said to be teachers, in the appeal filed by the Petitioner on a given date and for passing a reasoned order.

7 The Petitioner contends that there are about 20 students studying in the said school at issue. The learned Advocates appearing for the teachers as well as on behalf of the Zilla Parishad submit that there are no students presently admitted for the academic year 2016-2017 and as such, even if it is presumed that the school at issue is operating, it is purely a paper arrangement as there is no student admitted.

8 In the light of the above, this Writ Petition is partly allowed. The impugned order dated 24.11.2015 is set aside and Appeal No.261/2015 is remitted back to the concerned Authority for a decision afresh with the following directions:-

- (a) All the litigating sides are agreeable to appear before the Honourable Minister in his Chambers at 02:30 pm on 20th

August, 2016. Hence, no separate notice of hearing.

- (b) The Honourable Minister will graciously grant two and half hours time for the hearing in this appeal and shall give each party an equal time to make their oral submissions.
- (c) All the litigating sides as well as the interveners are at liberty to address the Honourable Minister orally and file their written notes of submissions as well.
- (d) The Honourable Minister shall not entertain any request for adjournment on behalf of any party under any pretext and shall conclude the hearing by 05:00 pm or as he may find fit and proper on the said date 20.08.2016.
- (e) The Honourable Minister is requested to decide the matter/ appeal on or before 03.09.2016 and copies of the order to be passed, shall be forwarded to each of the litigating sides.
- (f) The Social Justice Department and the Zilla Parishad shall assist the Honourable Minister by placing before him a truthful picture as to whether, any student has been admitted in the said school for the academic year 2016-2017.
- (g) Since the Honourable Minister is to hear the Petitioner and all the litigating sides afresh, he shall consider the rival contentions and merits of the matter and therefore, the contention of the Petitioner that he was not heard by any of

the Authorities below, shall not be canvassed.

9 Needless to state, setting aside of the impugned order shall not create any equities in favour of the Petitioner School as well as if any students are admitted in the said school for the current academic year, it shall not be a ground for the Petitioner to continue to operate the said school.

10 Rule is made partly absolute in the above terms.

11 Considering the fact that I have heard the learned Advocates for the interveners, both the Civil Applications filed for seeking intervention are disposed of.