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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3389 OF 2014

Ayurved Shikshan Mandal's Dharmarth
Ashtang Ayurved Rugnalaya ...Petitioner
vs.
The Divisional Health officer
and another ...Respondents

Mr.Hitesh Vyas for the Petitioner
None for the respondents

CORAM : A.S.OKA, &
C.V.BHADANG, JJ.
DATE : JANUARY 4, 2016

P.C.:

1 The petitioner made an application for grant of registration under section 4 read with section 5 of the Bombay Nursing Home Registration Act, 1949 (for short 'the said Act'). By communications dated 25th and 26th July 2013 the petitioner has been informed that due to failure to make procedural compliances, the application for registration stands filed, and therefore, an action will be taken under section 6 of the said Act. Under sub-section (3) of section 8 of the said Act, there is a provision made for preferring an appeal against the order of refusal. In the present case, what is stated in the letters dated 25th and 26th July 2013 amounts to an order of refusal. The submission is that a proper opportunity of being heard was not granted to the petitioner. Even this issue can be agitated in the statutory appeal.

2 Accordingly, we decline to entertain this writ petition under Article 226 of the Constitution of India on the ground that a statutory remedy under sub-section (3) of section 8 is available to the petitioner. If the petitioner prefers an appeal under sub-section (3) of section 8 of the said Act, the concerned Appellate Authority is bound to note that the present petition was filed on 31st January 2014 and the same remained pending in this Court till today. Writ petition is accordingly disposed of.

3 All contentions on merits are kept open.

(C.V.BHADANG,J.)

(A.S.OKA,J.)