

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1892 OF 2015

Santosh Uttam Nageshkar. .. Petitioner
Vs
The State of Maharashtra and Others. .. Respondents
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Shri Uday Warunjikar for the Petitioner.
Shri H.S. Venegaonkar for the Respondent No.1 State.
Shri Neel Helekar for the Respondent No.3.
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CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 1ST AUGUST 2016

PC.

1. Heard learned counsel appearing for the Petitioner. The Petitioner claims to be an inmate of the M.N. Banaji Industrial Home for the Blind. The only substantive prayer in this Petition is the prayer clause (a), which reads thus:

“(a) That this Honourable Court be pleased to call for the record and proceeding of the closure of all the facilities and workshop of the respondent no.2 and after satisfying about the legality, validity and propriety thereof be pleased to direct the respondent no.2 to continue the said workshop and provide all facilities to the petitioner and similarly situated students and the inmates admitted by the respondent no.2.”

2. Considering the averments made in this Petition, the First Court by an order dated 20th July 2015 appointed a Committee to visit

the M.N. Banaji Industrial Home for the Blind. The Committee consisted of the Regional Deputy Commissioner of Social Welfare Department, a Member of the Governing Council of Victoria Memorial Blind School, the Chairman of M.N. Banaji Industrial Home for the Blind Trust and the Secretary General for National Association for Blind and three Advocates practising in this Court including a designated Senior Advocate. The Committee has submitted a detailed report on 15th September 2015 which discloses shocking state of affairs. The Committee observed that some of the inmates of M.N. Banaji Industrial Home for the Blind have taken the law in their own hands and are not willing to listen and are not coming to any understanding. The Committee also recorded the militant attitude of some of the inmates which forced the Trustees to close down the hall. It is recorded that some of the inmates refused to vacate the premises after completion of their training period and most of the inmates are residing in the hostel for more than 5 years. It is recorded that the inmates are also not allowing to operate workshops and on many occasion, violence/intimidation is resorted to against the Trustees. It is recorded that the inmates also forced the supervisor to vacate the premises with his family in the night. Various recommendations have been made by the Committee including the recommendation for seeking police help. It is recorded that the inmates who have overstayed should be immediately removed. Another recommendation made by the

Committee is that alcoholic drinks should not be allowed to be brought in the premises of M.N. Banaji Industrial Home for the Blind.

3. Today, the learned counsel appearing for the fourth Respondent (The National Association for the Blind) tendered across the bar a copy of the Agreement between the Trustees and the fourth Respondent (National Association for the Blind). He submitted that the fourth Respondent intends to immediately take over the M.N. Banaji Industrial Home for the Blind. He pointed out that the Trust which was running the said M.N. Banaji Industrial Home for the Blind is virtually defunct as all the Trustees have resigned. He states that as the Petition is pending before this Court, the fourth Respondent did not take any steps for taking over the Institution.

4. The learned AGP appearing for the State tenders across the bar a compilation which shows that today there are 31 inmates in the hostel. It is pointed out that some of the inmates are residing from the year 2010-2011. The compilation shows that there are 13 students who are not residing in the hostel but are attending the workshops. The dates of admission of some of the said 13 students are of 1987, 1991, 1998 and 1999.

5. Apart from the statements made across the bar by the learned counsel appearing for the fourth Respondent, there is an affidavit dated 16th June 2016 filed by Shri Satya Kumar Singh, the Honorary Secretary General of the national Association for the Blind, the fourth Respondent. In the said affidavit, three components of activity which are presently being undertaken are set out. These three components are (i) training workshop, (ii) Day Scholar and (iii) Working Mens' Hostel. In the first activity of training workshop, the training is provided for 4 years in different components such as tailoring, spinning, weaving, etc. The second activity is known as “Day Scholar” in which after completion of the training period of four years, the trainees who are desirous of working as Day Scholar are given the job work and paid on piece rate basis with boarding and lodging facility at nominal charges. In the third activity known as “Working Mens' Hostel”, the blind persons who are not having any stay arrangement in Mumbai city and are working in Mumbai are given residential facilities. In the affidavit, the Rules have been set out. The affidavit further records that all the Trustees of the second Respondent have tendered resignations. In the affidavit, the fourth Respondent has expressed its willingness to take over the entire activities.

6. If the fourth Respondent is lawfully entitled to take over the management of M.N. Banaji Industrial Home for the Blind, the filling of this Petition does not prevent the fourth Respondent from doing so. In fact, considering the noble object for which the M.N. Banaji Industrial Home for the Blind was established and considering the three categories of activities which are undertaken by the said Institution, it will be appropriate if the said facilities are allowed to be taken over by the fourth Respondent. If the activities are taken over by the fourth Respondent, the said Respondent will have to take remedial steps as provided in the report of the Committee appointed by this Court.

7. In view of the willingness shown by the fourth Respondent to take over the Institution, it is not necessary to keep this Petition pending. If the fourth Respondent after taking over the Institution and after taking benefit of the grant of the State Government, fails to take proper steps as indicated in the report of the Committee appointed by this Court, the Petitioner can always make an appropriate representation to the State Government.

8. Accordingly, we dispose of the Petition by passing the following order:

ORDER :

- (a) If permissible in law, it will be open for the fourth Respondent to immediately take over the premises of M.N. Banaji Industrial Home for the Blind and the activities conducted therein. Needless to add that as the said Institution is receiving large amount by way of Government grant, the fourth Respondent after taking over the Institution will have to take immediate steps in terms of the recommendations contained in the report of the Committee appointed by this Court. The fourth Respondent will have to take such other remedial steps as are necessary not only for restoring the three categories of the activities undertaken by the second Respondent but also for ensuring that the deserving blind persons are given benefit of the said activities;
- (b) As observed earlier, in the event, proper steps are not taken by the fourth Respondent, it will be always open to the Petitioner to make an appropriate representation to the State Government;

- (c) The learned counsel appearing for the fourth Respondent states that the said Respondent will immediately make an Application to the State Government for releasing the grant which was payable to the second Respondent. We accept the said statement. In view of the said statement, we direct the State Government to decide the Application, if made by the fourth Respondent, within a period of one month from the date on which such Application is made;
- (d) At present, under the orders of the Court, the State Government is directly providing the food to the inmates of the second Respondent. The said direction will continue to operate till the Application made by the fourth Respondent for release of grant is decided. We make it clear that this order does not entitle the inmates who have overstayed to continue their stay;
- (e) The parties to act upon an authenticated copy of this order.