

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

969 WRIT PETITION NO. 1876 OF 2017

MURDESHWAR SECONDARY AND HIGHER SECONDARY SCHOOL
KELGAON THROUGH ITS HEADMASTER, KALIDAS BHIMRAO SHINDE
AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioners : Mr. Thombre S. S.
AGP for Respondents State: Mr. V. M. Kagne
Advocate for Respondent No.2 : Ms.Surekha Mahajan

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

DATE : 17th February, 2017

ORDER:

1. Mr Thombre, the learned counsel for the petitioner submits that last year, petitioner No.1 School was a center to which petitioner No.2 was attached for SSC examination. According to the learned counsel, this year also, the proposal was given, however, without show cause notice to the petitioner the said centre was cancelled. The learned counsel submits that petitioner No.2 is situated in a hilly area, certificate to that effect is also attached. According to the learned counsel, about 198 students would be appearing for the SSC examination from petitioner No.1 School, Kelgaon and petitioner No.2 School, Deulgaon. The transportation facility is also

better between Kelgaon and Deulgaon Bazar. The learned counsel submits that this year, petitioner No.1 is attached to Shirsala which is at a distance of 10 kms and petitioner No.2 school is attached to Talni which is also at a distance of about 9 to 10 kms. Transportation facility is not available. Whereas, between petitioner nos. 1 and 2, transportation facility also exists. The procedure is also not followed while cancelling the centre for this year.

2. Ms. Mahajan, the learned counsel for the respondent Board submits that as per the guidelines, there should be minimum 250 students. Though, at the time when decision was taken to cancell the centre, show cause notice was not given to the petitioner, however, subsequently, the petitioners were given notice and are heard. According to the learned counsel, the distance between the petitioner No.1 School and Shirsala is 7 kms. Petitioner No.2 school which is attached to Talni is at a distance of 8 kms. The learned counsel submits that as per the guidelines, no exception is carved out for hilly area. The same is only for remote areas.

3. We have considered the submissions.

4. It is submitted that the petitioner is situated in Hilly area. Petitioner Nos.1 and 2 constituted one centre for the last year's examination. There are no allegations of malpractice having taken place at petitioner no.1 centre. The students appearing at Talni centre would be 527 and at Shirsala students would be 447. The same would be much more. Huge infrastructure would be required to accommodate such number of students. As per last year, if, the petitioner Nos.1 and 2 are accommodated in Petitioner No.1 centre, the number of students would be 200 and the centers at Talni and Shirsala also would not be affected, they would have much more students than required norm for the centre.

5. It is stated that procedure as laid down and the guidelines also are not followed while cancelling the centre of the petitioner School. If the institution which was given a centre earlier and for the next year, the same is to be cancelled, the guideline prescribes issuance of show cause notice before taking such a decision. In the present case, before taking such a decision, no procedure was followed. Notice was not given, hearing was not taken. Though it is submitted that about 3 days back, the hearing was given, the same

would be a post decisional hearing.

6. Considering the above, we are inclined to restore the centre to Petitioner No.1 for students of petitioner no.1 school and petitioner no.2 school for SSC examination to be held in March, 2017. However, the same shall be arrangement for the present year. Respondents shall make necessary arrangement in this regard.

7. For the next year, if the petitioner school applies, the respondents would consider the same on its one merits. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC