

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 14109 OF 2016**

**Shri Bhutalsiddh Bahuudesiy Sanstha
Sanchlit Shri Amogsiddha Magasvargiya
Vidyarth Vastgruh & Ors. ... Petitioners**
Vs.
The State of Maharashtra & Ors. ... Respondents

WRIT PETITION NO. 5316 OF 2017

**Shri Mallikarjun Magasvargiya
Vastgruh Mandrup ... Petitioner**
Vs.
The State of Maharashtra & Ors. ... Respondents

WRIT PETITION NO. 14119 OF 2016

Shri Ramlingeshwar Samaj Seva Mandal ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

WRIT PETITION NO. 14123 OF 2016

**Dyansampada Shikshan Prasarak Mandal
Sanchalit Shivling Maharaj Vastgruh ... Petitioner**
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. A.V. Anturkar, Senior Counsel with Mr. V.S. Deokar, i/b Ujawalla V Karpe, Adv. for the Petitioners in above Petitions.
Mr. B.V. Samant, AGP for Respondent Nos.1 and 2 in above four WPs.
Mr. Vijay Killedar, Adv. for Respondents Nos. 3 to 5.

**CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.**
DATE : 16 JUNE 2017.

P.C.:-

1. Rule. Rule made returnable forthwith. Heard finally by consent.
2. The Petition arises out of a peculiar facts and circumstances.
3. It appears that the Petitioners are various public trusts which are running the hostels for the students belonging to backward classes. Hostels were initially allotted to some other public trust and subsequently either by first transfer or subsequent transfer they are now in the hands of the Petitioner trust.
4. It appears that the present incumbent in the office of Additional Chief Executive Officer, Zilla Parishad noticed that the transfers made by the hostels were not in accordance with law and therefore, submitted a confidential report dated 25th August 2015 to the Respondent No.2. It further appears that said authority by subsequent communication dated 26th October 2015 has recommended the cancellation of the recognition granted to the hostel run by the

Petitioner management.

5. Being aggrieved by these two communications some of the Petitioners approached this Court including Petitioner No.2 herein who have filed Writ Petition No.6427 of 2017. Certain objections were raised by State Government. However, this Court vide 6th September 2016, directed that Chief Executive Officer, Zilla Parishad to give an opportunity of hearing the Petitioners and decide question with regard the Petitioners claim regarding eligibility and if found necessary give consequential benefits in pursuance to the said directions. The impugned order dated 18th November 2016 has been passed.

6. Mr. Killedar, learned counsel for the Respondent submitted that some of the trust in respect of whose hostels an action was contemplated have already approached before State Government and the State Government has already stayed action as proposed by an Additional Chief Executive Officer. Even otherwise from he perusal of the Government Resolution dated 16th March 1988, it would reveal that the authority to take final decision with regard to grant or

withdrawal of the approval is with State Government. In any case, it is only recommendation which is made by the Chief Executive Officer / Additional Chief Executive Officer, which is pending consideration before the Respondent No.2, Commissioner.

7. It further appears that the entire proceedings are on the basis of certain material of which Petitioners have not been given notice. By now it is well settled principle of law that the principle of natural justice require that copies of the material which is relied on while taking action against a party must be supplied to such a party. In that view of the matter, we find that the following order would subsume the interest of justice.

8. The Respondent No.2 shall give entire material which is relied on by the Additional Chief Executive Officer for the proposed action against the Petitioners and give individual hearing to all the Petitioners before passing an order on the basis of the recommendations of the Additional Chief Executive Officer and Chief Executive Officer.

9. Since the government itself has stayed action against the hostels we direct that said stay shall also be applicable to the case of present Petitioners and that the Petitioner would be entitled to continue with their hostel pursuant to the said order passed by the State Government.

10. It is further made clear that in the event order passed by the Respondent is adverse to the interest of the Petitioner the same shall not be given effect to for a period of two weeks from the date of receipt of communication therefrom.

11. Needless to state that the order permitting Petitioners to continue the hostel would also mean that they are also entitled to grant, if they comply with all the necessary requirements in accordance with the norms laid down by the State Government.

12. Rule made absolute in the above terms with order as to costs.

(RIYAZ I. CHAGLA J.)

(B.R. GAVAI J.)