

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3908/2016

(Gurudeo Vidya Prasarak Mandal vs. State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Mr. S.M.Vaishnav, Adv.for petitioner
Mr.Nitin Rode, AGP for respondents 1 to 4

**CORAM : B.P. DHARMADHIKARI &
MRS.SWAPNA JOSHI,JJ.**

DATED : 17th February, 2017.

Heard.

2. The order dated 16th June, 2016 passed by the Hon'ble Minister cancelling recognition of petitioner Ashram School permanently, has been questioned in the matter.

3. On 15th July 2016, this Court has passed following order :

“ Shri Mardikar, the learned Senior Counsel, states that though this Court had directed the respondents to decide the matter in regard to the cancellation of the recognition of the Ashram School of the petitioner-Society after granting a fair opportunity to the petitioner of being heard, the respondent no.1 had just made a show of having heard the petitioner and the vital aspects of the matter are not considered. It is stated that after stay was granted in Writ Petition No.6828 of 2015 and the petitioner was permitted to run the Ashram School, there were three

inspections carried out by the concerned authorities and all the three inspection reports are in favour of the petitioner. It is stated that it is stated in the three inspection reports that the facilities in the Ashram Schools are adequate and there are no irregularities found in the school. It is stated that these reports ought to have been considered by the respondent no.1 before passing the impugned order, more so, when the petitioner has suspended the concerned teacher, who had allegedly misconducted himself.

Issue notice of final disposal to the respondents, returnable on 11.08.2016.

Learned Assistant Government Pleader Shri Amit Madiwale waives notice for the respondents.

Since the petitioner has made out a *prima-facie* case by referring to the three inspection reports, we stay the impugned order till the returnable date.”

4. Thereafter, respondent no.3 has filed reply-affidavit.

5. Today, Adv. Vaishnav is seeking additional time to file rejoinder in view of certain facts appearing in that reply.

6. We reject the request.

7. The impugned order shows reference to few instances of harassment of girl students by staff of Ashram School. Instances have surfaced in statements recorded between 5.10.2015 and 8.10.2015. It appears that after earlier orders of this Court in Writ Petition No.6828/2015 which was disposed of on 25.1.2016, hearing was arranged on 12.4.2016 and after that hearing, impugned order dated 16th June, 2016 has been passed.

8. The petitioner has pointed out an inspection report dated 16.4.2016 prepared by Education-Extension Officer after visiting the school. That report speaks of visit dated 07.10.2015 by lady PSO and verification of statements of students. Offences under sections 354, 504, 506 of Indian Penal Code have been registered and offender has been suspended. It is further mentioned that there was no such incident prior to three years.

9. Obviously, this inspection report was not available when hearing was conducted on 12.4.2016. However it was definitely available when impugned order was issued on 16th June 2016.

10. If the events looked into in impugned order are correct, the inspection reports by itself may not be conclusive. However, if the events have not taken place or then for a stray incident, management has taken proper disciplinary action, the de-recognition may not be just solution.

11. The School is permitted to continue and has been continuing because of interim orders of this Court dated 15th July 2016.

12. In this situation, we continue those interim orders for a period of four months more. We direct respondent no.1 to extend fresh opportunity of hearing to petitioner. We direct petitioner to appear before respondent no.1 for said purpose on 15th March 2017 and to abide by its further instructions, the matter. The period stipulated *supra* shall begin to run from the said date.

13. It is open to respondents to obtain fresh inspection report or fresh reports and thereafter proceed further with the matter.

14. Interim order granted on 15th July, 2016 shall continue till respondent no.1 takes a fresh decision in the matter and shall be subject to it. The impugned order dated 16th June 2016 is quashed and set aside.

15. The Writ Petition is thus partly allowed and disposed of.

JUDGE

JUDGE

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