

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

WRIT PETITION NO. 6382 OF 2018

**NAGO PUNDALIK GANAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.B.L. Sagar-Killarikar, Advocate for the petitioners.
Mr.G.O. Wattamwar, AGP for respondent/State.

**CORAM : PRASANNA B.VARALE &
S.M.GAVHANE, JJ.**

DATED : 27.06.2018

P.C. :-

1. Heard Mr.Killarikar, learned Counsel appearing for the petitioners. The petitioners are before this Court by way of present petition challenging the order issued by the State of Maharashtra dated 04.06.2018, thereby the de-recognition of the school allotted to respondent No.5-Society is set aside and the Society is granted permission to run Ashram School at a place, namely, Janapuri, Tal.Loha, Dist.Nanded. Mr. Killarikar, learned Counsel in his submission invited our attention to the checkered history of the matter. The sum and substance of the argument of Mr. Killarikar, learned Counsel is that respondent No.5 was granted permission to run tribal school, but the institution never cared for providing infrastructure and other basic facilities. The

petitioners, being the representatives of public, approached this Court by filing a petition seeking de-recognition of the school. By order dated 15.12.2014, the Division Bench of this Court on considering the statement made by the learned AGP that the school is being run by some other private institute and in view of the peculiar fact that subsequent to filing of the petition, there is de-recognition of the school, was pleased to observe that the petition has been rendered infructuous, though learned Counsel for the petitioners insisted for considering the issue of de-recognition. The Division Bench in clear and unambiguous words observed that the Division Bench was not willing to go into the controversy. Accordingly, the petition was disposed of. The de-recognition was also subject matter in the writ petition before this Court filed by the Society. The Division Bench of this Court on 16.02.2017, finding no favour with the petitioner society, disposed of the writ petition observing that the petition is devoid of any merit and it deserves to be dismissed. The rule was discharged accordingly.

2. The institute being aggrieved by the order of the Division Bench of this Court had approached the Hon'ble Apex Court. The order of the Hon'ble Apex Court is placed on record at Exh."L". It would be useful for

our purpose if the order passed by the Hon'ble Apex Court is reproduced. The order reads thus :-

"We have been shown a copy of the order dated 29.05.2013 passed by the Hon'ble Minister. The Minister has specifically recorded that an inspection will be done by the Additional Commissioner, after which he will submit a report, and directed the Principal Secretary (Tribal Development) to conduct an independent inquiry regarding one issue and submit a detailed report on the same. Learned Counsel for the petitioner argues before us that since then all major deficiencies have been cured and, if at all some remain, they are extremely minor. The petitioner may, in the light of the Minister's order, make a representation spelling out exactly which deficiencies have been cured and when. The Authorities may, after conducting an inspection, thereafter make an order within two weeks thereafter.

List after four weeks."

[emphasis supplied by us]

3. Mr. Killarikar, learned Counsel submits that now the State Government by communication dated 04.06.2018 granted permission to the Society to run the school by setting aside the earlier de-recognition order. It was the grievance of the petitioner that they are not made party before the Hon'ble Apex Court. Mr. Killarikar,

learned Counsel, though fairly admits that the issue is pending before the Hon'ble Apex Court, submits before this Court that present petition be kept for consideration and be adjourned *sine die*. We are unable to accept the submission of Mr. Killarikar, learned Counsel for simple reason that it is not in dispute that the issue is pending before the Hon'ble Apex Court. The Apex Court has not passed any order in the matter. The matter was to be listed before the Hon'ble Apex Court. In all probabilities it would be listed before the Hon'ble Apex Court after summer vacation and after re-opening of the Hon'ble Apex Court. In the fact situation, we are not inclined to accept the submission of Mr. Killarikar, learned Counsel that the petition be kept pending and it be adjourned *side die*. If the petitioners are willing to participate in the proceeding before the Hon'ble Apex Court and if they are so advised, they are at liberty to take appropriate steps.

4. The petition, thus, being wholly merit-less,

deserves to be dismissed at the threshold. Therefore,
the writ petition is dismissed at the threshold.

[S.M.GAVHANE, J.]

[PRASANNA B.VARALE, J.]