

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

WRIT PETITION NO. 6978 OF 2013

Shri Sai Pratisthan Shivkalyan
Nagar, Loha .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. B. Talekar, Advocate for the Petitioner.
Shri P. N. Kutti, A.G.P. for Respondent Nos. 1 to 4.
Shri A. V. Hon, Advocate for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.
DATE : 06TH JUNE, 2018.**

FINAL ORDER :

. Heard Mr. Talekar, the learned counsel for the petitioner. The learned counsel submits that, the petitioner trust is registered educational institution. The petitioner pursuant to the advertisement issued by the respondents inviting applications for starting girls military school in Nanded revenue division had applied in prescribed form along with all the details. The respondent No. 5 submitted two proposals one for Parbhani district and another for Hingoli district. The learned counsel submits that, the selection committee had visited all the places shown in various proposals for opening girls military schools in

Nanded division. The inspection report of the Committee constituted was not acted upon for quite some time. Therefore, the Government ordered fresh inspection of the locations. In the fresh inspection, the committee found that facilities available with the petitioner society were as per the parameters laid down in Circular dated 27.07.2010. The parameters of the petitioner had edge over other applicants. The petitioner was awarded more marks. The order was passed in favour of the petitioner. The respondent No. 5 challenged the order dated 20.10.2010 granting permission to open new girls military school to the petitioner before this Court. The order was quashed on the basis of the concession given by the present petitioner. Thereafter fresh proposal on 29.03.2012 was submitted. Hearing took place on the same. After considering report of inspection and hearing the educational institutions who had applied for permission to open girls military schools in Nanded division sought appropriate directions to the Government to grant permission in favour of the educational institutions who have secured highest marks. The under Secretary to the Government informed the Director of Education, it would not be possible to sanction additional girls military school since no independent revenue division had come into existence in Nanded division. The said communication was in response to the writ petition filed by the petitioner bearing Writ Petition No. 2504 of 2013. The learned counsel submits that, marks secured by the petitioner were highest. The Director

of Education exceeded its power in granting permission to open new girls military school to the respondent No. 5. The impugned order is violative of Article 14 and 19(1)(g) of the Constitution. The inspection was done only once. Mr. Sarjerao Jadhav, one of the member of the inspection committee was absent on the day of inspection i. e. on 14.03.2012, as such he did not have occasion to know as to what facilities are available with each of the educational institution. The impugned order deserves to be quashed.

2. Mr. Hon, the learned counsel for the respondent No. 5 supports the order.

3. The learned Assistant Government Pleader also supports the impugned order.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. It is submitted that, the respondent No. 5 has already started the girls military school at Dharmapuri, Tq. & Dist. Parbhani.

6. This Court would not sit in appeal over the decision taken, but would be more concerned with the due adherence to the

decision making process. Inspections were carried out. The members of the committee have considered relevant aspects of the matter. The respondent No. 5 stood at Sr. No. 1. The respondent No. 5 has secured 85 marks and the petitioner has secured 80 marks. One more candidate has secured 82 marks. Pursuant thereto the report was submitted to the State Government. Out of five, three members have signed the report. The State Government has taken the decision considering the report. The respondent No. 5 has started the school long back.

7. Considering all the aforesaid conspectus of the matter, no case for interference is made out. The writ petition is disposed of. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/June 18