

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

WRIT PETITION NO. 12515 OF 2017

Gautam Magasvargiya Shaikshnik Sanstha, .. Petitioner
Chalisgaon, Dist. Jalgaon,
Through its President
Ishwar s/o. Ramchandra Jadhav

Versus

The State of Maharashtra & Ors. .. Respondents

Miss Surekha Mahajan, Advocate for the petitioner.
Mr.S.M. Ganachari, AGP for respondent/State.

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

DATED : 07.08.2018

P.C. :-

1. Heard Miss Mahajan, learned Counsel for the petitioner at length. The petitioner, who is President of one institute, namely, Gautam Magasvargiya Shaikshnik Sanstha, Chalisgaon is before this Court challenging the order passed by respondent No.1 dated 08.03.2017 thereby cancelling the recommendation granted in favour of the petitioner institute to run Ashram School at village Waghle Tanda, Tal. Chalisgaon, Dist. Jalgaon. Being aggrieved by the order, the petitioner approached the

appellate authority by presenting appeal. The Appellate Authority by order dated 31.07.2017 could not find any favour with the petitioner-institute in the appeal presented before it and the appeal was accordingly dismissed by confirming the order dated 08.03.2017.

2. Learned Counsel Miss Mahajan vehemently submitted that the petitioner-institute is running Ashram School with the classes from 1st to 7th standards from the year 1994. It was submitted by the learned Counsel for the petitioner that the petitioner-institute was running Ashram School for considerable long period and made all possible attempts to provide infrastructural facilities to the students. It is then submitted that there is dispute in the management and the groups carrying adversary interest are fighting the matters before appropriate authority. Learned Counsel for the petitioner submitted that the authorities, namely, first authority – respondent No.1 failed to consider the reply submitted to it as well the Appellate Authority mechanically affirmed

the order of the first Authority. It was then submitted by the learned Counsel for the petitioner that it is not in dispute that the Administrator was appointed to look after the administration of the school. As such, the Administrator was to take necessary steps during the period when the Administrator was looking after the affairs of the school and if no steps are taken by the Administrator, the institute cannot be blamed for that.

3. Learned Counsel for the petitioner in support of her submissions invited our attention to certain photographs placed on record and submitted that all the infrastructural facilities are made available by the petitioner-institute and if certain minor deficiencies are remained, the petitioner institute submitted its undertaking to remove these deficiencies within shortest possible time. Then learned Counsel submitted that certain appointments were made by the Secretary on his own including appointment of the Head Mistress and the Head Mistress was not taking proper care of the affairs

of the school. Learned Counsel for the petitioner then submitted that insofar as adequate strength of the student is concerned, the petitioner institute submitted reply stating that as an inspection was carried out immediately after the re-opening of the school post vacations, required number of students were not available in the school and this reason submitted in the reply is not considered by the Authorities. Learned Counsel then submitted that the petitioner institute though was running Ashram School for sufficient length of period, the institute was not admitted to grants. As such, the petitioner-institute was unable to take steps for removing the deficiencies on account of short of finances. Learned Counsel for the petitioner thus prays for quashing and setting aside the order impugned in the petition.

4. Per contra, learned AGP supports the order impugned and invited our attention to reply and heavily relied on the reply filed by the respondent. On the

backdrop of the submissions of learned Counsel appearing for the respective parties, we have gone through the material placed on record. On perusal of first order passed by respondent No.1, copy of the same is placed on record at Exh. "A", it reveals that the petitioner institute was granted school in view of Government Resolution dated 21.03.1994. The State Government granted recommendation/permission to the school of the petitioner on 21.03.1994. Then it is stated in the order that there is a dispute between the President and the Secretary of the institute. As the Authorities received many complaints, against the Ashram School being run by the petitioner institute, the Assistant Commissioner, Social Welfare Department undertook exercise of inspection of the school. The Assistant Commissioner found serious deficiencies. Accordingly, notices were issued to the office bearers of the institute, namely, the President and the Secretary as well as to the Head Master/Head Mistress on 10.04.2015 and 10.06.2015. The noticees were called upon to remain present before the

Authority with their submission either oral or written. The order also refers to the factual aspects of the appointment of the Administrator on the school affairs. Then it refers to inspection carried out by the responsible officer of the district, namely, the District Collector under the instructions of the State Government vide Government Resolution dated 10.11.2016.

5. It would be relevant to refer to the deficiencies found by the District Collector in his inspection of the school. Thus, the deficiencies are as many as 12 in number and out of these 12 deficiencies, 11 deficiencies are of serious nature. The Collector could find minor strength of students present in the school as against 120 admitted students in residential school, there were only 47 students present in the school and as against 110 non-resident students, there were only 17 students present in the school. Thus, against total number of 230 students only 64 students were present in the school. Then, there were no proper provision for

marking presence of the students by way of biometric attendance system. The Head Mistress of the School was not available for last two years. The school was granted permission/recommendation as Ashram School, but the classes and the hostel building were one and the same. In the inspection, it further reveals that against required number of 12 wash rooms and 12 bath rooms, there were only 8 wash rooms and 12 bath rooms and these wash rooms and bath rooms were at a long distance from the main building. There was no electricity supply to the wash rooms and bath rooms. The wash rooms and bath rooms were in dilapidated condition and there was no proper hygiene in either bath rooms or wash rooms. Then, though it was a residential Ashram School for girls, there was no proper arrangement for bedding of the inmates. The kitchen was unclean and unhygienic. There is also very serious deficiency insofar as proper residential accommodation is concerned. It revealed in the inspection that the residential students were accommodated in the class room itself and there was no provision for separate

residential room.

6. Then the order further refers to the dispute between two groups and the groups were indulged in lodging reports and counter-reports against each other to all the Authorities, namely, Administrative Authorities and Police Authorities. The explanation was submitted by the petitioner-institute and the same is referred to by the learned Counsel appearing for the petitioner. An attempt was made before the authorities to submit that non-residential students are from the same village, as such these students used to attend the school after lapse of period after the school was re-opened post vacations. The institute admits that the Head Mistress was not available in the school for last two years. An explanation was provided countering the report that there is sufficient availability of the electricity and the institute made arrangements for keeping hygiene in the wash rooms and bath rooms. It is submitted that these wash rooms and bath rooms are in very good condition.

Then it is stated in the reply explanation that the institute is taking exercise of erecting a proper building with the compound wall. It is then stated that as the Administrator was appointed and he was duty-bound to make arrangements and he failed in making arrangements, bedding was not available in the school.

7. Though, learned Counsel for the petitioner vehemently submitted that proper explanation was provided by the institute and all the requisite facilities were available in the school and an erroneous order is passed, we are unable to accept these submissions for the reason that the inspection was carried out by an impartial responsible officer. It was carried out by the Collector of the District. There is nothing on record to say that the Collector was carrying any grudge against the institute. It is not in dispute that the petitioner institute was running school from the year 1994-95. The Administrator was appointed, much subsequently.

8. On the backdrop of these facts if deficiencies pointed out by the Collector are seen, all these deficiencies are of serious nature. The institute was not making any provision even for basic facilities of the children. The negligence of the institute by not providing even separate rooms for residential school is not at all excusable. The report stated that the students who are admitted against the residential students quota, were accommodated in the class room. This situation in the school is certainly jeopardize to health, safety and academic career of the students in general and girl students in particular. Though the institute made an attempt to submit before us that there was proper electrification, wash rooms and bath rooms were hygienic, the inspection carried out by the Officers along with some lady officers shows that the bath rooms and wash rooms were unclean and unhygienic with no facility of electricity and at a far distance from the school. This is also certainly adverse to the interest of the students.

9. The reply filed by the State further discloses that in the periodical inspection before the inspection carried out by the Collector, very deficiencies were found and were brought to the notice of the institute. Apart from these deficiencies, there are certain other deficiencies, which are referred to in those reports of the lady officers, certain disturbing facts emerged from perusal of these reports. These reports show that even water facility is not available at the nearest place for the students and for drinking water the students are required to go at a far distance. Then, it reveals that in the year 2003, finding serious deficiencies, the Competent Authority placed the petitioner institute in "C" category and cancelled the recommendation granted to the Ashram School for being run by the petitioner-institute. The appeal was preferred. The Hon'ble Minister by order dated 27.01.2004 by way of last opportunity directed the petitioner-institute, to remove the deficiencies within six months. The petitioner institute

failed to remove these deficiencies even within a period of six months and sought for further extension of six months. Even that extension was granted to the petitioner-institute by order dated 04.11.2004.

10. Thus, the stand taken by the petitioner-institute was of making possible attempts and efforts to provide requisite infrastructural facilities and most of the infrastructural facilities are provided by the petitioner-institute, but it is nothing but only statement far away from the reality and not in consonance with the record. If the State Authorities were of the opinion that permitting the institute to run Ashram School when such serious deficiencies and in addition to that dispute between the management is prejudicial to the interest of the students and it would affect the academic career and the safety of the students, the Authorities were clearly justified in arriving at that opinion and committed no error in cancelling the recommendation of the school. The State Government in its reply stated that

there are other Ashram Schools, which are recognized and are in the vicinity. As such, the students would not suffer because of closure of the petitioner-institute school. This is an additional circumstance, in our opinion, for not accepting the submissions of the petitioner. Respondent No.1, as such committed no error in passing the order as well Appellate Authority also was justified in upholding the order passed by respondent No.1, thereby dismissing the appeal preferred by the petitioner-institute.

11. The petition being wholly merit-less, deserves to be dismissed and the same is dismissed accordingly.

[S.M.GAVHANE, J.]

[PRASANNA B.VARALE, J.]