

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

WRIT PETITION NO.5946 OF 2019

Mahatma Phule Sarvajnik Vachanalaya,
Harsad, Tq.Loha, District Nanded.
Through it's Secretary,
Sudhakar s/o Nivrutti Pavale,
Age : 42 years, Occupation : Service,
R/o Vasarni Post, CIDCO, Nanded,
Taluka and District Nanded.

...PETITIONER

-VERSUS-

1 The State of Maharashtra.
 Through it's Secretary,
 Sports and Education Department,
 Mantralaya, Mumbai-32.

2 The Director,
 Directorate of Library,
 Maharashtra State, Mumbai.

3 The Assistant Library Director,
 Aurangabad Division, Aurangabad.

...RESPONDENTS

...
Advocate for the Petitioner : Dr.Pansambal Supriya L.
AGP for the Respondents/ State : Shri S.P. Tiwari
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th June, 2019

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 The petitioner is aggrieved by the impugned orders dated

31.12.2013 passed by the Director of Libraries, State of Maharashtra, the order dated 25.08.2014 passed by the learned Minister and the order dated 23.01.2019 passed by the learned Minister on the review application filed by the petitioner.

3 I have heard the learned advocate for the petitioner and the learned AGP on behalf of the respondents for quite sometime. I have also perused the record with their assistance.

4 The petitioner is a trust, which was registered under the Maharashtra Public Trusts Act on 28.12.1994 and under the Societies Registration Act on 11.02.1995. On 10.04.1995, the respondent authorities granted permission to the petitioner to operate a library at village Harsad, Taluka Loha, District Nanded under the Maharashtra Public Libraries Act, 1967 (for short, hereinafter referred to as "the said Act") and the Rules framed thereunder in 1970. Grant in aid was also commenced.

5 On 17.05.2013, the office of the Assistant Director, Libraries, Aurangabad inspected the petitioner library, which falls in C category. In the inspection caused by the Assistant Director, Libraries, Aurangabad, it was noticed that the petitioner library is at public place and has sufficient space admeasuring 200 square feet. It was further observed that the petitioner library extends regular services to the villagers. It was observed in the inspection report that the said library is functional and has

complied with all the conditions required. It is not in dispute that such conditions can be imposed under Section 8 of the said Act. As such, the Inspection Officer as well as the Assistant Director, Libraries did not recommend the cancellation of registration or stoppage of grants to the petitioner library.

6 The petitioner received the show cause notice on 30.03.2013 issued by respondent no.2. In response thereto, the reply was filed by the petitioner on 29.04.2013 stating that presently, the library has space of 12 x 24 feet, which is about 288 square feet, for the library purpose. The said library was established in 1984 and since then has been functional. There is a report as regards removal of deficiencies in the year 2013-2014 prepared by the Assistant Director, Libraries and the Inspection Officer in which, it is specifically observed that besides having sufficient infrastructure, the petitioner library is functional and library services are extended to the villagers by conducting the library in satisfactory manner. Despite this backdrop, the registration of the petitioner library was cancelled by the impugned order dated 31.12.2013.

7 The learned AGP has strenuously defended the order of the earlier learned Minister dated 25.08.2014 and subsequent order of the learned Minister dated 23.01.2019 by which, the cancellation of registration of the petitioner library is sustained.

8 It appears from the impugned orders that the learned Minister

has relied upon some cross checking in which, it was noticed that the library is not satisfactorily functional. The learned AGP submits that he has no material to indicate as to whether, such cross checking report or information or material collected was placed before the petitioner so as to invite a response from the petitioner. The learned AGP submits that the learned Minister has rightly passed the impugned orders on the basis of the cross checking at the level of the Director of Libraries.

9 I find from the above referred inspection report that there was an inspection of the petitioner library and the Assistant Director, Libraries was convinced that there is no reason to cancel the registration of the petitioner library. What was the material available on the basis of cross checking is not known. The orders of the learned Minister, however, mention that after a hearing in the matter and after considering the submissions of the petitioner, the cross checking was done. It, therefore, appears that the material allegedly collected has also not been discussed by the learned Minister in both the impugned orders.

10 It, however, cannot be disputed that since the Government is spending large amounts for funding such libraries in order to enable the villagers to have access to the library facilities, it will have the authority to consistently inspect such libraries to avoid any lapses on the part of such libraries and laxity in extending library services. However, the registration of the library ought not be cancelled on the basis of the material, which is

not before the authorities as well as was never posed to the petitioner and more so in the backdrop of a favourable report in favour of the petitioner library.

11 In view of the above, this Writ Petition is allowed and the impugned orders dated 31.12.2013 and 23.01.2019 are quashed and set aside. Consequentially, the earlier order of the learned Minister dated 25.08.2014 would lose its efficacy. The registration of the petitioner library is restored and allotment of grants to the petitioner library, provided they are extendable to it as per the present policy of the Government, may be granted.

12 I find it appropriate, in order to ensure that the petitioner library functions in the best possible manner, to permit respondent no.3 to act in accordance with the provisions set out in the said Act and the Rules of 1970 and routinely inspect such libraries including the petitioner's library. If in future, it is noticed that the petitioner library suffers from any deficiency and is not functional in terms of the conditions imposed on the library in order to be eligible for grants, the appropriate authority would be at liberty to cause a hearing in the matter and pass an appropriate order based on material information.

13 Rule is made absolute in the above terms.