

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

998 WRIT PETITION NO.6477 OF 2019

JAGDAMBA SHIKSHAN PRASARAK MANDAL MANTHA THROUGH  
ITS PRESIDENT

VERSUS

THE CHIEF EXECUTIVE OFFICER ZILLA PARISHAD JALNA  
AND ANOTHER

...

Advocate for Petitioners : Mr. Salunke V. D.

AGP for Respondent State: Mr. S. B. Pulkundwar

Advocate for Respondent No.1 : Mr Deshmukh Vaibhav G.

**CORAM : S. V. GANGAPURWALA &  
MANGESH S. PATIL, JJ.**

**DATE : 25<sup>th</sup> July, 2019**

**PER COURT :**

1. Mr. Salunke, the learned counsel submits that the petitioner is running four junior colleges, one senior college, one Agricultural college, one D.Ed. college and two hostels.

2. The present matter is concerning the Hostels. The petitioner was granted permission to run the said boys hostel at Mantha in the year 1982-83. Initially the intake capacity was of 32 students and subsequently it has been increased with the permission of the respondents to 100 students. According to the learned counsel the petitioner received show cause notice on 26.09.2018 as to why the permission of the petitioner's Hostel should not

be cancelled. The petitioner filed a detailed reply along-with all the documents showing that no deficiency exists. The reply was filed on 29.09.2018. The Chief Executive Officer, Zilla Parishad Jalna abruptly, on 04.10.2018 passed an order thereby cancelling the recognition of the petitioner's Hotel. The petitioner filed an appeal. The appeal is dismissed without assigning any reason. The learned Advocate submits that in fact no deficiency exists. The petitioner is running the said hostels from 1983 continuously and the inspections were made from time to time. No deficiencies were ever pointed out. The Chief Executive Officer, in its order cancelling the recognition does not refer to the reply filed by the petitioner to the show cause notice. The said order is non speaking order. The State has also, without considering the reply filed by the petitioner, passed the order only on the basis of the report of the Panchayat Raj Committee.

3. Learned counsel for the petitioner submits that the respondents were required to deal with the reply filed by the petitioner to the show cause notice. According to the learned counsel, the order passed by the Chief Executive Officer is without jurisdiction. The Chief Executive Officer could not have cancelled the recognition without

prior sanction of the Director of Social Welfare. The learned counsel relied on Rule 10 of the Maharashtra State Hostels, Run by Voluntary Organizations for Backward Class Boys-Girls ( Recognition and Grant-in Aid) Rules.

4. Mr. Deshmukh, the learned counsel for respondent No.1 and learned AGP support the order passed and submit that the State has given the reason and has considered the report of the Panchayat Raj Committee.

5. We have considered the submissions.

6. It appears that the Chief Executive Officer, in one line, cancelled the recognition of the petitioner's Hostel. Show-cause notice was issued to the petitioner. The petitioner replied the show cause notice putting forth the case that deficiencies do not exist. It was incumbent upon the Chief Executive Officer to consider the reply given by the petitioner to the show cause notice and then take a conscious decision by giving reasons. The reasons now are considered to be the third pillar of the principles of natural justice. Reasons depict application of mind on the part of the authority passing the order. The Chief Executive Officer has not considered the reply

filed by the petitioner. The State has also, in the order, not considered the case put forth by the petitioner. The State, only on the basis of the report, has passed the Order. In fact, the State also ought to have considered alongwith the report, the say filed by the petitioner to the show cause notice and should have considered the case put forth by the petitioner.

7. Apart from the above, even the Rule 10 of the said Rules requires the prior sanction of the Director, Social Welfare before withdrawing the recognition by the Chief Executive Officer. The learned counsel for the respondent no.1 fairly concede that no such sanction was obtained.

8. In view of the aforesaid aspects, the impugned order is quashed and set aside. It is made clear that this order would not be an impediment for the Authorities to proceed in accordance with law.

9. Writ petition disposed of. No costs.

**(MANGESH S. PATIL,J.)**

**(S.V.GANGAPURWALA, J.)**

JPC