

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

WRIT PETITION NO. 14008 OF 2018

Adivasi Devmogra Education Society
Natawad, through its Chairman .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Ms. P. S. Talekar, Advocate i/by Talekar and Associates,
Advocate for the Petitioner.

Shri V. M. Kagane, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 27TH AUGUST, 2019.

FINAL ORDER :

. The petitioner assails the order of the Commissioner as well as the Hon'ble Minister. The petitioner is running Ashram School. On or about 17.07.2009 the petitioner was given permission for additional divisions. The respondent No. 3/Project Officer on 17.05.2017 directed closer of the ashram school for the academic year 2017-2018. Thereafter, the Commissioner passed an order directing closer of the ashram school under order dated 03.07.2017. The petitioner approached the State Government by filing an appeal. The Hon'ble Minister partly allowed the appeal. Said order dated 03.07.2017 passed by the Commissioner

directing closer of the ashram school is cancelled subject to compliance of the deficiencies however, directed closure of additional divisions. Aggrieved thereby present petition.

2. Miss Talekar, the learned advocate for the petitioner submits that, while passing impugned order the respondents flouted clauses 2.15 to 2.23 of the Ashram School Code. The clauses of the Ashram School Code require issuance of show cause notice and giving opportunity to the petitioner to clear the deficiencies and after hearing the petitioner further steps can be taken. The petitioner never received show cause notice issued by the Commissioner. The petitioner could not file its reply and bring it to the notice about non existence of the deficiencies. According to the learned counsel, the petitioner has cleared the deficiencies. It was because of the directions given by the Project Officer, the petitioner could not admit the students in the additional divisions. Under orders of this Court dated 24.01.2019 surprise visit was also made by the authorities. Thereafter time to time inspections have been made and last inspection was made on 08th August, 2019. The petitioner has removed all the deficiencies. Compliance report is also submitted by the petitioner to the authority. The learned counsel submits that, neither in the show cause notice, nor in the hearing before the Hon'ble Minister, the petitioner was put to notice that additional divisions of the petitioner would be closed

down.

3. The learned Assistant Government Pleader submits that, the procedure has been followed. Show cause notice has been issued to the petitioner. The petitioner has also filed reply. In fact, the Commissioner had directed closure of the school because large scale deficiencies were existing. The infrastructure was lacking, however, the Hon'ble Minister upon report submitted by the Commissioner came to the conclusion that, if additional divisions are closed down, then students in the ashram school can be accommodated and has rightly passed the order.

4. The Ashram Schools are required to maintain highest standard of education. We cannot show any latitude to the institutions not possessing the necessary infrastructure and not catering to the need of the students. The institution is duty bound to provide the proper infrastructure and all other amenities as required under the Ashram School Code and executive instructions issued from time to time. The show cause notice issued and the order passed certainly show large scale deficiencies. The contention of the petitioner is that, subsequent inspections show that deficiencies are removed. As per last inspection report also the deficiencies are almost removed. It is for the authorities to satisfy themselves about the removal of the deficiencies and the compliance of the requirements.

5. We had directed under our order dated 24.01.2019 that, the petitioner shall not admit fresh students in the additional divisions. The order dated 24.01.2019 did not mean that the petitioner institution is not entitled to admit students in in ashram school itself, but the said order was restricted to additional divisions.

6. Perusal of the order of the Hon'ble Minister, it does not appear that the said order is final in nature. The order passed by the Commissioner was stayed, subject to petitioner complying with the deficiencies. In fact, appeal was before the Hon'ble Minister. The Hon'ble Minister ought to have taken final decision in stead of simply staying the order.

7. It would be appropriate for the Commissioner to consider as to the compliance of the deficiencies as contended by the petitioner and then take appropriate decision.

8. Considering the above and the fact that, subsequent inspections have been made from time to time and last inspection has been made on 08th August, 2019, we pass following order.

9. The impugned orders passed by the Hon'ble Minister and respondent Nos. 2 and 3 are set aside. The respondent No.

2/Commissioner, Tribal Development shall reconsider the compliance report submitted by the petitioner and the subsequent inspection reports and shall take final decision with regard to the additional divisions. Said decision shall be taken by the respondent No. 2 within a period of three (03) months from the date of appearance of the petitioner. The petitioner may appear before the respondent No. 2 on 09th September, 2019. The petitioner shall not admit students in the additional divisions unless and until the Commissioner takes a decision with regard to the additional divisions. The respondent No. 2 shall also simultaneously take decision of the petitioner's grievance for payment of grants.

10. With these observations and directions the writ petition is disposed of. No costs.

[ANIL S. KILOR, J.]

[S. V. GANGAPURWALA, J.]

bsb/August 19