

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 10503 OF 2014.

Sonamata Samaj Seva Sangh and another .. Petitioners

Vs

The State of Maharashtra and others .. Respondents

Ms.Varsha Palav i/b The Laureate, for Petitioners.

Mr.M.M.Pabale – Additional Government Pleader, for Respondent
Nos.1 to 4.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M.JAMDAR, J.***

Date : 15 April, 2019.

P.C. :

1. Heard learned counsel for the parties.
2. The pleadings are prolix, but the crystal which emerges from the concentrate of the distillate of the pleadings is that the first Petitioner established the second Petitioner as a residential school for mentally challenged and other differently abled children. On a remand from this Court, the competent authority passed an order

dated 12 May 2000, on the subject whether the request for continuation of the registration of the Institute be continued along with grant in-aid. The order records that as against the sanctioned strength of thirty students, the medical certificates were submitted only of eighteen, and that as against the requirement of three trained teachers only two were engaged by the school. Being a residential school, 60 sq.ft. cover area for student was required which would be 1800 sq.ft. as against that the school had only 880 sq.ft. area. The order records that as per the Petitioners they had thirty-one residents in the school who were differently abled children. Order records that four out of thirty one students are from Karnataka State, five certificates pertain to local residents meaning thereby that five differently abled persons were residing with their parents and were not in the residential school. The order records that as per the rules, the differently abled persons residing in Maharashtra State alone would be entitled to be admitted in the school.

3. Under Section 54 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Protection) Act, 1995 an appeal lies against the said order and that appeal was filed before the competent authority which has been dismissed vide order dated 3 August 2013, the said order is under challenge. Having perused the appellate order we find no reasons given therein. The contention in the appeal that a differently abled child whose parents reside in the same village need not necessarily be required to be

treated as a day scholar, has not been dealt with. Similarly, the issue of students who were originally from Karnataka State being required to be treated as residents in the State of Maharashtra on their parents migrating has also not been dealt with.

4. We dispose of the Writ Petition quashing the appellate order dated 3 August 2013. The Appeal is restored for adjudication on merits with a direction that a reasoned order would be passed. The needful shall be done within three months from today.

N.M.JAMDAR, J.

CHIEF JUSTICE