

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2641 OF 2021

Ajinkya Foundation ... Petitioner
Vs.
State of Maharashtra and others ... Respondents

Mr. Narendra V. Bandiwadekar a/w. Mr. Vinayak R. Kumbhar i/b.
Mrs.Ashwini Navjyot Bandiwadekar for Petitioner.
Mr. N. C. Walimbe, AGP for Respondents-State.

**CORAM : R. D. DHANUKA &
R. N. LADDHA, JJ.**

DATE : DECEMBER 10, 2021

P.C. :-

Rule. Mr. Walimbe, learned AGP waives service for the respondents-State. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for a writ of mandamus directing respondent No.1 to issue a government resolution by way of a corrigendum to the Government Resolution dated 06.11.2018 and to make correction with regard to the special school of the petitioner institution namely, The Institute for Mentally Handicapped at Kupwad, Taluka Miraj, District Sangli in respect of the strength of students from 20 to 50 and in respect of the sanctioned post of employees from 6 to 16.

3. Mr. Bandiwadekar, learned counsel for the petitioner has invited our attention to some of the exhibits annexed to the petition and also the interim order passed by this Court on 06.04.2021. He submits that there is a clerical error committed by respondent No.1 while issuing the Government Resolution dated 06.11.2018 in respect of the students' strength of the petitioner-institute. He submits that by the Government

Resolution dated 06.09.2018, respondent No.1 had already revised students' strength of the petitioner from 20 to 50. However, in the annexure to the Government Resolution dated 06.11.2018, the same is reflected as 20 as a result thereof, the consequential number of posts has remained to be changed corresponding to the increase from 20 to 50.

4. Learned counsel for the petitioner also places reliance on the copy of the order passed by the Division Bench of Aurangabad Bench of this Court wherein case of such clerical error has been accepted by the State Government.

5. By the order dated 06.04.2021, this Court had made it clear that in case no reply on merits contesting the claim of the petitioner was filed, this Court would proceed to assume that the assertion of the petitioner regarding clerical mistake is correct and would pass appropriate orders.

6. This Court had granted three weeks' time to the respondents-State to make its stand clear.

7. After 06.04.2021 neither any affidavit is filed by the State Government nor any statement is made controverting the statement made in the petition as also across the Bar before this Court on 06.04.2021.

8. Mr. Walimbe, learned AGP for the respondents-State states that though the concerned officer was instructed on 08.04.2021 to give instructions by sending a letter, till date no instructions are received.

9. We accordingly proceed on the premise that the case of the petitioner is accepted by the respondents. Be that as it may, similar mistake is accepted by the State Government before the Division Bench of Aurangabad Bench of this Court as is reflected in paragraph 4 of the interim order dated 06.04.2021.

10. Respondents have not disputed that by the Government Resolution dated 06.09.2018, the State Government has already revised the students' strength of the petitioner from 20 to 50. In our view, it is thus clear that there appears to be a clerical error committed by respondent No.1 while issuing the Government Resolution dated 06.11.2018. Consequently the number of posts which are remained to be changed corresponding to 20 to 50 is also required to be increased. We accordingly pass the following order:-

- (a) Writ Petition is allowed in terms of prayer clauses (b) and (c);
- (b) A corrigendum to the Government Resolution dated 06.11.2018 shall be issued within three weeks from today;
- (c) The grant-in-aid allowed by this Court in terms of prayer clause (c) shall be released in favour of the petitioner within four weeks thereafter.

11. Rule is made absolute accordingly. There shall be no order as to costs.

12. Parties to act on an authenticated copy of this order.

(R. N. LADDHA, J.)

(R. D. DHANUKA, J.)

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