

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

WRIT PETITION NO.4405 OF 2021

Shining Star Academy English School & Ors. ... Petitioners

Vs.

Deputy Director of Education,
Nashik Division, Nashik & Ors. ... Respondents

Mr. Tushar N. Sonawane, Advocate for Petitioner.

Ms. K.N. Solunke, AGP-State, for Respondent Nos. 1,3 and 6.

**CORAM : R.D. DHANUKA &
ABHAY AHUJA, JJ.**

DATE : 16th SEPTEMBER 2021

PC. :

. By this petition filed under Article 226 of the Constitution of India the petitioners have challenged the order dated 12th July 2021 and 27th July 2021. Notice was issued by respondent Nos.1 to 3 informing the petitioners that the respondent No.1 i.e. the Education Officer, Nashik seeks to conduct an inquiry into the accounts of the petitioners and to carry out audit in view of various complaints received in respect of disconnection of online link granted to the students, sale of books forcibly, Parents Teacher Association not formed etc. The notice is of challenged on the ground that the Director of Education has no jurisdiction to issue such notice.

2. It is submitted that though in the provisions of Right to Education Act to the extent of 25% seats allocated by the Education Department in the school run by the petitioners, there is no dispute that the respondent has such power to look into the accounts and audit of the petitioners, there is no power in general as sought to be invoked in the impugned notices.

3. Ms. Solunke, learned AGP for the respondent-State submits that the recognition of the school has been granted by the Education Department. In view of large number of complaints received by the Education Department in respect of various schools in Nashik, to ascertain the veracity of such complaints, it was necessary to issue such notices for inspection for scrutiny and audit of the accounts and documents of the petitioners. Mr. Sonawane, learned Counsel for the petitioners states that there is no dispute that the recognition of the petitioners was granted by the Education Department.

4. We are not inclined to accept the submission of the learned Counsel for the petitioners that though so far as 25% students in the schools run by the petitioner, such a directions under the provisions of the Right of Education Act can be issued and no such directions can be issued in respect of the other students.

5. A perusal of the said notice indicates that in view of the complaints received by the respondent,s it was necessary to look into those complaints and to issue appropriate directions which can be issued only after undertaking the inspection and scrutiny of the record as well as

audit. If the petitioners have not committed any offence or breach of any of the provisions of law, the petitioners are not required to be worried about the proposed inspection and audit by the respondents. In our view, there is no merit in the submission of the learned Counsel for the petitioners that the said directions issued by the Dy. Director of the Education are without jurisdiction.

6. So far as, submission made by the learned Counsel for the petitioners that the Director of Education had given short notice for taking inspection and audit, it is not disputed that the said notices were issued on 26th July 2021. For about two months no action has been taken by the respondents. The petitioners have sufficient time to comply with those two notices. We are not inclined to interfere with the notices issued by the respondents. We direct the Dy. Director of Education to visit the schools run by the petitioners in the offices of the petitioners on 24th September at 11.00 a.m. The petitioners are directed to co-operate with the Dy. Director of Education while conducting such scrutiny of the accounts, other records and while carrying out the audit. If the respondents propose to take any action against the petitioners on the basis of such inspection, scrutiny and audit, the respondents to issue show cause notice to the petitioners before taking any action against the petitioners.

7. The Writ Petition is disposed of in aforesaid terms.

8. No order as to costs.

(ABHAY AHUJA, J.)

(R.D. DHANUKA, J.)