

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO.1995/2021

1. Vidarbha Youth Welfare Society,
a Society registered under the provisions
of the Societies Registration Act, 1860,
having its registered office at Chaitanya
Building, Camp Amravati 444 602,
through its Secretary.
2. The Principal, Vidarbha Youth Welfare
Society's Polytechnic Badnera, Anjangaon
Bari Road, Badnera, Dist. Amravati. ..Petitioners.

..Vs..

1. The State of Maharashtra, through its
Secretary, Department of Higher and
Technical Education, Mantralaya,
Mumbai 400 032.
2. The Secretary, Maharashtra State Board
of Technical Education, Government
Polytechnic Building, 4th Floor, 49 Kherwadi,
Bandra (East), Mumbai 400 051. ..Respondents.

Mr. Ranjeet D. Bhuihar, Advocate for the petitioners.
Mr. Neeraj R. Patil, A.G.P for respondent No.1.
Mr. Pratik R. Puri, Advocate for respondent No.2.

**CORAM :- SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.**

DATED :- 30.9.2021.

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

Heard. **Rule.** Rule made returnable forthwith. Heard finally by
consent.

2. Petitioner No.1 is a society which runs petitioner No.2 college. Petitioner No.2 is the college which offers diploma in four engineering courses such as Civil Engineering, Mechanical Engineering, Computer Technology and Electronics and Telecommunication Engineering.

3. It is the contention of the petitioners that with onslaught of changing time, respondent No.2 college had seen a consistent decline in admissions of the students so much so that a point was reached by respondent No.2 college that it was no longer feasible for it to run the college and offer diploma in the aforesaid courses to the students. Therefore, after taking into account all the relevant factors, petitioner No.1 society resolved to close down petitioner No.2 college in a progressive manner. Accordingly, a proposal was prepared and it was decided to be sent to respondent No.1 for seeking its approval. However, for such approval to be made, no objection must be given by respondent No.2 - State Board of Technical Education. Accordingly, the proposal was sent to it together with a request for grant of no objection and forward the same to the State Government along with consent of respondent No.2.

4. Respondent No.2 responding to the request, constituted an Inspection Committee which paid visit to respondent No.2 and inspection report of the inspection was prepared by the Inspection

Committee on 24.3.2021 and was sent to respondent No.2. The report did not contain any recommendation for any closure of the college on account of certain deficiencies noted in the report. Accordingly, by communication dated 31.3.2021, respondent No.2 informed the petitioner that no objection was refused on two grounds, namely, (i) petitioner No.1 society did not make any provision for providing of compensation or alternate employment to the employees who would be affected by closure of the college and (ii) there were several court cases which were pending.

5. It is the contention of the learned counsel for the petitioners that the copy of the inspection report was not furnished to the petitioners and no opportunity to explain the objections taken by the Inspection Committee was made available to the petitioners and, therefore, the decision taken by respondent No.2 is illegal as being violative of principles of natural justice. This has been disagreed to by learned counsel for respondent No.2 who submits that the report has been prepared by the Inspection Committee only on the basis of the information given by the petitioners and, therefore, the petitioners cannot say that there was no opportunity of hearing granted to them.

6. Learned A.G.P submits that an appropriate order may be passed in the matter.

7. Dealing with the argument of learned counsel for respondent No.2 we must say that it does not appeal to reason. Preparation of report by an Inspection Committee on the basis of the information provided by the party subjected to inspection is one-thing and forming an opinion on the basis of information provided by such party is another. Here, information necessary for preparation of the report may have been furnished by the petitioners, rather it ought to have been furnished by the petitioners, that was their duty, but, the furnishing and analyzing of the information and making necessary conclusions as a result of the analysis made, was the duty of the Inspection Committee which it did. Therefore, when the conclusions are drawn on the basis of the information and the conclusions are adverse to the interest of the party inspected, the law requires that the affected party is given an opportunity to explain and clarify its stand in the matter before adverse inferences and conclusions are made against it. If necessary, such party is also required to be given an opportunity of hearing. In the present case, both these requirements of law have been ignored by respondent No.2.

8. If one goes through the objections taken in the inspection report, one would find that these objections, essentially in the nature of conclusions, are not even consistent with the information provided by the petitioners. The petitioners had made it clear that they were

already ready with the plan to absorb the employees of the college sought to be closed in some other colleges being run by the petitioner No.1 society. This information has been ignored in the inspection report and the conclusion made in this regard by the Committee is that the college has not made any concrete plan as required under Section 35 of the Maharashtra State Board of Technical Education Act for making some effective alternate arrangement to take care of the interest of its employees. When the petitioners have made a statement and have also given an undertaking that they would certainly make alternate arrangements for absorption of their employees elsewhere, it does not sound logical to say that the petitioners have not come out with any plan for providing a viable alternative to the affected employees. The second conclusion which has gone against the petitioners is that some court cases are pending. In fact, as per the undertaking given by the petitioners which is not disputed by the respondents, details of all the court cases were already supplied to the members of the Inspection Committee and, therefore, Inspection Committee was duty-bound to examine each of these pending court cases and decide as to whether or not pendency of all of them or some of them or any of them would have affected closing of petitioner No.2 college. The Inspection Committee, however, has not made any effort in this regard and it could not have made it in the absence of any

explanation sought from the petitioners and given by them to respondent No.2 Board.

9. Thus, we are of the view that it was the requirement of law that opportunity of hearing was required to be granted to the petitioners and same having not been granted to the petitioners, the impugned communication cannot stand the scrutiny of law.

10. In the result, we **allow** the petition.

11. The impugned communication is hereby quashed and set aside. We grant liberty to the petitioners to make and submit suitable representation / explanation as regards the inspection report to respondent No.2 within three days from the date of the order and on receipt of the same by respondent No.2, we direct respondent No.2 to consider it after giving due opportunity of hearing to the petitioners and decide the proposal of the petitioners regarding closure of petitioner No.2 college within a period of two weeks from the date of receipt of the representation / explanation. Rule accordingly. No costs.

JUDGE

JUDGE