

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3562 OF 2020

Shree Saibaba Gramin Vikas Sanstha,
a Public Trust registered under
The Maharashtra Public Trusts Act, 1950,
having its Office at “Educational Campus”,
infront of Hotel Kundan Plaza,
Wadgaon Road, Tahsil & District
Chandrapur, through its Secretary,
Shalinitai Rameshchandra Mughate

.... **PETITIONER**

// **VERSUS** //

1. The National Council for Teacher Education, Western Regional Committee, having Office at G-7, Sector-10, Dwarka, New Delhi-110 075, through its Regional Director
2. The Member Secretary, National Council for Teacher Education, Hans Bhawan, Wing - II, 1, Bahadurshah Zafar Marg, New Delhi-110 002
3. State Common Entrance Test Cell, Maharashtra State, Mumbai 8th floor, New Excelsior Building, A.K. Nayak Marg, Firt, Mumbai-400001 Through its commissioner and Competent Authority
4. The Director of Higher Education, Maharashtra State, Directorate of Higher Education, 1st floor, Central Building, Near Sasoon Hospital, Pune-41001

.... **RESPONDENTS**

Shri Rohit Joshi, Advocate for petitioner
Ms M.H. Deshmukh, AGP for respondent No.4
None for respondent Nos. 1 to 3 though served

CORAM : N.B. SURYAWANSHI, J.

DATE : 17/07/2021

ORAL JUDGMENT

Rule. Rule made returnable forthwith. By consent heard the matter finally at admission stage.

2. This petition under Articles 226 and 227 of the Constitution of India, takes exception to the order of withdrawal of recognition granted to the petitioner-Mahila Shikshan Shastra Mahavidyalaya, Tahsil and District Chandrapur and order passed by the Appellate Authority, confirming the withdrawal of recognition.

3. It is the case of the petitioner that the impugned order of withdrawal of recognition was passed without hearing the petitioner. The petitioner has shifted its College in the year 2015. The change of address of the petitioner's College was intimated to the respondent nos.1 and 2. A show cause notice dated 11/04/2017, issued by respondent No.1 calling upon the petitioner to show cause as to why the recognition of the petitioner should not be withdrawn, was not received by the petitioner as

the same was issued on the previous address. The petitioner therefore could not reply the same. Vide impugned order dated 10/10/2019, the recognition of the petitioner's College was withdrawn by the respondent No.1. The petitioner contends that when the impugned order dated 10/10/2019 was published on the official website of the respondent No.1, at that time the petitioner came to know about the issuance of show cause notice on 11/04/2017.

4. The petitioner, being aggrieved by the said order, preferred appeal before the respondent No.2. The petitioner contends that along with the appeal, all the necessary documents showing compliance on the part of the petitioner were placed on record of the Appellate Authority. The Appellate Authority vide order dated 04/11/2020 confirmed the order passed by the respondent No.1 of withdrawal of recognition of the petitioner's college. Hence, the present petition.

5. Heard the learned Advocate for the petitioner and the learned Assistant Government Pleader for respondent No.4/State. The respondent Nos. 1 to 3, though duly served in March, 2021, have not filed any appearance.

6. It is clear from the record that the cause notice was issued to the

petitioner on the address; 'Opposite Suyog Mangal Karyalaya, Chandrapur' whereas the petitioner has specifically averred in the petition that it has shifted to current address; 'Educational Campus, in front of Hotel Kundan Plaza, Wadgaon Road, Chandrapur.' in the year 2015 and the change of address was informed to the respondents. It is therefore obvious that before passing the impugned order dated 10/10/2019, no opportunity of hearing was given to the petitioner.

7. The Appellate Authority – respondent No.2, in its order has observed that the petitioner Institution has failed to submit the reply to the show cause notice. It is further mentioned that in the online appeal, against the column 'Explanation', merely a statement is made that "Completed building and staff and enclosed a number of documents." The Appellate Authority, therefore, considering the fact that there was no reply filed by the petitioner to the show cause notice came to the conclusion that the respondent No.1 was justified in withdrawing recognition of petitioner's College and therefore dismissed the appeal.

It is thus clear from the order passed by the Appellate Authority that it has also failed to take into consideration the fact that no opportunity of hearing was given to the petitioner while withdrawing the recommendation of petitioner's College. The Appellate Authority has

lightly brushed aside the contention of the petitioner in respect of the change of address of College. The Appellate Authority has also failed to take into consideration the documents placed on record along with the appeal.

8. The learned Advocate for petitioner has rightly placed reliance in *National Council for Teacher Education and another Vs. Vaishnav Institute of Technology and Management, (2012) 5 SCC 139*. wherein it is observed thus :

27. On the inspection being completed as provided in sub-sections (1) and (2) of Section 13 of the 1993 Act read with Rule 8 of the 1997 Rules, the Council is required to communicate to the institution concerned its views with regard to the outcome of the inspection and, if deficiencies are found, to recommend to such institution to make up the deficiencies. The whole idea is that the Council as a parent body keeps an eye over the recognised institutions that they function in accordance with the 1993 Act and the Rules and the Regulations and Orders made or issued thereunder and, if any recognised institution is found wanting in its functioning, it is given an opportunity to rectify the deficiencies.

28. Derecognition or withdrawal of recognition of a recognised institution is a drastic measure. It results in dislocating the students, teachers and the staff. That is why, the Council has been empowered under Section 13 to have a constant vigil on the functioning of a recognised institution. On the recommendation of the Council after inspection, if a recognised institution does not rectify the deficiencies and continues to function in contravention of

the provisions of the 1993 Act or the Rules or the Regulations, the Regional Committee under Section 17 has full power to proceed for withdrawal of recognition in accordance with the procedure prescribed therein.

9. In the light of the above ratio, one opportunity needs to be given to the petitioner to point out to the respondents that it has rectified the deficiencies. Taking into consideration the fact that both the impugned orders are passed because the petitioner failed to reply the show cause notice and considering the fact that the documents placed on record by the petitioner along with the appeal were not considered by the Appellate Authority, the impugned orders are unsustainable for violation of principles of natural justice. Hence the following order:

ORDER

(i) The impugned order dated 10/10/2019 (Annexure D) passed by the respondent No.1, thereby withdrawing the recognition granted to the petitioner- Mahila Shikshan Shastra Mahavidyalaya, Chandrapur and the impugned order dated 04/11/2020 (Annexure-H) passed by the respondent No.2, dismissing appeal filed by the petitioner Society are hereby quashed and set aside.

ii) The respondent No.1 shall cause the inspection of petitioner's College-Mahila Shikshan Shastra Mahavidyalaya, Chandrapur and take a decision about the recommendation of the petitioner on the basis of the said inspection. The said exercise shall be conducted by the respondent No.1 within a period of eight weeks from today.

Rule is made absolute in the above terms,
with no order as to costs.

JUDGE

J.Pethe..