

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

941 WRIT PETITION NO.3676 OF 2023

JIVAN SHIKSHAN BALAKASHRAM GANJPUR THROUGH ITS  
SECRETARY ISHWAR ANANDRAO MUNDE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL  
SECRETARY AND OTHERS

...

AND

942 WRIT PETITION NO.3686 OF 2023

JIVAN SHIKSHAN BALAKASHRAM THROUGH ITS SECRETARY  
ISHWAR ANANDRAO MUNDE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL  
SECRETARY AND OTHERS

...

Advocate for Petitioners : Ms. Akshara Madke h/f Mr. Mr. Abhijeet V.  
Thombre

AGP for Respondents: Mr. S.G. Karlekar

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**CORAM : RAVINDRA V. GHUGE AND  
SANJAY A. DESHMUKH, JJ.  
DATED : 31<sup>st</sup> MARCH, 2023.**

**PER COURT :-**

1. Both the petitioners are identically placed. Prayer clauses B and C of the petitions, read as under:-

*"B. By issuing a writ of mandamus, orders, directions or any other appropriate writ in the like nature, the letter dated 18.4.2022 issued by the respondent No.2 thereby rejecting the proposal of the petitioner institution on the ground that, there were deficiencies in the proposal may kindly be quashed and set aside and for that purpose, issue*

*necessary orders;*

*C. Pending hearing and final disposal of this writ petition, the letter dated 18.4.2022 issued by respondent No.2 thereby rejecting the proposal of the petitioner institution on the ground that, there were deficiencies may kindly stayed and for that purpose issue necessary order.”*

2. Issue notice to the respondents. The learned A.G.P. waives service of notice on behalf of all the respondents.

3. The issue raised by these two Petitioners in these Petitions is no longer res-integra. This Court has delivered a judgment on 22.12.2020, in Writ Petition No. 4831 of 2020 and connected matters, at Aurangabad. It would be apposite to reproduce paragraph No. 20 to 24, as under:-

“20. It is trite rule of interpretation that all the provisions of the statute and the Rules operating shall be read harmoniously so as to give effect to the provisions of the statute and that the provisions and the rules are not rendered otiose. Though the rule cannot affect, control or derogate from the section of the Act, so long as it does not have that effect, it has to be regarded as having the same force as the section of the Act. The Apex Court in case of *The State of U. P. Vs. Babu Ram Upadhyia* [(1961 2 SCR 679 (CB)], observed that Rules made under a statute must be treated for all purposes of construction or obligation exactly as if they were in the Act and are to be of the same effect as if contained in the Act, and are to be judicially noticed for all purposes of construction or obligation.

21. Reading the proviso to Sub Section 1 of Section 41 of the Act-2015 and Sub Rule 1(b) of the Rule 22 of the Rules-2018 harmoniously the irresistible conclusion can be drawn that the institutions housing children in need of care and protection or children in conflict with law registered under the Act-2000 will be deemed to be registered under the Act-2015 and these institutions shall get renewal of their registration after completion of 1 year as per the provisions of the Act and Rules. The leverage has been given of 1 year for these institutions to get the registration renewed. Once the registration is granted under the Act-2015 that registration would be valid for 5 years and after 5 years the institution will have to seek renewal. Reference can be had to Sub Section 6 of Section 41 of the Act-2015.

22. To apply for renewal of registration after 1 year is also necessary because these institutions deemed to be registered did not undergo rigors of registration under the Act-2015 so as to give an opportunity to the authority to verify compliance of the requirement of the Act-2015 and the rules.

23. The conspectus of the aforesaid discussion leads us to an irresistible conclusion that the institutions registered under the Act-2000, and the said registration validly in force on the date of implementation of the Act-2015, shall be deemed to be registered under the Act-2015 and these institutions shall apply for renewal of registration after 1 year of the enforcement of the Rules-2018.”

24. One year, since enforcement of the Rules- 2018, has also lapsed. The institutions possessing valid registration as on the date of implementation of the Act-2015 shall apply for renewal within a period of one (1)

month from today. The said application for renewal shall be considered by the authorities on its own merits in tune with the provisions of the Act-2015 and Rules-2018. The institutions not possessing valid registration as on the date of the Act-2015 or the registration having lapsed on the date of implementation of the Act-2015 are required to apply afresh. In case, such applications are made by the said institutions, the Government shall take decision upon it expeditiously and preferably within a period of three (03) months."

4. In view of the above, the impugned orders dated 18.4.2022 passed by respondent No.2, rejecting the proposals of the petitioner institutions, are quashed and set aside. The proposals are remitted to the office of Respondent No.2. The said proposals/applications would be considered in the light of the observations set out in paragraph No.24 herein-above. Similar directions have also been issued by a Co-ordinate Bench of this Court, in paragraph No.15, vide judgment dated 8.9.2022 delivered in Writ Petition No. 7821 of 2021 (Mother Teresa Balakashram vs State of Maharashtra and others and connected matters). The time frame, as granted in the above matters, would also apply in these two cases, to enable Respondent No.2 to take a decision within the said time line.

5. The Writ Petitions are disposed off, in the above terms.

**(SANJAY A. DESHMUKH, J.)**

**(RAVINDRA V. GHUGE , J.)**