



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

WRIT PETITION NO.4412/2018

Ahebab Education Society, Through its Secretary Mohd. Rafiq Shaikh Idu
and another Vs. State of Maharashtra and others

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. M.R.Joharapurkar, Advocate for petitioners.
Mr. A.A.Madiwale, AGP for respondent nos.1 to 5.
Mr. R.D.Karode, Advocate for respondent no.6.
Mr. Anand S. Deshpande, Advocate for respondent no.7.

CORAM : NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.
DATE : JULY 16, 2024.

P.C.

Heard.

2. The challenge in the petition is to the order dated 26th June, 2018, whereby the respondent no.1-State Government has directed the withdrawal of recognition with further direction to accommodate the students of the petitioner no.2 - School managed by the petitioner no.1-Society in any other recognized school.

3. The contentions of Mr. Joharapurkar, learned counsel appearing for the petitioners are that the impugned order dated 26th June, 2018 is passed in exercise of the powers under the provisions of the Right of Children to Free and Compulsory Education Act, 2009. According to him, an Enquiry Committee

was constituted consisting of in all seven members, who has drawn a report, which was received by the Education Officer on 26th January, 2016. The said report appears to have been served on the petitioners on 6th February, 2015 alongwith communications dated 6th February, 2015 and 13th February, 2015, the petitioners has submitted their objection to the enquiry report. According to Mr. Joharapurkar, without considering the petitioners' objection, the order impugned came to be passed, which amounts to denial of an opportunity of hearing as the same violates the rights guaranteed the petitioner under Article 14 of the Constitution of India. He would further urge that the order impugned is stereotyped order, thereby accepting the report of the Enquiry Committee without dealing with the contentions of the petitioners while lodging the objection to the Enquiry Report. In such an eventuality, the order impugned suffers from non-application of mind.

4. As against above, the Assistant Government Pleader Mr. Madiwale would urge that the petitioner-Society was granted permission to administer a school for girls and the petitioners have not only admitted the boys in the said school but also the school was lacking basic amenities for the school. It is further claimed that the petitioners admitted the boys without there

being any express permission from the Government. In addition, it is claimed that there is mismanagement in the administration of the school, thereby leading to misappropriation of the public money and as such, the order impugned came to be passed. He would claim that since the enquiry report is relied on in the impugned order, the same can be read in support of the order impugned. That being so, he would seek dismissal of the petition.

5. We have appreciated the aforesaid submissions. We have also gone through the report of the Inquiry Committee, which was received by the Education Officer (Secondary) with covering letter dated 26th January 2016.

6. The said report perhaps was made available to the petitioners, vide communication dated 6th February 2016. It appears that the petitioners have lodged their objection to the enquiry report, vide communication dated 10th March, 2017 addressed to the State Government.

7. It appears that the State Government without considering the said objection has proceeded to pass an impugned order. The State Government has relied on the enquiry report and the agreement expressed by the Education Authorities to such enquiry report.

8. The fact remains that the enquiry report, which was objected by the petitioners before passing the impugned order warrants consideration of the stand of the petitioners, thereby explaining the allegation or the shortfall noticed in the enquiry report against the petitioners.

9. The order impugned refers to the enquiry report and the agreement of the Education Authorities, however, the same does not speak of any speaking order thereby considering the explanation tendered by the petitioners.

10. That being so, the order impugned suffers from not only the non-application of mind but also sans reasons, which amounts to violation of the principles of natural justice.

11. In this background, in our opinion, the order impugned dated 26th June, 2018 is not sustainable in law and as such, it is hereby quashed and set aside.

12. In this background, it shall be open for the petitioners to appear before the State Government, who in turn shall pass a fresh order, after considering the explanation tendered by the petitioners.

13. The petition stands partly allowed.

14. Let fresh order be passed by the State Government, as expeditiously as possible and in any case within a period of four months from today.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Mukund Ambulkar