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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4735 OF 2009

Gram Vikas Mandal, Ranjangaon Shenpunji,
Tq. Gangapur, District Aurangabad,
A Public Trust Registration No.F1334,
Through its Secretary,
Shri. Manohar s/o Shivram Phalke,
Age: 42 years, Occu: Agriculture,
R/o: Ranjangaon Shenpunji,
Tq. Gangapur, District Aurangabad

....PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary
(School Education),
Department of Education,
Mantralaya, Mumbai – 32
2. The Director of Education,
Maharashtra State,
Administrative Building,
District : Pune
3. The Divisional Deputy
Director of Education,
Aurangabad Division, Aurangabad
4. The Education Officer (Secondary),
Zilla Parishad, Aurangabad

....RESPONDENTS

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Mr V. D. Salunke, Advocate a/w Mr Avishkar S. Shelke, Advocate for
petitioner
Mr Amar V. Lavte, A.G.P. for respondents/State

(2)

CORAM : MANGESH S. PATIL**AND****PRAFULLA S. KHUBALKAR, JJ.****RESERVED ON : 4th February, 2025****PRONOUNCED ON : 6th May, 2025****JUDGMENT (PER : PRAFULLA S. KHUBALKAR, J.)**

Heard learned counsel for the parties at the stage of final hearing.

2. By this petition under Article 226 of the Constitution of India, the petitioner/Management has challenged the order dated 13/04/2007, passed by the Divisional Deputy Direction of Education, Aurangabad, respondent No.3, cancelling the recognition of its secondary school from the academic session 2006-2007.

3. By the order of this Court dated 06/10/2010, this petition was admitted and interim relief was rejected. Today, the matter is heard for final hearing.

4. The factual setup leading to the instant petition is stated below in nutshell :-

(3)

(a) The Government of Maharashtra had granted permission to the petitioner/Management to run a secondary school at Ranjangaon Shenpunji in the year 1992-1993.

(b) Accordingly, the school was started on non-grant basis, which later on came on partial grants i.e. 25% w.e.f. year 1995-1996 and later on from year 1998-1999, it started receiving 100% grant-in-aid.

(c) During year 2000-2001, the Government sanctioned six divisions to the petitioner on non-grant basis and accordingly, the petitioner/Management appointed trained teachers, whose appointment were approved by the Government.

(d) In the year 2003, the teachers working in the school raised a grievance relating to non-payment of their salary and other dues, pursuant to which, the Education Officer, respondent No.4 conducted enquiry. The Education Officer forwarded a proposal by letter dated 21/11/2005 to the Deputy Director of Education for taking action for derecognition of the school under Rule 7.4 of the Secondary School Code.

(4)

(e) On 29/12/2005, hearing was given to the parties and the petitioner/Management was informed by letter dated 08/02/2006 to comply with the shortcomings by 31/03/2006.

(f) The teachers working in the school filed Writ Petition No.7440/2005 in this Court inter alia raising several grievances mainly relating to non-payment of their salary. By order dated 01/03/2006, the petition was disposed of directing the respondents to decide the grievances of the petitioners therein within a period of two months.

(g) Since the grievances of the employees were not redressed by the Management, the Divisional Deputy Director of Education, respondent No.3, issued order dated 29/04/2006 thereby derecognising the school from the end of academic year 2005-2006.

(h) Feeling aggrieved by this order, the petitioner /Management preferred appeal before the Director of Education (respondent No.2).

(i) On the basis of undertaking submitted by the petitioner/Management, respondent No.2 allowed the petitioner

(5)

to continue the recognition of the school from academic year 2006-2007, on condition that if the shortcomings and deficiencies are not removed, the school shall be derecognised.

(j) Despite the specific directions, the deficiencies /shortcomings were not removed and therefore, the Education Officer, respondent No.4 inspected the school and conducted a thorough enquiry. He submitted a report to the Divisional Deputy Director of Education reporting non-fulfillment of the conditions imposed on the petitioner/Management and non-removal of the deficiencies. By letter dated 28/02/2007, the Education Officer recommended derecognition of the school.

(k) Pursuant to the report/letter dated 28/02/2007 and considering the earlier conduct of the petitioner/Management, the Divisional Deputy Director of Education, respondent No.3 recommended derecognition of the school to the Director of Education, respondent No.2 by letter dated 03/03/2007.

(l) On considering the letter dated 03/03/2007 and previous orders/directions of respondent Nos.3 and 4, the Director of Education communicated to the Divisional Deputy Director of

(6)

Education by letter dated 03/04/2007 to derecognise the school run by the petitioner/Management.

(m) By order dated 13/04/2007, the Divisional Deputy Director of Education, Aurangabad passed order of derecognition of the school run by the petitioner/Management from the end of academic session 2006-2007. The petitioner has challenged this order of derecognition by way of the instant petition.

5. Respondent No.1/State of Maharashtra has filed its affidavit-in-reply dated 12/08/2009, justifying the impugned decision of derecognition. Apart from this, respondent No.4, Deputy Education Officer (Secondary), Zilla Parishad, Aurangabad also filed affidavit dated 23/02/2024, supporting the impugned order.

6. To controvert the stand of the respondents, the petitioner filed affidavit-in-rejoinder dated 23/03/2010.

7. Learned advocate V. D. Salunke alongwith learned advocate Avishkar Shelke appearing for the petitioner vehemently submits that the impugned order is grossly arbitrary and illegal. He submits that the petitioner/Management has meticulously complied

(7)

with the provisions of the Secondary School Code and the alleged grievance made by the teachers was already redressed. He further submits that the teachers have been paid regular salary and the petitioner/Management has complied with the directions issued by respondent Nos.3 and 4 and all the shortcomings were already removed. He submits that the Assistant Teachers, who had earlier filed the writ petition had submitted the representation dated 14/10/2007 informing the respondents/authorities that their grievances against the Headmaster were resolved. He invites our attention to the representations dated 14/10/2007, 25/01/2008, 05/02/2008 and 19/03/2008, which are filed on record at Exhibit 'Q' collectively. He also submits that due to derecognition of the school, the residents in the surrounding villages are suffering and they all are insisting for restarting the school. He also submits that the respondents/authorities have failed to grant sufficient opportunity to the petitioner/Management and therefore the impugned order is challenged, terming it to be arbitrary and illegal.

8. In support of their submissions, learned advocates rely upon following reported judgments :-

(I) Chandrika Jha Vs. State of Bihar and others, AIR 1984 Supreme Court 322;

(8)

(II) Babaji Kondaji Garad and others Vs. Nasik Merchants Co-operative Bank Ltd., Nasik and others, AIR 1984 Supreme Court 192;

(III) Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. and others, AIR 2003 Supreme Court 511; and

(IV) Maharashtra Land Development Corporation and others Vs. State of Maharashtra and another, 2010 AIR SCW 7114.

By referring to these judgments, they vehemently submit that the impugned decision is arbitrary and grossly illegal by which respondents have abused the power under Rule 7.4 of the Secondary School Code. By referring to the judgment in the matter of Babaji Kondaji Garad and others (supra), they vehemently submit that law is settled that when a statute requires certain things to be done in certain manner, it can be done in that manner alone unless the contrary indication is found in the statute. They, therefore, submit that respondent Nos.3 and 4 have failed to meticulously comply with the provisions of the Secondary School Code.

9. Per contra, Advocate Amar V. Lavte, learned A.G.P. for respondents makes strenuous submissions to oppose the petition. He submits that the impugned order is passed by respondent No.3 after considering the grave deficiencies and shortcomings as reflected in the impugned order dated 13/04/2007. He submits that respondent No.3

(9)

has duly exercised the power vested in him under Rule 7.4 of the Secondary School Code and in accordance with the provisions of Rule 7.1 thereof, the impugned order of derecognition is just and proper. He submits that the school run by the petitioner has committed breach of the terms and conditions as mentioned in Rule 3.2 of the Secondary School Code and despite grant of sufficient opportunities, the deficiencies were not removed. By referring to the affidavit dated 23/02/2024, he submits that, at present, in the vicinity of the said school, there are other five schools which are being run and administered by other Managements including local authority and as such, the students residing in the vicinity are getting proper educational facilities. He, therefore, strongly opposes the petition.

10. The rival contentions now fall for our consideration.

11. It has to be noted that the authorities had observed various shortcomings and deficiencies in running of the school in the year 2005 and 2006. The respondents had conducted enquiry in the working of the school and recommended derecognition of the school from the academic year 2005-2006. In view of the readiness of the petitioner/Management to remove the deficiencies and believing on the undertaking submitted by it, the recognition was continued for the year

2006-2007, subject to removal of all the shortcomings and deficiencies. The respondents observed that, despite undertaking given by the petitioner/Management, the shortcomings were not removed and on the basis of inspection of the school and having conducted a thorough enquiry, respondent No.4 again concluded that the shortcomings and deficiencies were not removed.

12. The grievances raised by the teachers about non-payment of regular salary and the litigation by the teachers against the Management is a crucial issue about which the petitioner/Management was repeatedly informed by the authorities. Despite repeated orders passed by the authorities, the petitioner/Management failed to resolve the grievances and the teachers were not paid regular salary. The record reveals that the petitioner/Management was repeatedly informed about the deficiencies and sufficient opportunities were afforded to remove it.

13. The record reveals that in view of the breach of conditions mentioned in Rule 3.2 of the Secondary School Code, by exercising powers under Rule 7.1, recognition of the school was cancelled from academic session 2005-2006 by order dated 29/04/2006. However, in the appeal preferred by the petitioner/Management, the recognition

was continued by the order dated 29/06/2006 for the year 2006-2007 on the condition of removal of all the deficiencies. Despite this, when the shortcomings were not removed and the grievances of the teachers were not redressed, by letter dated 03/03/2007, respondent No.4 made recommendation to respondent No.2 about derecognition of the school from academic session 2006-2007.

14. It has to be noted that, despite there being orders passed in Writ Petition No.7440/2005, the salary of the employees was not released by the petitioner/Management within two months as directed by this Court, the employees had filed contempt petitions before this Court.

15. Taking into consideration all these sequence of events and considering the entire conduct of the petitioner/Management in repeated breach of the Rule 3.2 of the Secondary School Code, respondent No.3 has passed final order dated 13/04/2007 derecognising the school from academic session 2006-2007.

The deficiencies/shortcomings which formed basis of the impugned decision are :-

(12)

- (1) There were no attempts of coordination between the Management representative and the Head Master.
- (2) Management has failed to pay the salary of teachers who were on non-grant basis.
- (3) The complaints related to the Head Master were not resolved.

It has to be noted that these deficiencies were found not to have been removed since years together and the petitioner/Management has not taken any efforts to resolve these deficiencies.

16. Perusal of the impugned order dated 13/04/2007 shows that respondent No.3 has taken into consideration all the relevant issues, which are reflected in the impugned order. The record reveals that sufficient opportunities were given to the petitioner/Management to remove the deficiencies and even sufficient opportunity of hearing was extended to the petitioner/Management. The impugned order passed by respondent No.3 under Rule 7.4 of the Secondary School Code, therefore is just and proper.

17. It is imperative to note that the grievance has been espoused only by the Management and not by any of the members of the teaching staff. It is rather noteworthy that the members of the teaching faculty had earlier invoked the writ jurisdiction of this Court and had even initiated contempt proceedings against the petitioner/Management, have subsequently submitted representations stating that their grievances against the Management stood redressed. The cumulative factual aspects indicates that although the petitioner/Management has endeavoured to demonstrate, on record, that the alleged deficiencies stood rectified, it is pertinent to note that competent authorities have arrived at their conclusions independently upon due appreciation of the material placed before them. The petitioner/Management has failed to establish any perversity, arbitrariness, or procedural impropriety in the impugned decision warranting interference by this Court.

18. The factual position submitted by the learned A.G.P. vide affidavit dated 23/02/2024 about existence of five other schools including Zilla Parishad schools in the vicinity of the petitioner/school also demonstrates that the need of providing educational facilities to the students has been properly met. The school run by the

petitioner/Management had committed breach of terms and conditions of Rule 3.2 of the Secondary School Code.

19. The proposition of law laid down in the judgments relied upon by the counsel for the petitioner can not be disputed. The judgments laying down the proposition of law regarding arbitrary exercise of powers and rules of interpretation of statute also cannot be disputed. None of the judgments relied upon deal with the issue of derecognition of the school which is the only issue involved in this matter. It has to be noted that the decision of derecognition of the petitioner's school is based on categorical findings of the authorities about breach of terms and conditions as per Rule 3.2 of the Secondary School Code. The proposition of law laid down in the judgments relied upon, cannot be of any assistance to the petitioner.

20. The position of law is fairly settled that the scope of judicial review under Article 226 of the Constitution of India is confined to scrutinizing the decision-making process rather than adjudicating upon the decision itself. The legal position on this point stands crystallized through a plethora of judicial pronouncements. Reference may profitably be made to the decision of the Hon'ble Supreme Court in **Sarvepalli Ramaiah (Died) as per Legal**

Representatives and Others Vs. District Collector, Chittoor

District and others, reported in (2019) 4 SCC 500, wherein the following pertinent observations were made :

“40. Administrative decisions are subject to judicial review under Article 226 of the Constitution, only on grounds of perversity, patent illegality, irrationality, want of power to take the decision and procedural irregularity. Except on these grounds administrative decisions are not interfered with, in exercise of the extraordinary power of judicial review.

41. In this case, the impugned decision, taken pursuant to orders of Court, was based on some materials. It cannot be said to be perverse, to warrant interference in exercise of the High Court’s extraordinary power of judicial review. A decision is vitiated by irrationality if the decision is so outrageous, that it is in defiance of all logic; when no person acting reasonably could possibly have taken the decision, having regard to the materials on record. The decision in this case is not irrational.”

21. In the conspectus of the present matter, the impugned decision, having been arrived at upon due consideration of the material on record by the competent authorities, cannot be characterized as either perverse or manifestly arbitrary. The decision does not suffer from irrationality, nor does it disclose any patent illegality. Thus, there exists no justifiable ground for this Court to exercise its extraordinary jurisdiction under Article 226 of the Constitution. Accordingly, we are

(16)

of the considered view that the present writ petition does not merit interference.

22. The writ petition is therefore dismissed. Rule is discharged. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)

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