
(2014) 01 BOM CK 0250
In the Bombay High Court
Case No : W.P. No. 1213 of 2013

Indira Pragati Shikshan Sanstha

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 17-01-2014

Acts Referred:

Citation : (2014) 4 MhLj 235

Hon'ble Judges : B.R. Gavai, J;A.S. Chandurkar, J

Bench : Division Bench

Advocate : A.Z. Jibhkate, Advocate for the Appellant; D.P. Thakre, Assistant Government Pleader, Advocate for the Respondent

Final Decision : Dismissed

Judgement

A.S. Chandurkar, J.—Rule. Rule is made returnable forthwith. Heard by consent of both the parties. The challenge in the present writ petition is to the communication dated 27th of December, 2012 whereby the proposal of the petitioner - Society for starting new Ashram School has been rejected.

2. It is the case of the petitioner that initially it was running an Ashram School at Rui, Tq. Bramhapuri, District-Chandrapur. However, subsequently the recognition of said Ashram School was withdrawn by order dated 16th of February, 2009. The petitioner preferred appeal against said order of withdrawal of recognition. During pendency of the appeal, the said Ashram School was allotted to another institution. This action was challenged by the petitioner in Writ Petition No. 3675 of 2009. By order dated 28th of June, 2010 the petitioner was permitted to withdraw the writ petition with liberty to apply for grant of permission to start another Ashram School. The authorities were directed to consider such application on its merits and in accordance with law. Pursuant thereto, the petitioner moved an application for starting a new Ashram School at Valani, Tq. Nagbhid, District Chandrapur. Thereafter, due inspection was carried out and the respondent No. 4 recommended grant of permission to start Ashram School for Academic Session 2011-12. The respondent No. 1, however, by the impugned

communication refused to grant aforesaid permission by relying upon Rule 2.23 of the Ashram School Code. Said Rule 2.23 reads as under:--

3. Shri Jibhkate, learned counsel for the petitioner has submitted that as per aforesaid Rule it was clear that if the permission was withdrawn in respect of a particular school, the same could not be granted to such Society in respect of the same school. The same would not disentitle the Society from seeking recognition with regard to any other new school sought to be set up by it.

4. A plain reading of aforesaid Rule, however, makes it clear that if a Society is running an Ashram school of which recognition is once withdrawn, such Society itself is not entitled to be considered for grant of permission to run any Ashram School. It has been further stated in said Rule that the Department would on such terms and conditions as prescribed allot such school to any other Society or run it itself. The object of aforesaid Rule is to disentitle such Society from seeking recognition for any school in future when the recognition of a school run by it is finally withdrawn. If aforesaid Rule is construed in the manner as suggested by the learned Counsel for the petitioner, the same would defeat the very object behind making such Rule. If the rule is read in such a manner it would result in giving premium to an inefficient and incompetent management. It is obvious that the Rule has to be read in a manner that advances its object and when so read, it is clear that when the recognition of any school run by a Society is withdrawn, then such Society itself becomes ineligible for being considered for grant of recognition of any school run by it.

5. Shri Jibhkate, learned counsel for the petitioner, has further submitted that as liberty was granted by this Court vide order dated 28th of June, 2010, the respondents were bound to have considered the petitioner's application favourably in view of the report of respondent No. 4 and should have granted said permission. As directed by this Court in its order dated 28th of June, 2010, the authorities were bound to consider the petitioner's application in accordance with law. The Respondent No. 1 rejected the petitioner's application after considering the provisions of Rule 2.23 of the Ashram School Code. Liberty to apply for fresh permission and direction to consider such application in accordance with law cannot mean that permission was required to be granted disregarding the provisions of the Ashram School Code. We find that the impugned order, therefore, having been passed in accordance with Rule 2.23 of the Ashram School Code, the same does not suffer from any legal infirmity. We find no merit in the petition. The same is, therefore, dismissed. Rule discharged with no order as to costs.