



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

**WRIT PETITION NO.1078 OF 2022**

SOS Children's Village Latur  
Ring Road, Latur, Tq. & Dist. Latur,  
Run by SOS Children's Village of India,  
New Delhi.  
Through its Village Director,  
Meera Singh,  
Age: 59 years, Occu.: Service,  
R/o Nanded Naka, Ring Road, Latur,  
Tq. & Dist. Latur.

...PETITIONER

***VERSUS***

1. The State of Maharashtra,  
Through Secretary,  
Women & Child Development Department,  
Maharashtra State, Mantralaya,  
Mumbai.
2. Commissioner,  
Women & Child Development  
Department, Maharashtra State, Pune-1.
3. District Women & Child Welfare  
Officer, Latur, Tq. & Dist. Latur.

.... RESPONDENTS

...  
Shri V.D. Salunke, Advocate for the Petitioner.  
Shri S.K. Tambe, Additional Government Pleader, for  
Respondent Nos.1 to 3/State.

...

**CORAM: RAVINDRA V. GHUGE  
&  
Y.G. KHOBRAGADE, JJ.**

**Reserved on :- 06<sup>th</sup> September, 2024**

**Pronounced on :- 30<sup>th</sup> September, 2024**

**ORDER (Per Ravindra V. Ghuge, J.) :-**

1. We have heard the learned advocates on the preliminary objection raised by the learned AGP.

2. The Petitioner has put forth prayer clauses B, C and D, as under:-

“B) *By issuing writ of Certiorari or any other appropriate writ or direction in the like nature, the impugned order dated 16.11.2021 passed by Respondent No. 1, State Government served to the petitioner on 13.01.2022 along with covering letter dated 04.01.2022 issued by District Women & Child Development Officer, Latur, Respondent No. 3, cancelling the license of petitioner Institution, Balgram Latur, may kindly be quashed and set aside;*

C) *Pending hearing and final disposal of this petition, the impugned order dated 16.11.2021 served to the petitioner on 13.01.2022 along with covering letter dated 04.01.2022 issued by District Women and Child Development Officer, Latur, Respondent No. 3, cancelling the license of petitioner Institution, Balgram Latur, may kindly be stayed;*

*D) Pending hearing and final disposal of this petition, the Respondents may kindly be directed, not to shift/hand over any of the male/female child of the petitioner Institution to any other NGOs;”*

3. The Registry of this Court has not raised any objection that this matter would lie before the Single Judge Bench in view of Rule 18 below Chapter XVII of the Bombay High Court Appellate Side Rules, 1960.

4. The Petitioner is a registered Institution vide Registration Certificate dated 06.03.2010, under Section 34(3) Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (hereinafter referred to as ‘the JJ Act, 2006’), r/w Rule 23 framed under the 2006 Act. In view of the introduction of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as ‘the JJ Act, 2015’), the Petitioner received a new registration certificate dated 08.03.2019, under Section 41(1) of the 2015 Act r/w Rule 27 of the Maharashtra State Juvenile Justice (Care and Protection of Children) Rules, 2018 (hereinafter referred to as ‘the JJ Rules, 2018’). By virtue of such registration, permission was granted to the Petitioner to admit 100 female children.

5. The Petitioner claims to be the SOS Children's Village of India, New Delhi, which is stated to be a reputed NGO at the International Level having establishments in 133 countries and 32 branches across India in different States. In Maharashtra, there are three Balgrams at Alibaug, Pune and Latur. The Petitioner started the residential home at Balgram, Latur. It is further claimed that 200 orphans were admitted in 1993. It further claims that the children were properly nurtured and many of them were married. Further details about various activities in the Balgram at issue, are set out in the pleadings.

6. It is the contention of the Petitioner that one of its employees, namely, Sunil Bapu Mandale, was working as a senior co-worker in the Family Strengthening Programme (FSP). He was in the senior category of employees and was selected and appointed at Alibaug. After working for two years, he was transferred to Latur, in 2012. He is a native of village Bhise Wagholi, Taluka and District Latur. For the last more than five years, he is residing at Latur. He is an arrogant and indisciplined employee and threatens the office colleagues and staff. He is taking undue advantage of belonging to the home town ever since he was deployed at Latur.

7. Mr.Mandale was making false complaints against Mrs.Vaishnavi Joglekar, the Head of the Latur Balgram, by interfering in her administration. It was on account of the false complaint of Mr.Sunil Mandale, dated 20.04.2017, that the Petitioner constituted an inquiry committee of two members, one from Gujarat and the other from Hyderabad. After an inquiry, they noticed that the charges leveled by Mr.Mandale against Mrs.Joglekar, are frivolous.

8. Mr.Mandale was thereafter, transferred on administrative exigencies to Anantpur (Haryana), by an order dated 13.09.2018. He was directed to join prior to 24.09.2018. He preferred Complaint (ULP) No.247/2018, before the Industrial Court at Latur. A false report was lodged by Mr.Mandale against Mrs.Joglekar, in the Vivekanand Chowk Police Station on 25.09.2018, which was registered as Crime No.318/2018, under Section 504 and 506 of the Indian Penal Code r/w Section 3(U)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Mrs.Vaishnavi Joglekar approached the High Court and her application for bail was granted by order dated 22.04.2019, in

Criminal Appeal No.794/2018. So also, the ULP Complaint filed by Mr.Mandale, was dismissed in default on 11.10.2019.

9. It is the grievance of the Petitioner that because of various complaints filed by Mr.Mandale, inquiries were started against the Petitioner. The District Magistrate of Latur, Shri B.P. Pruthaviraj had visited the Institution along with the Zilla Parishad Chief Executive Officer Shri Abhiman Goyal. They recorded good impression about the Petitioner. The learned Judicial Magistrate First Class, Latur, Shri Prasad D. Kolekar also visited the establishment on 01.11.2021 and recorded an opinion that the Institution was nicely maintained.

10. The Petitioner contends that it was surprised to receive a show cause notice dated 25.06.2019, wherein, 26 serious instances/ deficiencies were mentioned. The Commissioner, Women and Child Development, Maharashtra State, Pune, therefore, called upon the Petitioner to tender a reply within 15 days, failing which, the registration of the Institution would be cancelled under Section 41(7) of the 2015 Act. A detailed reply was tendered by the Petitioner. The Petitioner

claims that a convincing reply along with supporting documents was tendered. Yet, the impugned order dated 16.11.2021, was passed by the State of Maharashtra, Women and Child Development Department, Mumbai.

11. This Court [Coram : S.V. Gangapurwala (as His Lordship then was) and S.G. Dige, JJ.] issued notice in this matter on 20.01.2022 after recording that the registration certificate of the Petitioner has been cancelled. As regards the admitted students, who were residing in the Institution, ‘status quo’ was ordered with a rider that the Petitioner shall not admit fresh students. The said order continues to bind the parties even today.

12. The learned AGP has raised an objection as regards the hearing of this petition by the Division Bench of this Court. According to him, this matter would lie before the learned Single Judge in view of Rule 18 under Chapter XVII of the Bombay High Court Appellate Side Rules, 1960. In support of his contention, he relies upon the following judgments:-

(a) ***Principal, Micky School vs. State of Maharashtra***

*and others, 2005 (4) Mh.L.J. 1153.*

(b) *Harbanslal Sahnia vs. Indian Oil Corporation Limited, 2003 AIR SC 2120 : 2003 (2) SCC 107.*

(c) Judgment dated 15.09.2016, delivered in Criminal Writ Petition No.630/2015 (*Suraj Balbhim Shelke vs. The State of Maharashtra and others*), Aurangabad Bench.

(d) *M/s Magnum Opus IT Consulting Private Limited vs. M/s Artcad Systems*, (Full Bench), Writ Petition No.4985/2023, decided on 04.10.2023.

(e) *Indian National Congress (I) vs. Institute of Social Welfare, (2002) 5 SCC 685.*

13. The learned Advocate for the Petitioner has rebutted the submissions of the learned AGP by contending that the Petitioner is willing to appear before any Court. The Petitioner does not insist that the Division Bench of this Court should alone hear the matter. Since the learned AGP has raised an objection as regards which Bench would have jurisdiction, that the Petitioner contends that the Division Bench of this Court would be the appropriate Forum before whom, the prayer put forth by the Petitioner, could be considered. He relies upon the following



judgments/orders to support his contention that the impugned order is ‘a ministerial act’ and would not amount to ‘a quasi judicial proceeding’:-

(a) Order dated 27.08.2002 passed in Writ Petition No.2611/2002 (*Suklal s/o Ramdas Borse and others vs. Smt. Ratanbai w/o Kishore Patil and others*) and Writ Petition No.2622/2002 (*Ishwar Bhagwan Gaikwad and others vs. the State of Maharashtra and others*), at the Aurangabad Bench.

(b) *Principal, Micky School vs. State of Maharashtra and others, 2005 (4) Mh.L.J. 1153.*

(c) *Mayur Vasant Sonawane vs. State of Maharashtra and others, 2022 (2) Bombay C.R. (Cri) 340 (Full Bench) : 2022 (3) Mh.L.J. 334.*

14. Having considered the submissions of the learned Advocates, we advert to Rule 18 of Chapter XVII of the Bombay High Court Appellate Side Rules, 1960, which reads as under:-

“18. *Single Judge's powers to finally dispose of applications under Article 226 or 227.—*

*Notwithstanding anything contained in Rules 1,4 and 17 of this Chapter, applications under Article 226 or under Article 227 of the Constitution (or applications styled as*

*applications under Article 227 of the Constitution read with Article 226 of the Constitution) arising out of—*

- (1) The orders passed by the Maharashtra Revenue Tribunal under any enactment;*
- (2) The orders passed by any Authority or Tribunal (other than the Maharashtra Revenue Tribunal) under the Bombay Tenancy and Agricultural Lands Act, 1948; or the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, the Hyderabad Tenancy and Agricultural Lands Act, 1950 or Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961;*
- (3) The decrees or the orders passed by any Subordinate Court or by any quasi Judicial Authority in any suit or proceeding (including suits and proceedings under any Special or Local Laws), but excluding those arising out of the Parsi Chief Matrimonial Court and orders passed under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993; the Administrative Tribunals Act, 1985; the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000;*
- (4) The orders and decisions of the Courts constituted under the Code of Criminal Procedure, except the applications for quashing an F.I.R., C.R. Charge Sheet or an order directing investigation under Section 156(3) of the Cr.P.C. irrespective of whether such applications have been filed under Section 482 simpliciter or read with Article 226 and/or Article 227 of the Constitution;*
- (5) The decrees or the orders passed by any*

*Subordinate Court in appellate or revisional proceedings arising from suits or proceedings mentioned in Clause (3) above, or*

- (6) *The orders passed by any authority under the Bombay Rents, Hotel and Lodging House Rates (Control) Act, 1947 or the Central Provinces and Berar Letting of Houses and Rent Control Order, 1948 or the Hyderabad House (Rent, Eviction and Lease) Control Act, 1954;*
- (7) *The orders passed under the Maharashtra Housing and Areas Development Act, 1976 and under the enactments repealed by the said Act;*
- (8) *The orders passed by the Tribunal constituted under the Nagpur Improvement Trust Act, 1936;*
- (9) *The orders passed under the Maharashtra Slum Areas (Improvements, Clearance and Re-Development) Act, 1971;*
- (10) *The orders passed under the Industrial Disputes Act, 1947;*
- (11) *The orders made in applications under the Bombay Industrial Relations Act, 1947;*
- (12) *The orders passed under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974;*
- (13) *The orders passed under the Maharashtra Co-operative Societies Act, 1961;*
- (14) *The orders passed under Chapters VI and VII of the Maharashtra Recognition of Trade Unions and Prevention of Unfair labour Practices Act, 1972;*
- (15) *The orders passed by the Appellate Authority under the Beedi and Cigar Workers (Conditions of Employment) Act, 1966;*
- (16) *The orders passed under the Payment of Gratuity Act, 1972;*
- (17) *The orders passed under the Workmen's Compensation Act, 1923;*
- (18) *The orders passed under the Payment of Wages Act, 1936;*
- (19) *The orders passed under the Minimum Wages*

- Act, 1948;*
- (20) *The orders passed under the Bombay Prohibition Act, 1949;*
  - (21) *The orders passed under the Maharashtra Land Revenue Code, 1966;*
  - (22) *The orders passed under the Bombay Stamp Act, 1958;*
  - (23) *The orders passed under the Bombay Police Act, 1951;*
  - (24) *The orders passed under the Bombay Shops and Establishments Act, 1948;*
  - (25) *The orders passed under the Bombay Port Trust Act, 1879;*
  - (26) *The orders passed under the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969;*
  - (27) *The orders passed under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;*
  - (28) *The orders passed under the Displaced Persons (Compensation and Rehabilitation) Act. 1954;*
  - (29) *The orders passed under the Electricity (Supply) Act, 1948;*
  - (30) *The orders passed under the Employees' Provident Funds and Misc. Provisions Act, 1952;*
  - (31) *The orders passed under the Employees' State Insurance Act, 1948;*
  - (32) *The orders passed under the Factories Act, 1948;*
  - (33) *The orders passed under the Indian Railways Act, 1890;*
  - (34) *The orders passed under Section 3 the Electricity Act, 2003;*
  - (35) *The orders passed under the Motor Vehicles Act, 1939;*
  - (36) *The orders passed under the Minimum Wages Act, 1948;*
  - (37) *The orders passed under the Major Port Trust Act, 1963;*

- (38) *The orders passed under the Merchant Shipping Act, 1958;*
- (39) *The orders passed under the Wireless Telegraphy Act, 1933;*
- (40) *The orders passed under the Registration Act, 1908;*
- (41) *The orders passed under the Maharashtra Universities Act, 1994;*
- (42) *The orders passed under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977;*
- (43) *Orders passed under Bombay Primary Education Act, 1947 (Bombay Act No. LXI of 1947);*
- (44) *Orders passed under the Land Acquisition Act, 1894 for acquiring land for re-settlement of the Project affected Persons in accordance with the provisions of Maharashtra Resettlement of Project Displaced Persons Act, 1976 (Mah. Act No. XLI of 1976) or Maharashtra Project Affected Persons Rehabilitation Act, 1986 (Mah. Act No. XXXII of 1986);*
- (45) *Orders passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971;*
- (46) *Orders passed under Bombay Public Trusts Act, 1950, may be heard and finally disposed of by a Single Judge appointed in this behalf by the Chief Justice:*

*Provided when the matter in dispute is or relates to the challenge to the validity of any statute or any rules or regulations made thereunder, such application shall be heard and disposed of by a Division Bench to be appointed by the Chief Justice:*

*Provided further that the Chief Justice may assign any petition or any category of petitions falling under Clauses 1 to 46 or any Clause that may be added hereinafter to, a Division Bench:*

*Provided also that all*

*petitions/applications under Article 226 and/or 227 of the Constitution of India arising out of or relating to an order of penalty or confiscation or an order in the nature thereof or an order otherwise of a penal character and passed under any special statute shall be heard and decided by a Division Bench hearing Writ Petitions.*

*Explanation – The expression “order” appearing in clauses (1) to (46) means any order passed by any judicial or quasi judicial authority empowered to adjudicate under the abovementioned statutes.”*

15. In ***M/s Magnum Opus (supra)***, the issue referred to the Full Bench was as under:-

*“Whether, the Single Judge’s powers to finally dispose of applications under Article 226 or 227 as provided under Rule 18 of Chapter XVII of the Bombay High Court Appellate Side Rules, 1960, are applicable to the specific Acts mentioned under sub-rule 6 to 46 of the said Rule in relation to judicial or quasi-judicial orders or these powers extend to any judicial or quasi-judicial orders under any statute that is not mentioned under sub rule 6 to 46 of the said Rule.”*

16. The issue in ***M/s Magnum Opus (supra)***, was whether, the learned Single Judge could hear the petition or

whether, it should be listed before the Division Bench. The Respondent in the said matter relied upon two orders passed by the Division Benches in the matters of *Shivaji Laxman Wadkar and others vs. Election Returning Officer and another*, [Writ Petition (stamp) No.24/2021, dated 04.01.2021] and *Shri Hariom Krishi Kendra and others vs. State of Maharashtra and others, 2020 (3) Mh.L.J. 118*. The Petitioner in the said matter relied upon *Prakash Securities Private Limited vs. Life Insurance Corporation of India, 2012 (5) Mh.L.J. 312 (Full Bench)*.

17. The Full Bench of this Court in *M/s Magnum Opus (supra)*, referred to the various Rules set out under the Bombay High Court Appellate Side Rules, 1960. While laying emphasis on the explanation, it was concluded that the ambit of the amended explanation to Rule 18, has been considered by the Full Bench of this Court in the case of *Prakash Securities (supra)*, which dealt with the question as to whether, a Writ Petition arising from an order passed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, should be placed before the Single Judge in accordance with Rule 18(3) or should be

placed before the Division Bench. A reference was made to the divergent views taken by the Division Bench in *Prakash Securities (supra)* and in *Nusli Neville Wadia vs. New India Assurance Company Limited, 2010 (2) Mh.L.J. 928*.

18. The Full Bench dealt with the contention, in *Prakash Securities (supra)*, as to whether the orders passed by only those quasi judicial authorities under the enactments specifically mentioned in clauses (1) to (43) of Rule 18 in Chapter XVII will be governed by Rule 18 and the Explanation will not cover the orders passed by any other quasi judicial authority. Such contention was specifically negated by the Full Bench, by concluding in paragraph No.5 as under:-

“5. Having heard the learned Counsel appearing for parties, we find that Clause (3) of Rule 18 of Chapter XVII of the Bombay High Court Appellate Side Rules, 1960, is wide enough to include the orders passed by any quasi judicial authority under any enactment, even if such explanation is not covered by Clauses 1, 2 and 4 to 43 of Rule 18. It is necessary to note that the original Rule 18 had 5 clauses providing that the orders passed under the Rules and legislations specified therein may be challenged in the writ petition before the Single Judge. It appears that subsequently several clauses came to be added to Rule 18. In the year 1997 by Notification dated 16.10.1997,



*the Explanation came to be added. It was thereafter by Notification dated 15.7.1999 that Clause (3) of Rule 18 came to be amended to insert the words "or by any quasi Judicial Authority". It appears to us that this amendment to Clause (3) of Rule 18 was made in the year 1999 to cover orders of any quasi Judicial Authority under any other legislation which may not have been specified in Clause (1) to (43). Hence, the order passed by the quasi Judicial Authority under the Public Premises Act, 1971 is also covered by Rule 18(3) so as to indicate that the petitions under Articles 226 or 227 of the Constitution challenging the order of quasi Judicial Authority under the Public Premises Act, 1971 is to be heard and decided by the learned Single Judge of this Court."*

19. The Full Bench, therefore, concluded that the 1999 amendment to Rule 18, was made to cover orders of any quasi judicial authority under any legislation which may not have been specified in clauses (1) to (43). It was further concluded that the scope of the Single Judge would not be restricted only to the clauses added under Rule 18.

20. In ***Shivaji Laxman Wadkar (supra)***, the Division Bench was addressed a challenge to the order passed by the Election Returning Officer of the Gram Panchayat, who rejected the written objection filed by the Petitioner in respect of a

nomination form tendered by a candidate. The Division Bench took the view that though an order may be passed by a quasi judicial authority, this would not be the sole criteria for deciding as to whether, the petition would lie before the Single Judge Bench, unless the impugned order is passed by a quasi judicial authority which was empowered to adjudicate in a given case falling under one of the acts specified under Rule 18.

21. The Full Bench noticed in *M/s Magnum Opus (supra)*, that the view in *Shivaji Laxman Wadkar (supra)*, was contrary to the decision of the Full Bench in *Prakash Securities (supra)*, since the view of the Full Bench was not brought to the notice of the Division Bench.

22. In *M/s Magnum Opus (supra)*, the Full Bench had referred to *Shri Hariom Krishi Kendra (supra)*, wherein the divergent views of two Judges, was noticed. A Single Judge (Coram: S.C. Gupte, J.) in *M/s Bhandara Traders, Bhandara vs. State of Maharashtra, 2017 Mh.L.J. Online 111*, observed that the Maharashtra Land Revenue Code cannot be considered as a special statute in the light of the third proviso below Rule 18.

Another Single Judge (Coram : S.B. Shukre, J.) vide order dated 31.07.2018 (Nagpur Bench), in Writ Petition No.1792/2018 (***Liladhar Sheshrao Borkar vs. The Tahsildar, Dhamangaon***) and Writ Petition No.1821/2018 (***Pradip Haribhau Kale vs. The Tahsildar, Dhamangaon***), held that the MLR Code is considered to be a special statute under the same third proviso to Rule 18.

23. It is in this backdrop that the Larger Bench in ***Sri Hariom Krishi Kendra (supra)***, considered the question as to whether, Section 48(8) of the MLR Code could be said to be a special statute. It was concluded that Section 48(8) cannot be considered to be a special statute so as to refer orders passed thereunder, to the Single Judge Bench. It was, thus, held that the view in ***Shivaji Laxman Wadkar (supra)***, was rendered without noticing the binding effect of the Full Bench decision in ***Prakash Securities (supra)***, thereby, concluding that ***Shivaji Laxman Wadkar (supra)***, was clearly per incuriam. The question referred to the Full Bench was, therefore, answered by concluding that ***Prakash Securities (supra)***, has not intended and does not denude the High Court of its power to amend the Rules.

24. In *Subhas Anna Kool vs. Daund Taluka Sahakari Dudh Utpadak Sangh Maryadit*, 2006 (4) *Mh.L.J.* 611, the Division Bench of this Court came to the conclusion that it is not the mere 'Authority' determining the questions affecting the rights of the parties, that would define its 'quasi judicial' character. When such determination is coupled with the duty to act judicially, which is an essential concomitant to invest or entrust the authority with the character of quasi judicial nature, it would be a quasi judicial order.

25. As such, what is required to be understood is what action could be termed as being a quasi judicial action. The distinction between a judicial forum and an authority performing quasi judicial function is not too difficult to fathom. What is required to be discerned is the distinction between an administrative function and a quasi judicial function, for the purpose of concluding as to whether, a Writ Petition should be placed before the Division Bench or the Single Judge.

26. In *Subhas Anna Kool (supra)*, the Division Bench concluded that there should be a duty cast upon the authority to

decide the right of a party seeking registration of a co-operative society under the Maharashtra Cooperative Societies Act, 1960 and such decision has to be arrived at judicially. It was concluded that the requirement of hearing the concerned party before taking any decision in relation to an application for registration of the Society of milk producers in the State, will obviously involve ascertainment of the eligibility for registration which is specifically included in the policy directives issued by the Government under the said Act. It was, therefore, held that, by no stretch of imagination, can it be said that the order which was passed by the statutory authority was purely an administrative order. It had to be and was a quasi judicial order.

27. In the case before us, the Petitioner was subjected to a detailed scrutiny under Section 41 of the JJ Act, 2015, while granting registration to the Petitioner Institution. The magnitude of the scrutiny and inquiry is evident from the language used in the various clauses of Section 41, which read as under:-

*“41. Registration of child care institutions.--  
(1) Notwithstanding anything contained in any other law for the time being in force, all institutions, whether run by a State Government or by voluntary or non-*

*governmental organisations, which are meant, either wholly or partially, for housing children in need of care and protection or children in conflict with law, shall, be registered under this Act in such manner as may be prescribed, regardless of whether they are receiving grants from the Central Government or, as the case may be, the State Government or not.:*

*Provided that the institutions having valid registration under the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) on the date of commencement of this Act shall be deemed to have been registered under this Act. :*

- (2) *At the time of registration under this section, the State Government shall, after considering the recommendations of the District Magistrate, determine and record the capacity and purpose of the institution and shall register the institution as a Childrens Home or open shelter or Specialised Adoption Agency or observation home or special home or place of safety, as the case may be.:*
- (3) *On receipt of application for registration under sub-section (1), from an existing or new institution housing children in need of care and protection or children in conflict with law, the State Government may grant provisional registration, within one month from the date of receipt of application, for a maximum period of six months, in order to bring such institution under the purview of this Act, and shall determine the capacity of the Home which shall be mentioned in the registration certificate:*

*Provided that if the said institution does not fulfil the prescribed criteria for registration, within the period specified in sub-section (1), the provisional registration shall stand cancelled and the provisions of sub-*

*section (5) shall apply.*

- (4) If the State Government does not issue a provisional registration certificate within one month from the date of application, the proof of receipt of application for registration shall be treated as provisional registration to run an institution for a maximum period of six months.*
- (5) If the application for registration is not disposed of within six months by any officer or officers of any State Government, it shall be regarded as dereliction of duty on their part by their higher controlling authority and appropriate departmental proceedings shall be initiated.*
- (6) The period of registration of an institution shall be five years, and it shall be subject to renewal in every five years.*
- (7) The State Government may, after following the procedure as may be prescribed, cancel or withhold registration, as the case may be, of such institutions which fail to provide rehabilitation and reintegration services as specified in section 53 and till such time that the registration of an institution is renewed or granted, the State Government shall manage the institution.*
- (8) Any child care institution registered under this section shall be duty bound to admit children, subject to the capacity of the institution, as directed by the Committee, whether they are receiving grants from the Central Government or, as the case may be, the State Government or not.*
- (9) Notwithstanding anything contained in any other law for the time being in force, the*

*inspection committee appointed under section 54, shall have the powers to inspect any institution housing children, even if not registered under this Act to determine whether such institution is housing children in need of care and protection.*

28. It is, thus, very clear that even under the 2000 Act and the present 2015 Act, a detailed inquiry is contemplated while scrutinising an application seeking registration, post which, the registration Certificate is granted or rejected. Such an inquiry is not a ministerial act. A long exercise of scrutinising the documents with proper application of mind, is expected from the authority concerned. A superficial or a farcical inquiry is not contemplated. In ***Subhas Anna Kool (supra)***, the Division Bench concluded that such an exercise of scrutinising an application is a quasi-judicial function and, therefore, the action of granting or rejecting an application in such cases, would be an act of a quasi-judicial authority.

29. Sub-section (7) of Section 41 of the 2015 Act, indicates the procedure that has to be followed for cancelling or withholding the registration under the prescribed circumstances. The services and infrastructural facilities that are subjected to



scrutiny while granting the registration, are set out under

Sections 53 and 54 of the JJ Act, 2015, which read as under:-

*“53. Rehabilitation and re-integration services in institutions registered under this Act and management thereof. --*

*(1) The services that shall be provided, by the institutions registered under this Act in the process of rehabilitation and re-integration of children, shall be in such manner as may be prescribed, which may include—*

*(i) basic requirements such as food, shelter, clothing and medical attention as per the prescribed standards;*

*(ii) equipment such as wheel-chairs, prosthetic devices, hearing aids, braille kits, or any other suitable aids and appliances as required, for children with special needs;*

*(iii) appropriate education, including supplementary education, special education, and appropriate education for children with special needs:*

*Provided that for children between the age of six to fourteen years, the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009) shall apply;*

*(iv) skill development;*

*(v) occupational therapy and life skill education;*

*(vi) mental health interventions, including counselling specific to the need of the child;*

*(vii) recreational activities including sports and cultural activities;*

*(viii) legal aid where required;*

*(ix) referral services for education, vocational training, de-addiction, treatment of diseases where required;*

*(x) case management including preparation and follow up of individual care plan;*

*(xi) birth registration;*

*(xii) assistance for obtaining the proof of identity,*

- where required; and*
- (xiii) *any other service that may reasonably be provided in order to ensure the well-being of the child, either directly by the State Government, registered or fit individuals or institutions or through referral services.*
- (2) *Every institution shall have a Management Committee, to be set up in a manner as may be prescribed, to manage the institution and monitor the progress of every child.*
- (3) *The officer in-charge of every institution, housing children above six years of age, shall facilitate setting up of childrens committees for participating in such activities as may be prescribed, for the safety and well-being of children in the institution.”*
- “54. *Inspection of institutions registered under this Act.-*
- (1) *The State Government shall appoint inspection committees for the State and district, as the case may be, for all institutions registered or recognised to be fit under this Act for such period and for such purposes, as may be prescribed.*
- (2) *Such inspection committees shall mandatorily conduct visits to all facilities housing children in the area allocated, at least once in three months in a team of not less than three members, of whom at least one shall be a woman and one shall be a medical officer, and submit reports of the findings of such visits within a week of their visit, to the 1[District Magistrate], for further action.*
- (3) *On the submission of the report by the inspection committee within a week of the inspection, appropriate action shall be taken within a month by the 2[District Magistrate] and a compliance report shall be submitted to*

*the State Government.”*

30. Under Rule 21, below Chapter VI of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, (hereinafter to be referred as ‘the JJ Model Rules, 2016’), the manner of registration of Child Care Institutions is prescribed. For ready reference, Rule 21 is reproduced hereunder:-

- “21. *Manner of Registration of Child Care Institutions.-*
- (1) *All institutions running institutional care services for children in need of care and protection or children in conflict with law, whether run by the Government or voluntary organisation, shall be registered under sub-section (1) of section 41 of the Act, irrespective of being registered or licensed under any other Act for the time being in force.*
  - (2) *All such institutions shall make an application in Form 27 together with a copy each of rules, bye-laws, memorandum of association, list of governing body, office bearers, list of trustees, balance sheet of preceding three years, statement of past record of social or public service provided by the institution to the State Government, Darpan Identification from National Institution for Transforming India Aayog and a declaration from the person or the organisation regarding any previous conviction record or involvement in any immoral act or in an act of child abuse or employment of child labour or that it has not been black listed by the State Government or District Administration;*
  - (3) *The State Government shall, after receipt of the application for registration, send the*

*application to the District Magistrate within fifteen days of receipt of the application to call for recommendations of the District Magistrate in Form 46A.*

- (4) The District Magistrate may examine the requests vis-a-vis need in the district within thirty days from the date of receipt of application from the State Government.*
- (5) The District Magistrate shall verify credibility, background and previous record of the Child Care Institution and the agency or individual promoting the institution and make specific recommendations to the State Government for consideration.*
- (6) The following shall be considered by the District Magistrate while making recommendations, namely:—*
  - (i) registration of the organisation under any law for the time being in force;*
  - (ii) details of physical infrastructure, water and electricity facilities, sanitation and hygiene, recreation facilities and nutrition plan;*
  - (iii) financial position of the organisation and maintenance of documents along with audited statement of accounts for the previous three years;*
  - (iv) resolution of the Governing Body to run the institution or an open shelter;*
  - (v) plan of action for providing services for children such as medical, vocational, educational, counselling, and the like, in case of new applicants and details of such services provided in case of existing institutions;*
  - (vi) arrangements of safety, security, transportation and support and access for differently-abled children;*
  - (vii) details of other support services run by the organisation;*
  - (viii) the institution is near a school within such area or limits of neighbourhood, as may be prescribed under the Right of Children to Free*

- and Compulsory Education Act, 2009 (35 of 2009);*
- (ix) details of linkages and networking with other governmental, non-governmental, corporate and other community based agencies on providing need-based services to the children;*
  - (x) details of existing staff with their qualification and experience;*
  - (xi) details of registration under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) and funds available, if any;*
  - (xii) a declaration from the person or the organisation regarding any previous conviction record or involvement in any immoral act or in an act of child abuse or employment of child labour;*
  - (xiii) any other criteria as prescribed by the State Government.*
  - (xiv) while making the recommendation, the District Magistrate shall assess the actual requirement of additional institutions, keeping in mind the occupancy levels of the existing institutions and the capacity of authorities under section 54 of the Act so that they can ensure compliance of the Child Care Institutions with provisions of the Act; and*
  - (xv) certify to the effect that the relevant provisions of the Act and rules have been complied with.*
- (7) The State Government shall after verifying that provisions exist in the institution for the care and protection of children, health, education, boarding and lodging facilities, vocational facilities and rehabilitation as per the Act and the rules, and taking into account the requirements of the district and recommendation from the District Magistrate about the applicant institution, may issue a registration certification to such institution under sub- section (1) of section 41 of the Act in Form 28.*

- (8) *The State Government, while taking a decision on the application for registration, shall consider the following namely:—*
- (i) recommendations of the District Magistrate;*
  - (ii) confirm that all the eligibility conditions as per the Act are met with;*
  - (iii) any other criteria as prescribed by the Centre or the State Government has also been followed.*
- (9) *The State Government, shall not grant provisional registration where adequate facilities do not exist in the institution applying for registration and the State Government shall issue an order before the expiry of one month from the date of receipt of the application that the institution is not entitled for even provisional registration.*
- (10) *The District Magistrate shall conduct a detailed annual inspection of all the institutions in the district which have been registered under the Act and such inspection shall be carried out in the format as provided under Form 46.*
- (11) *If the inspection or the annual review reveals that there is unsatisfactory compliance with the standards of care, protection, rehabilitation and reintegration services and management of the institution as laid down under the Act and the rules or the facilities are inadequate, the State Government shall, at any time, serve notice on the management of the institution and after giving an opportunity of being heard, declare within a period of sixty days from the date of the detailed inspection or annual review as the case may be, that the registration of the institution or organisation, shall stand withdrawn or cancelled from a date specified in the notice and from the said date, the institution shall cease to be an institution registered under sub-section (1) of section 41 of the Act.*

- (12) *When an institution ceases to be an institution registered under the Act or has failed to apply for registration within the time frame laid down in the said provision or has not been granted provisional registration, the said institution shall be managed by the State Government or the children placed therein shall be transferred by the order of the Board or the Committee, to some other institution, registered under sub-section (1) of section 41 of the Act.*
- (13) *All institutions shall be bound to seek renewal of registration three months prior to the expiry of the period of registration and in case of their failure to seek renewal of registration before the expiry of the period of registration of the institution, the institution shall cease to be an institution registered under sub-section (1) of section 41 of the Act and provisions of sub-rule (8) of this rule shall apply.*
- (14) *An application for renewal of registration of an institution shall be disposed of within sixty days from the date of receipt of application.*
- (15) *The decision on renewal of registration shall be based on the annual inspection done by the District Magistrate under Form 46A in the year in which renewal is sought.*
- (16) *The Central Government shall facilitate developing a model online system for receipt and processing of applications and grant or cancellation of registration, and in the interim the systems existing in the States and Union territories shall continue.”*

31. Under Rule 21(7), the State Government has to verify that the provisions/infrastructural facilities exist in the Institution, meant for the care and protection of children, their health, education, lodging and boarding facilities, vocational

facilities and rehabilitation as per the Act and the Rules. Taking into account the requirements of the district and the recommendation from the District Magistrate about the applicant Institution, a registration certificate could be issued under Section 41(1) in form 28. Sub rule (9) of Rule 21 would indicate that the State Government, while taking a decision on the application for registration, has to consider, (i) recommendations of the District Magistrate, (ii) confirm that all the eligibility conditions as per the Act are met with and (iii) any other criteria as prescribed by the Centre or the State Government, has been followed.

32. Sub Rule (11) of Rule 21, gives the power to the State Government to issue a notice to the management of the Institution, if the inspection or the annual review reveals that there is unsatisfactory compliance with the standards of Care, Protection, Rehabilitation and Reintegration services and management of the Institution. And after giving an opportunity of hearing, declare within a period of 60 days from the date of the detailed inspection or annual review, as the case may be, that the registration of the Institution shall stand withdrawn or



cancelled from the date specified in the notice. Thereafter, the Institution shall cease to be an Institution registered under sub-section (1) of Section 41 of the JJ Act, 2015.

33. Under sub-rule (12) of Rule 21, when an Institution ceases to be one of its kind, registered under the JJ Act, 2015, the said Institution shall be managed by the State Government or the children placed therein shall be transferred by the order of the Board or the Committee, to another Institution registered under sub-section (1) of Section 41 of the JJ Act, 2015. Under Rule 13, all Institutions are bound to seek renewal of registration three months prior to the expiry of the period of registration and in case of their failure to seek renewal or registration before the expiry of the period of registration of the Institution, the Institution shall cease to be an Institution under Section 41(1) and Rule 21(8).

34. The above provisions engrafted in the 2000 and 2015 Act and the 2016 Rules, mandate that an inquiry has to be conducted with utmost seriousness while considering the application for registration. Similarly, when it comes to dealing

with a situation of violation of the strict conditions governing the systematic functioning of the institution, an even more strict scrutiny is necessary in the light of the inspection reports or if the annual review reveals that there is unsatisfactory compliance with the standards of Care, Protection, Rehabilitation and Reintegration services and management of the Institution.

35. In the above backdrop, the conclusion of the Division Bench in *Subhas Anna Kool (supra)* in paragraph No.30, becomes relevant. It is concluded that it is not a mere obligation to act judicially that will make an authority to be 'judicial', but it's functioning in judicial capacity would only clothe it with judicial character, and the duty to act judicially would make it's decision quasi judicial. Therefore, it's function being of quasi judicial nature, consequentially, would make it a quasi judicial authority, irrespective of the fact that otherwise, it is an administrative or executive authority.

36. In *Principal, Micky School (supra)*, the Division Bench of this Court observed in paragraph Nos.10 and 11, as under :-

*"10. Then comes Rule 18 of Chapter XVII which provides that notwithstanding anything contained in Rule 1, 4 and 17 of this Chapter i.e. Chapter XVII applications under Article 226 or 227 or under Articles 226 & 227 may be disposed of by the learned Single Judge of this Court and proceeds to enumerate the categories of orders or enactments which are to be dealt with by the learned Single Judge. It will thus be seen that provisions of Rule 18 of Chapter XVII is a provision made in relation to rules in Chapter XVII and therefore are rules which as contemplated by rules 1 and 2 of Chapter I provide for hearing by a learned Single Bench. As we have noticed above that Rules 1 and 2 both of Chapter I provide for exception in cases where it is otherwise provided for by these rules. Language of Rules 17 and 18 in the circumstances is required to be noted. Rule 18 of Chapter XVII says notwithstanding anything contained in Rule 1, 4 and 17 of this Chapter i.e. Chapter XVII the following applications mentioned in the said rule are to be heard by the learned Single Judge. It means rule 18 is a provision which is a case where it is otherwise provided by these rules that the matters can be heard by the learned Single Judge. Clauses 1 to 43 of this Rule 18 provide various categories of orders passed by under various enactments which are required to be dealt with by a learned Single Judge of this Court. Sub-clause (3) however is omnibus clause which reads thus:*

*"The decrees or the orders passed by any Sub-ordinate Court (or by any quasi judicial Authority) in any suit or proceedings (including suits and proceedings under any Special or Local Laws), but excluding those arising out of the Parsi Chief Matrimonial Court."*

*According to these provisions therefore any decree or order passed by any subordinate Court or quasi judicial*

*Tribunal in any suit or proceedings including suit or proceedings in any suit or legal law are to be dealt with by a Single Judge. It will thus be clear from the conjoined reading of all the relevant provisions that according to Rule 18 of Chapter XVII all petitions mentioned in that rule in sub-clauses 1, 2 and 4 to 43 are to be dealt with by a Single Judge and this will not present any difficulty in classification. The problem as has been raised in the present case arises on interpretation of Chapter XVII, Rule 18 clause 3 quoted above. We have explained how this Rule 18 operates.*

11. *In our opinion, the position in regard to hearing of writ petitions under Bombay High Court Appellate Side Rules, 1960 is clear. All writ petitions under Articles 226 and/or 227 or under Article 226 or under Article 227 are to be heard by learned Single Judge of this Court. Exceptions having been provided by clause 2-B of Chapter 1 and ratio laid down by Supreme Court in relation to Articles 323A and B. Therefore writ petitions covered by Clause 2- B, writ petitions arising out of orders made by Administrative Tribunals established under 1985 Act and orders passed by such Special Tribunals as are created under the Constitution and all other matters are required to be heard by the learned Single Bench. The order impugned in the present petition is passed under the provisions of Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 which is a special law enacted for protection of persons mentioned therein. It is therefore a special enactment or law and the order made thereunder is squarely covered by the provisions of clause 3 of Rule 18 of Chapter XVII being the order made by an authority under Special Act. The Registry is therefore directed to place the matter before the appropriate Bench. Interim order already granted to continue.*

*Order accordingly."*

37. The view taken in *Principal, Micky School (supra)*, that an order made by an authority under a special enactment or law is squarely covered by the provisions of Clause (3) of Rule 18 of Chapter XVII, being the order made under the Special Law, is still followed. There can be no debate that the JJ Act of 2000 and 2015, is a Special Law.

38. In **Indian National Congress (I) Vs. Institute of Social Welfare and others**, [(2002) 5 SCC 685], the Hon'ble Supreme Court held in paragraph Nos.24 and 25, as under :-

*“24. The legal principles laying down when an act of a statutory authority would be a quasi-judicial act, which emerge from the aforestated decisions are these :*

*Where (a) a statutory authority empowered under a statute to do any act (b) which would prejudicially affect the subject (c) although there is no lis or two contending parties and the contest is between the authority and the subject and (d) the statutory authority is required to act judicially under the statute, the decision of the said authority is quasi-judicial.*

*25. Applying the aforesaid principle, we are of the view that the presence of a lis or contest between the contending parties before a statutory authority, in the absence of any other attributes of a quasi-judicial authority is sufficient to hold that such a statutory authority is quasi judicial authority. However, in the absence of a lis before a statutory authority, the authority*

*would be quasi-judicial authority if it is required to act judicially.”*

39. In view of the above, we conclude that the authority which has issued the impugned order, cancelling the registration Certificate of the Petitioner, has discharged quasi-judicial function. Hence, this Petition will have to be heard by the learned Single Judge of this Court.

*kps*

**(Y.G. KHOBRADE, J.)**

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