

Shiv

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

***INTERIM APPLICATION (L) NO.14627 OF 2022
IN
WRIT PETITION (L) NO.2532 OF 2022***

The Nest India Foundation ...Applicant

Versus

State of Maharashtra & Ors. ...Respondents

Dr. Abhinav Chandrachud with Ms. Unnati Ghia i/b Rohit Sharma for the Applicant.

Ms. P. H. Kantharia Government Pleader for the Respondent/State.

**CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.
DATED : 6TH MAY 2022**

P.C. :

1. Heard Dr. Abhinav Chandrachud, learned counsel for the Applicant and Ms. Kantharia, learned Government Pleader for the Respondent/State.

2. By this Interim Application, the applicant is inter alia seeking the following relief:

“(b) Direct Respondent Nos.2 and 3 to issue and grant an Orphan Certificate to both Ms. Rohani Deepak Kunchikarve and Ms. Vaishali Harish Joshi, in a time-bound manner, on or before 6 May 2022, or within such time as this Hon’ble Court may deem fit and proper.”

3. The above Petition is filed by the Petitioner challenging the notice dated 1st July 2021 issued by the Respondent No.3-District Women and Child Development Office, Mumbai to the Applicant directing it to vacate and shift 31 orphaned children from a children’s home for girls owned and managed by the Applicant to some other registered children’s home. The said notice has been issued on the grounds that the Applicant is not a registered child care institution under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Maharashtra State Judicial Justice (Care and Protection of Children) Rules, 2018. It is the case of the Applicant that the Applicant’s have applied for registration several years ago and repeated applications filed by them since 2010, have

not been decided by the Respondent Nos.2 and 3. This Court has granted interim relief in the aforesaid Petition, by order dated 1st February 2022 and the said interim relief is in operation till date. In Writ Petition, on 4th February 2022, the learned Government Pleader sought time to file the affidavit-in-reply. Till date no affidavit-in-reply is filed in the main petition.

4. It is the contention of the Applicant in this Interim Application that on 24th November 2020 two residents of the Applicant's home, namely, Ms Roshani Deepak Kunchikarve and Ms. Vaishali Harish Joshi applied for issuance of an Orphan certificate to Respondent No.3 on 29th November 2020. Thereafter, on 27th November 2020, Respondent No.4-Child Welfare Committee, Mumbai Sub-Division recommended their cases to the Respondent No.3. It is stated in the application that inspite of several trips to the office of Respondent Nos.2 and 3, over the past two years, as well as repeated phone calls, the Orphan certificate has not been issued. In these circumstances, the above relief is sought.

5. We have heard Dr. Chandrachud, learned counsel for the Petitioner and Ms.Kantharia, learned Government Pleader. Dr. Chandrachud

submitted that there is utmost urgency for issuing orphan certificate as the last date to apply for NEET 2022, to obtain admission for the MBBS degree course is 6th May 2022 and which has now been postponed for a short period. Therefore, he submitted that the reliefs sought for, be granted. Ms.Kantharia, learned Government Pleader on the other hand, relied on the communication dated 6th May 2022, of Women and Child Development Department (Konkan Division) addressed to the office of the Government Pleader, that there are certain shortcomings in the Application.

6. The factual position on record clearly shows, that the Application for issuance of orphan certificate to two of the residents of the Applicant's home were filed on 24th November 2020. The said applications were recommended by the Respondent No.4 by letter dated 27th November 2020 and the said recommendation has been received by the Respondent No.3. In spite of several visits to the office of Respondent No.3 no action was taken.

7. We heard this application in the first session and as the learned Government Pleader sought time to take instructions, the matter was kept in

the second session. In the second session, Ms. Kantharia informed that there are certain deficiencies in the applications. It is significant to note that from 24th November 2022 till date the Respondent Nos.2 and 3 have failed to inform about the nature of deficiencies in the applications. It is significant to note that the Respondent No.4 by letter dated 24th November 2020 after considering the entire record recommended that the said students be granted Orphan certificate. Even today also Ms. Kantharia is unable to state the nature of deficiencies.

8. We may note that the Application is filed about two years back and till date the same is kept pending with the Respondent Nos.2 and 3. The last date to apply to NEET 2022 to obtain admission in MBBS degree course was 6th May 2022 and the same has been extended for a short period. As the cases of the students are already recommended by the Respondent No.4 after examining the record, we do not see any impediment in granting this Interim Application.

9. In view of what is stated aforesaid, we direct the Respondent Nos.2 and 3 to issue and grant an orphan certificate to both Ms Roshani Deepak

Kunchikarve and Ms. Vaishali Harish Joshi, forthwith and in any case, within a period of seven days from today.

10. Interim Application is disposed of in above terms.

11. All parties to act on an authenticated copy of this order.

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.