

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

WRIT PETITION NO. 698 OF 2004

Fulsing Naik Prathamik Shala

.... PETITIONER

V E R S U S

The State of Maharashtra & Ors.

.... RESPONDENTS

.....

Mr. Ajay S.Deshpande, Advocate for Petitioner.

Mrs. S.A.Dhumal, A.G.P. for R.No.1 - State.

Mr. S.T.Ghute, Advocate for R.No. 2.

Mr. N.T.Bhagat, Advocate for R.No. 3.

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CORAM : A.V.NIRGUDE &

V.K.JADHAV, JJ.

DATE : 7th OCTOBER, 2015

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PER COURT :

1. This Writ Petition is filed by the Head Masters and staff members of school established by respondent No. 3 – Education Society at Basmat Nagar town. There are two branches of the school, one situated at Shukrawarpeth and other at Mangalwara in Basmat Nagar town. Two branches were started simultaneously in 1979-80 and both were given

grant-in-aid under one name.

2. In 1990, Govt. Resolution was issued by the Govt. for preventing establishment of branches of school from the date of Govt. Resolution. Group of Writ Petitions [Writ Petition No. 3498 of 1991] was filed before this Court seeking protection from the Court. All these petitions were filed by the branches of certain schools, which were already established before issuance of Govt. Resolution in 1990. This Court, after hearing the parties, held that the Govt. Resolution would not affect and would not be applicable to such branches of schools, which were commenced prior to 1988. This Court held as under, :

“ The revised policy of the State Government to regulate the permissions for Sectional Schools through the Government Resolution dated 20/12/1988 and the subsequent policy not to entertain such applications, vide Government Resolution dated 20/07/1990, could not have been given retrospective effect unless it was stated so specifically . ”

3. For filing of this Writ Petition, cause of action arose in 2004, as the salary of petitioners was ordered to be stopped because of the Govt. Resolution of 1990. Therefore, this Writ Petition raised principal question, “ as to whether the Govt. Resolution would be applicable to the petitioners' school, which was established prior to 1988 ? ”.

4. At interim stage, following order is passed, :

“ Despite service of notice, none appears for the respondent No. 2. Heard the learned counsel for respondent Nos. 1 and 3.

Leave to amend.

It is not in dispute that the petitioner school was started way back in the year 1977-78 and the same was admitted to grants in the year 1979-80. Since then, the school has been receiving grants without any objection from any one. It was as late as in the year 2002-03, that the Education Officer doubted the entitlement of the school to receive grants.

The newly added petitioners, who are employees working in the school, submit that since the year 1979-80 till September, 2003, their salaries have been paid by way of salary grants released by the State. From October, 2003, grants are not released.

Hence, we issue 'Rule' and by an interim order direct the respondent Nos. 1 and 2 to release the salary grants to the staff members working in the school. It is made clear that only such of the employees working in the school are covered by this order, whose appointments were approved by the Education Officer and who were being

*regularly paid their salary through grants,
prior to October, 2003. ”*

5. No reply whatsoever is filed to contest the petition. The petitioners clearly mentioned that the school, in which they worked, was established prior to 1988 and, therefore, the impugned communication of stopping the salary of petitioners deserve to be set aside.

6. The Writ Petition, therefore, is allowed in terms of prayer clause 'B'.

[V.K.JADHAV, J.]

[A.V.NIRGUDE, J.]