

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2160 OF 2007
with
WRIT PETITION NO. 2188 OF 2007

Lewa Samaj Yuwak Sewa Mandal, Varangaon
Sanchalit, Chandrakant Hari Badhe
Prathamikk Vidya Mandir, Varangaon,
Taluka Bhusawal, District Jalgaon,
Through its Member Executive Shri Ashok
Sopan Patil, Aged 52 years, Occupation
Agriculture, Resident of Varangaon,
Taluka Bhusawal, District Jalgaon

Petitioner

V E R S U S

- 1 The State of Maharashtra [Through its
Secretary, School Education, Mantralaya
Bhavan, Mumbai
 - 2 The Dy. Director of Education, Nashik
Region, Nashik
 - 3 Education Officer {Pri}, Z.P. Jalgaon
 - 4 The Chief Executive Officer, Zilla
Parishad, Jalgaon
- Respondents**

Ms. Surekha Mahajan, Advocate for the petitioner
Mr. S.D. Ghayal, AGP for respondent no.1/State
Mr. N.S. Chaudhary, Advocate for respondent nos.3 & 4

**CORAM : A. V. NIRGUDE &
V. K. JADHAV, JJ.**

DATE : 15th October, 2015

ORAL JUDGMENT [Per A.V. Nirgude, J.] :

1. Both these petitions are being disposed of by
this common judgment.

2. *The facts leading to these petitions, in short, can be stated as under:-*

These petitions are pending since 2007. The petitioner in both these petitions is a non-Government Organization, which is also a Public Trust and Society registered under the Societies Registration Act. Way back in 1991, this Society started a primary school. Every year the standards of the School were increased. In 1996, for the first time, 5th standard was started. The Education department had given recognition since beginning to the School and permitted the Society to admit 50 students per standard every year.

After 1996 or so, due to increase in number of admissions to each standard, the Society sought permission for starting additional divisions for each standard. Inspection was made and recommendations were also given by local officers of the department from time to time. But, ultimately, the Education Officer, Zilla Parishad, Jalgaon, vide his order dated 31st March, 2002, permitted additional division for 1st standard to 4th standard for the petitioner's Primary School. The fact that prior to 2002, the petitioner-School had already catered for additional division and each standard is not taken into account. This precisely is the grievance of the petitioner.

3. Had this fact been taken into account, the

permission given in 2002, would have been with effect from 1997. Had this been done, the petitioner-Society would have started getting grant-in-aid earlier in time. The petitioner-Society thus makes a grievance that belated permission in 2002 had caused loss to them. They also asserted that due to natural growth in population and popularity of the School, more students sought admission, and since the students had no other option but to come to their school, the Society allowed such students to take admission. Thus, from 1997 onwards, the School admitted more number of students than were permitted. As stated above, the School was allowed to admit 50 students at the most per Division. However, from 1996, the Society allowed almost 100 students in each standard. Due to this increase in number of students, the School was required to divide number of students in two divisions. This development was brought on record when every year inspection was conducted in the months of July, August and September of each year. The grievance of the petitioner is that when ultimately in 2002, permission was given for additional division, it should have been with effect from 1997.

The facts mentioned above ought to have been taken into account by the authorities.

4. The question before us is, whether the relief claimed by the petitioner is justifiable. We are of

the view that the petitioner did not have right in strict sense to get permission with effect from 9th June, 1997. The first reason for this is the fact that from time to time the Education department was informing the petitioner not to admit more than 50-60 students per standard, and yet, more students were admitted in each standard every year.

The second reason, which looks more important to us, is that the permission to start additional division would have intended financial implication from the Government, and so, the Government ought to be allowed to take its decision in the light of its own financial position.

In view of these circumstances, we do not consider that the petitioner's legal right was violated when permission to start additional division was granted belatedly. In any case, much water has flown since filing of the petition. The petitioner-School is getting grant-in-aid and has number of divisions in each standard. In view of above, both the petitions stand dismissed.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

