

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

WRIT PETITION NO.4518 OF 2015

Ashok s/o Chandmalji Lodha,
Secretary, The Chandmalji
Lodha Primary School Chousala,
run by Priyadarshini Shikshan
Prasarak Mandal, Chousala,
Through its Secretary, Tq. And
District Beed.

- PETITIONER

VERSUS

- 1) The State of Maharashtra
Through The Secretary,
Dept. of School Education
& Sports, Mantralaya,
Mumbai-32.
- 2) The Deputy Director (Education)
Aurangabad, Tq. And Dist.
Aurangabad.
- 3) The Chief Executive Officer,
Zilla Parishad, Beed.
Tq. And Dist. Beed.
- 4) The Education officer (Primary_
Zilla Parishad, Beed,
Tq. And Dist. Beed.

- RESPONDENTS

Mr.Nilkant P.Bangar, Advocate for Petitioner;
Mr.B.V.Virdhe, AGP for Respondent Nos. 1 & 2;
Mr.U.B.Bondar, Advocate for Respondent Nos. 3 & 4.

**CORAM : S.S.SHINDE &
P.R.BORA, JJ.**

DATE : 11th December, 2015.

ORAL JUDGMENT (PER:-S.S.Shinde, J.)

- 1) Heard. Rule. Rule made returnable

forthwith. With the consent of learned Counsel for the parties, the petition is taken up for final disposal at admission stage.

2) This petition is filed with following prayer, -

(b) By issuing writ of mandamus or any other appropriate writ, direction or order in the like nature, the respondent Nos. 1 to 4 may kindly be directed to grant permission - recognition to the petitioner school to start the classes of 8th standard as sought in the proposal dated 25.7.2014"

3) It is the case of the petitioner that the petitioner-school has been established to impart education in Marathi medium to the students studying in 1st std. to 4th std., by virtue of the permission granted by the State authority at village Chousala, District Beed. After granting such permission, taking into consideration the natural growth, the authority has on 5th December, 2002 accorded permission to the petitioner school to conduct classes from 5th std. to 7th std.

4) It is the further contention of the petitioner that, the school is imparting education

and as the petitioner school is having best infrastructure, the school is held eligible for receiving grants-in-aid in phases. As a matter of fact, the petitioner school has received 80% grants-in-aid for the academic year 2011-2012 and 100% for academic year 2012-2013.

5) It is the next contention of the petitioner school that since the petitioner school is conducting the classes from 1st to 7th std. as also of 9th and 11th std., in view of the provisions contained in Section 2(f) of The Right of Children to Free and Compulsory Education Act, 2009 (for short, the Act of 2009), coupled with the fact that 8th std. is included in primary education, the relief claimed in the petition deserves to be granted.

6) The respective respondents have filed their affidavits in reply. It is a matter of record that Respondent No.2 has already forwarded a favourable proposal of the petitioner-school for opening and conducting 8th std. Class, with recommendations to the Director of Education, MS, Pune.

7) Learned AGP appearing for the State and State authorities, on instructions submits that the proposal in respect of the petitioner-school

forwarded by Respondent No.3 is already received by the Deputy Director of Education, MS, Pune.

8) Upon careful perusal of the pleadings in the petition; documents placed on record; and the affidavits in reply filed by the respective respondents, it is not in dispute that the petitioner-school is already running primary school and imparting education to the students studying in 1st to 7th std.

9) It is apposite to reproduce herein below provision contained in Section 2(f) of the Act of 2009, which read thus, -

"2(f) elementary education means the education from first class to eighth class."

10) It is crystal clear from perusal of the aforesaid provision that eighty std. is now included in primary education. It is also brought on record by the petitioner that, the petitioner-school has already been granted permission to conduct 9th and 11th std. Classes. In that view of the matter, we direct the Director of Education, MS Pune to scrutinize/verify the proposal of the petitioner and forward the same to Respondent No.1, as expeditiously as possible and

preferably within a period of six weeks from today. Upon receiving such proposal from the Director of Education, MS, Pune, Respondent No.1 shall take appropriate decision in respect of such proposal within a period of four weeks thereafter. The entire exercise to be completed by the respondents within a period of twelve weeks from today, keeping in view the provisions contained in the relevant Government Resolution as also the provisions contained in the The Right of Children to Free and Compulsory Education Act, 2009. The Respondents to communicate the decision to the petitioner.

11) The writ petition is disposed of. Rule is made absolute in above terms with no order as to costs.

. Parties to act on authenticated copy of this order.

sd/-
(P.R.BORA)
JUDGE

Sd/-
(S.S.SHINDE)
JUDGE

bdv/