

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

WRIT PETITION NO. 3777 OF 2013

1. Bharat Shikshan Sanstha Omerga,
Tq. Omerga, Dist. Osmanabad.
Through its President
Shri Shivajirao Shridharrao More,
age 55 years, Occ. Agriculture,
R/o New Balaji Nagar, Omerga,
Tq. Omerga, Dist. Osmanabad.
2. Bharat Primary School Omerga,
Tq. Omerga, dist. Osmanabad.
Through its Head Master
Shrimant Babanrao Gore,
age 52 years, Occ. Head Master. ..Petitioners

VERSUS

1. The State of Maharashtra
Through its Secretary,
Department of School Education,
Mantralaya, Mumbai 32.
(Copy to be served on Government
Pleader, High Court of Bombay,
Bench at Aurangabad.)
2. The Zilla Parishad Osmanabad,
Through its Chief Executive Officer,
Osmanabad, Tq. & Dist. Osmanabad.
3. The Education Officer (Primary)
the Zilla Parishad Osmanabad
Osmanabad, Tq. &
Dist. Osmanabad ...Respondents

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Advocate for Petitioners : Mr. D.M. Mane h/f A.L. Tikle

AGP for Respondents: Mr. K.G.Patil

Advocate for Respondent 2 : Mr. M.P.Tripathi

Advocate for Respondent 3 : Mr. K.J.Ghute Patil

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.

Dated: June 08, 2015

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ORAL JUDGMENT :- (Per S.V.Gangapurwala, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. The recognition of the petitioner school stands withdrawn vide order dated 30.3.2013 passed by the Education Officer, Zilla Parishad, Osmanabad on the ground that attendance of the students is less than 50%. It is observed in the order that 51.93% students were absent.

3. Learned counsel for the petitioner submits that this court had an occasion to deal with the group of Writ Petitions involving similar issue wherein action was taken by the Education Officer withdrawing recognition on the ground that students attendance is less than 50%. The judgment passed in Writ Petition No.4091/2013 with connected writ petitions dated 5.7.2013 is placed on record. According to the learned counsel, this Court has held that Education Officer does not have authority and jurisdiction to take an action of withdrawal of recognition and Government is required to adopt such procedure as is laid down in Rule 12 of Right to Education Act.

4. Learned Counsel for the Zilla Parishad Mr. Ghute Patil accepts the said position.

5. In light of the judgment dated 5.7.2013 and reasons given therein in Writ Petition No.4091/2013 with connected writ petitions, the impugned order is quashed and set aside. Rule is accordingly made absolute. Writ petition is disposed of. No costs.

6. The petitioner shall pay deficit court fees within 15 days from today.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-