

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

WRIT PETITION NO. 6214 OF 2012

Human Child Welfare and Educational
Society, Jalna through its President .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri G. R. Syed, Advocate for the Petitioner.

Smt. V. A. Shinde, A.G.P. for Respondent Nos. 1 to 3.

Ms. A. N. Ansari, Advocate for Respondent Nos. 5 and 6.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 07TH JULY, 2015.

PER COURT :

. Mr. Syed, the learned counsel for the petitioner submits that, the petitioner is running Urdu Medium primary school at Sali Galli, Jalna since 2006. It has Ist to IVth standards. According to the learned counsel, the respondent No. 6 school is transferred within the distance of half kilometer from the place where the petitioner is running the school. Initially the proposal of the respondent No. 6 was for transfer to other place. In fact, the respondent No. 6 illegally started running classes at a transferred place even before the permission was granted. According to the learned counsel, the petitioner ought to have

been heard before the school was transferred. Because of the transfer of the said school unhealthy competition would take place. The learned counsel relies on the judgment of the Division Bench of this Court in a case of **Public Education Society Vs. State of Maharashtra and others** reported in **2014 (5) AIR (Bom) R 117**.

2. Ms. Ansari, the learned counsel for respondent Nos. 5 and 6 and the learned Assistant Government Pleader submit that, the school is transferred in the year 2012 as per the procedure. The respondent No. 6 has Ist to VIIth standards and the same is on grant in aid basis. The school of the petitioner is on non grant in aid basis. The strength of the petitioner school is not affected.

3. We have considered the submissions canvassed by the learned counsel for respective parties. We have also gone through the affidavit filed by the Deputy Director of Education, Aurangabad.

4. It has been stated on affidavit that, there is one more school apart from the school run by the petitioner and respondent No. 5 in the same locality. Pat Padtalni was done. In the said Pat Padtalni the strength of students in each of the school was checked and all these three schools had sufficient strength. The school run by the petitioner is a non grant in aid basis school and

has standard Ist to IVth classes. The respondent No. 6/school has got classes from Ist to VIIth standards.

5. In a case of **Public Education Society Vs. State of Maharashtra** referred supra the this Court had observed that, hearing is required to be given to the existing school. We would have considered the submissions of the learned counsel for the petitioner in this regard. However, considering the fact that, the respondent No. 6/school is transferred in the year 2012 and is functioning since then. It has classes from Ist to VIIth standards and the petitioner school has classes from Ist to IVth standards, so also considering the fact that, even after transfer of the respondent No. 6 school the strength of students in the petitioner school and remaining two schools is good, we are not inclined now to interfere with the permission granted in favour of the respondent No. 6 for transfer after lapse of three years.

6. In the light of the above, the writ petition is disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]