

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4205 OF 2014

(Shri Dattatray Meghe Bahu Uddeshiya Shikshan Sanstha, Nagpur thr. its President vs. State of Maharashtra thr. its Chief Secretary, Ministry of School Education & Sports & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
A.P. BHANGALE, JJ.
MARCH 10, 2015.**

Heard Shri Thakare, learned counsel for the petitioner and Shri Kale, learned AGP for the respondents.

Perused the reply affidavit.

According to the petitioner, the controversy is covered by the orders of this Court dated 22.10.2012 in Writ Petition No. 4788 of 2012 and order dated 02.09.2009 in Writ Petition No. 4622 of 2008 and other connected matters.

The learned AGP submits that after coming into force of Right of Children to Free and Compulsory Education Act, 2009, and in the wake of Full Bench judgment of this Court in the case of Shikshan Mandal vs. State of Maharashtra, reported at 2012 (2) Bom. C.R. 875, the State Government has prepared a master plan and accordingly through advertisement applications were invited. The petitioner did not apply in response

to that advertisement. It is further submitted that the application submitted by the petitioner on 07.04.2011 i.e. before Full Bench judgment or before the policy framed by the State Government, therefore, cannot now be looked into.

The petitioner runs classes from V to X i.e. High School at village Bhugaon by name Snehi Vidyalaya. On account of availability of students with it and need of the area, it desires to start XI and XII standards and for that purpose sought necessary permission by moving an application on 07.04.2011. The prayer in the petition is to direct the respondents to decide that application. The subsequent event of delivery of Full Bench judgment mentioned supra and publication of new policy by the State Government is not in dispute.

The State Government in reply has pointed out that in February 2013, as per new policy, it invited applications from the managements proposing to open new Schools/ standards and it received 828 applications. The petitioner did not apply. However, the respondents do not point out that village Bhugaon has been looked into and it does not find inclusion in the master plan. According to the petitioner, the need of School exists in that area. The petitioner, however, did not apply after the said advertisement by the State Government.

The question before this Court is, if the

students are available and a management already having a Secondary School wants to start a Junior College, whether it has to wait till the State Government publishes advertisement and invites application or then it can apply on its own and State Government has to consider such an application. The record available is not sufficient to answer this question. However, the learned counsel for the petitioner submits that the situation prevailing as on 07.04.2011 remains the same and hence the said application can be conveniently looked into.

As the new policy has already come into force, we cannot accept the contention that the application dated 07.04.2011 can be looked into at this stage. However, as the petitioner – management has got a Secondary School and is desirous of opening a Junior College, we grant it leave to move an application afresh as per law and in accordance with the policy of the State Government within a period of three weeks from today. If such an application is moved, the concerned authorities shall evaluate the same as per law and its own policy.

Keeping all rival contentions open and with these directions, we dispose of the present writ petition. However, there shall be no order as to costs.

JUDGE

JUDGE

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