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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.504/2015

Parmreshwar Dnyanoba Nagargoje
and another.

...Petitioners..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri S.S. Deshmukh, Advocate for petitioners.

Shri B.A. Badak, AGP for respondent nos.1 & 2.

Shri A.M. Hajare, Advocate h/f Shri A.B. Kale, Advocate
for respondent no.6.

Respondent nos.3 to 5 served.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 30.08.2016

ORDER :

1] Learned counsel for the petitioners submits that the respondent nos.5 & 6 were initially running the school from 8th to 10th Standards. In the year 2013, permission was granted to the respondent nos.5 and 6 to start 5th to 7th Standards. As per the Government resolution dated 19.10.2007, if the school does not commence functioning within 18 months from the date of permission, the permission stands lapsed. The respondent nos.5 & 6

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started 5th to 7th Standards on 15.6.2009 i.e. after lapse of six years of the grant of permission. The permission stood lapsed as per the Government resolution dated 19.10.2007. The learned counsel submits that the school being run for 5th to 7th Standards by the respondent nos.5 and 6 is unauthorized and without permission. The Education Officer hand in glove with the respondent nos.5 and 6 recommended the renewal in December, 2013. The same is illegal. The reliance placed by the respondents on the Government resolution dated 19.10.2007 is misplaced and the same would be applicable for start of the course in the academic year 2008-09 and not for the academic year 2009-10. According to the learned counsel, the illegality is required to be curtailed at this stage. The Government funds cannot be allowed to be utilized in such an illegal manner. The respondent nos.5 & 6 cannot be allowed to perpetuate the illegality committed by them. The cognizance of the same is required to be taken.

2] Learned counsel for the petitioner further submits that even conduct of the respondent nos.5 and 6 is relevant. Even they did not reply to the notice issued

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by this Court.

3] The learned AGP states that considering the Government resolution dated 19.10.2007, the case of the respondent nos.5 and 6 is considered. The school was started as per the Government resolution dated 19.6.2010. The Education Officer has recommended the case of the petitioners vide order dated 21.12.2013.

4] We have considered the submissions.

5] The respondent nos.5 and 6 were running 8th to 10th Standards since beginning and the same is also on grant-in-aid basis. The respondent nos.5 and 6 were granted permission to run 5th to 7th Standards in December, 2003. The same would naturally be for the year 2004-05. It is a fact that the respondent nos.5 and 6 did not start 5th to 7th Standards immediately and it is only on 5.6.2009, the respondent nos.5 and 6 started classes for 5th to 7th Standards. The same is assailed by the present writ petition in the year 2015 i.e. after lapse of six years. For all these years, the school is run by the respondent nos.5 and 6 for 5th to 7th Standards. There may appear to be irregularity as the respondent nos.5 and 6 did not commence the classes of 5th to 7th Standards for almost

five and half years.

6] Be that as it may. Since six years, the respondent nos.5 and 6 are running the classes for 5th to 7th Standards, it also has got classes for 8th to 10th Standards on grant-in-aid basis. There is no dispute about the respondent nos.5 and 6 running 8th to 10th standard classes authorizedly and on grant-in-aid basis.

7] Now after lapse of six years, the interest of students and teachers is created. Considering the larger interest of the students and the teachers, after lapse of six years, the grievance of the petitioners certainly cannot be considered at this stage.

8] In view of the above, writ petition is disposed of.
No costs.

9] It cannot be said that the petition was filed without any basis. In view of that, the amount deposited by the petitioners pursuant to the orders of this Court is allowed to be withdrawn by the petitioners.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)