

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

965 WRIT PETITION NO. 11532 OF 2015

ZAKIR HUSSAIN EDUCATION SOCIETY NAMED THROUGH ITS
TREASURER SIDDIQUI SUFYAN AZIZ
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Kakade Amol N .
AGP for Respondents State: Mrs. M. A. Deshpande

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

DATE : 2nd September, 2016

ORDER:

1. Mr. Kakade, the learned counsel for the petitioner submits that the Institution is running Girls School from 1st std. to 10th std. The learned counsel submits that on 27th July, 2007, the authority granted permission to the petitioner to start Junior College i.e. 11th standard. The petitioner Institution is a minority Institution. Pursuant to the said permission granted, the petitioner started its junior college and gave admission to girl students for the academic year 2008-2009. The learned counsel submits that for the said year, even inspection was made and the authorities were satisfied that 11th Standard, as per permission, is commenced. According to the learned counsel, 2 years thereafter, the petitioner

could not run the Junior College.

2. The learned counsel submits that the authorities even recommended the proposal of the petitioner for renewal, however, the Deputy Director of Education did not grant its approval by order dated 24th November, 2014. The same was communicated by the Education Officer vide its communication dated 11th September, 2015. The learned counsel submits that the policy relied by the respondents under Circular dated 20th February, 2010 would not apply to the petitioner as the petitioner was running 11th Standard in the year 2008-2009.

3. The learned counsel further submits that the petitioner Institution is a Minority Institution and the school is meant only for girls. The girl students are taking education. They belong to the lower strata of the society. The respondents be directed to grant renewal to the petitioner.

4. The learned AGP states that after permission was granted to the petitioner in 2007, the petitioner did not commence the class for 11th standard within 18 months. If the classes are not commenced within a

period of 18 months, then the permission stands cancelled. The learned AGP relies on the Government Resolution dated 19th October, 2007. The learned AGP further relies on the letter/circular dated 20 February, 2010 issued by the Secretary of the School Education and Sports Department to suggest that if in the year 2008-2009, the school is not started then, as per the Government Resolution dated 19th October, 2007, the permission of the said school stand revoked.

5. Upon consideration of the submissions of respective parties, it is manifest that the petitioner was granted permission to run 11th Standard vide order dated 23rd July, 2007. According to the respondents, the petitioner did not commence the classes for 11th std. and as such, the permission has been cancelled. Whereas, according to the petitioner, for the academic year 2008-2009, junior college for 11th std was run. Even the inspection was made testifying the fact that classes being run. It is a fact that the petitioner is running school from 1st standard to 10th standard and no grievance is made by the respondents in this regard. Permission was granted to the petitioner to run 11th Standard on 23rd July, 2007. According to the

petitioner, the said school was also running 11th std. for the academic year 2008-2009 and to substantiate that, the petitioner places reliance on the inspection report and the letter given by the petitioner.

6. The Government Resolution dated 19.10.2007 applies, if the school is not commenced for the academic year 2008-09 or for 18 months after permission is granted. As per the contention of the petitioner, the school was started immediately in the academic year 2008-2009. The said aspect probably is not considered while passing the order refusing permission for renewal. As this aspect does not appear to have been considered, we set aside the impugned order.

7. The Deputy Director of Education shall reconsider the proposal of the petitioner for renewal of permission. The petitioner may place before the Deputy Director of Education, necessary documents substantiating its case of having commenced classes for 11th standard within 18 months of the permission being granted.

8. The Deputy Director of Education, after

considering all the aspects, shall consider the proposal of the petitioner for renewal, afresh, on its own merits, according to the policy, expeditiously, preferably within four months.

9. The petitioner may submit itself before the Deputy Director of Education.

10. The writ petition is accordingly disposed of.
No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC