

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

WRIT PETITION NO. 11190 OF 2015

Gayatrimata Gramin Parisar Vidya
Prasarak Mandal, Hondamail's
School Sidheshwar Madhyamik Vidyalaya
Waghoda, Ta.and Dist. Nandurbar,
through its President
Mr.Nawalrao Lotan Patil,
Age 83 years, Occup: Agril. & Social work,
R/o Hondamail, Ta. and District
Nandurbar.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai - 32
2. The Director of Education,
Maharashtra State, Pune.
3. The Deputy Director of Education,
Nashik Division, Nashik.
4. The Education Officer (Secondary),
Zilla Parishad, Nandurbar,
District Nandurbar.

...RESPONDENTS

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Mr. V.D.Sapkal, Advocate, for the petitioner.
Mr.P.G.Borade, A.G.P., for respondents.

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CORAM: S.S.SHINDE

AND

P.R.BORA, JJ.

DATE :February 8th, 2016

ORAL JUDGMENT: (Per S.S.Shinde, J.)

1. Heard. Rule. Rule made returnable and heard forthwith with the consent of learned Counsel for the parties.

2. This petition takes exception to the decision taken by the Education Officer in the month of September, 2009 (Exh.E - Page No.107-108) holding that the school run by the petitioner institution is not entitled for assessment grants on the ground of non following the reservation policy.

3. Learned Counsel appearing for the petitioner invited our attention to the unreported judgment of the Division Bench of the Bombay High Court at Principal Seat in Writ Petition No.7209 of 2014 (**Shivneri Shikshan Sanstha and another vs. State of Maharashtra and others**) along with connected writ petitions thereto, dated 30th September, 2014, and also in the case of **State of Maharashtra and others Vs. Radhey Shikshan Vikas Mandal Kowad through its Head Master**, in Civil Application No.2367 of 2014, with CA (St) No.29025/2014, dated 7th January, 2015, and submits that, in the said cases the Division Bench, after hearing all concerned, has taken a view that, if an institution is eligible to receive grant under Government Resolution dated 15th November, 2011, it shall not be denied the grant on the ground of not following the reservation policy prior to the date of making the application for the grant under the Government Resolution dated 15th November, 2011. He also invited our attention to the directions issued by the Division Bench in paragraph No.10 in Civil Application No.2367/2014 decided on 7th January, 2015 and submits that the petition deserves to be allowed.

4. On the other hand, learned A.G.P. appearing for respondent State submits that, the order impugned in this petition is in accordance with the Government policy and, therefore, this Court may not interfere in the impugned order.

5. We have heard learned Counsel for the petitioner, and learned A.G.P. appearing for respondent State, perused the pleadings in the petition, annexures thereto, and the judgment in the case of **Shivneri Shikshan Sanstha and another vs. State of Maharashtra and others** (supra). The Division Bench at Principal Seat has considered similar controversy as is involved in the present petition, and view is taken that, if an institution is found to be eligible to receive grant under the Government Resolution dated 15th November 2011, it shall not be denied the grant on the ground of not following the reservation policy prior to the date of making the application for the grant under the afore mentioned Government Resolution.

6. In the facts of the present case, the Education Officer has passed the order without adhering to the principles of natural justice. In that view of the matter, we deem it appropriate to quash and set aside the impugned order passed by the Education Officer and relegate the petitioner before the concerned authority for hearing the matter afresh. Accordingly, following order:

7. (a) The impugned decision / communication dated September 2015, at Exh.E, as is referred in the prayer clause (B) is quashed and set aside.

(b) Respondent no.4 is directed to hear the petitioner, and after giving him an opportunity to put forth relevant documents on record, and also keeping in view the judgment of the Division Bench at Principal Seat in the case of **Shivneri Shikshan Sanstha and another vs. State of Maharashtra and others** and in the matter of **State of Maharashtra and others Vs. Radhey Shikshan Vikas Mandal Kowad** (supra), take a decision afresh, within twelve weeks from today.

(c) Parties to act upon the authenticated copy of this order.

(d) The petition is partly allowed. Rule made absolute in above terms.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

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