

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

WRIT PETITION NO. 11451 OF 2015

Aadarsh Shikshan Prasarak Mandal
Osmanabad, through its President
Sudhir Keshavrao Patil and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 11433 OF 2015

Aadarsh Shikshan Prasarak Mandal
Osmanabad, through its President
and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri R. N. Dhorde, Senior Advocate i/by Shri Vikram R. Dhorde,
Advocate for Petitioners in both matters.
Shri V. S. Badakh, A.G.P. for Respondents/State in both matters.

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

DATE : 28TH SEPTEMBER, 2016.

PER COURT :

. Mr. Dhorde, the learned senior advocate for petitioners
submits that, the ratio of pupil and teacher has to be maintained

as per the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (for short 'Education Act 2009'). Every year since 2010-2011, the petitioners are submitting proposals seeking permission to fill in the posts as per the ratio laid down under the Education Act 2009. No orders are passed on the same. The Education Officer is sitting over the proposals and in the year 2016 has rejected the same, on the ground that, the additional posts and/or additional divisions are not sanctioned. The learned senior advocate further submits that, it was duty of the authority concerned to take steps to sanction the posts as per the staffing pattern to be determined according to the Education Act 2009. In fact, as per the Government Resolution dated 18.06.2010, the institution is bound to fill in the posts of the teachers in accordance with Sec. 25 of the Education Act 2009 and posts cannot be kept vacant. It was an error on the part of the authorities to reject the proposal of petitioners.

2. The learned Assistant Government Pleader submits that, the authority has considered the staffing pattern. As the additional posts and/or divisions were not sanctioned by the Government, the case of petitioners could not have been considered. The additional divisions/posts have to be sanctioned by the Government. No such proposal was submitted by petitioners, as such unless and until said additional posts are sanctioned, no approval can be granted. As per the staffing

pattern, the petitioners are entitled for 21 additional posts, however, same is required to be sanctioned by the State.

3. The learned senior advocate further submits that, the petitioners have demanded 44 additional posts and in response thereto the learned A. G. P. states that, the petitioners are entitled for 21 additional posts, if sanctioned by the Government.

4. The additional divisions/posts are required to be sanctioned by the authority, according to the respondent, the authority is the State Government. The proposals have never reached to the State Government. It does not appear that, any proposal is moved for sanction of additional divisions/posts to the State Government. In absence thereof, the State, naturally would not be in a position to consider the strength of the students and the staffing pattern. To resolve the dispute, it would be appropriate for the petitioners to submit comprehensive proposals seeking sanction of additional divisions/posts for every year since 2010-2011.

5. The petitioners shall submit proposals in accordance with law for sanction of additional divisions/posts for every year since 2010-2011. The said proposals shall be routed through the Education Officer. The proposals shall be submitted within fifteen (15) days from today. On receipt of said proposals, the

Education Officer shall forward the same to the appropriate authority, who is empowered to take decision upon the said proposals for additional divisions/posts, within a period of one (01) month from the date of receipt of proposals. The appropriate authority on receipt of said proposals shall take decision with regard to the sanction of additional posts/divisions on its own merits, in accordance with law, expeditiously and preferably within a period of three months from the date of receipt of said proposals with it. The writ petitions are disposed of. No costs.

6. The parties to act on authenticate copy.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Sept. 16