

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 47 OF 2016

Shri Kaustubha Dattatraya Gokhale & Anr.	.. Petitioners
V/s	
The State of Maharashtra & Ors.	.. Respondents

Mr. Bharat Khanna for the petitioners.
Mr. C.P. Yadav, A.G.P. for the respondents.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S. SONAK, J.**

DATE : 23rd SEPTEMBER 2016

P.C.:

This PIL is brought by the individual petitioners questioning the Government Resolution bearing No. 9814/P.K./160/S.D./1 dated 21st January 2015 and the Corrigendum No. 9814/P.K./160/ S.D./1 dated 23rd January 2015 wherein the age group for admission of children in playgroup / nursery is settled as 3+ and in 1st Standard as 6+.

2. According to the petitioners, in the light of a provision made for compulsory education under Article 21A of the Constitution to the children of age groups from 6 to 14 and similar policy in providing pre-primary education under the directive principles of State Policy, the Government Resolution in question

fixing the age of children for admission to 1st Standard as 6+ is in violation of Article 21A of the Constitution, i.e. right to education. According to the petitioners, by the present Resolution, the benefits of Article 21A of the Constitution has reduced the benefit to the beneficiary by one year. The admissions to every academic year in most of the urbanised places starts from December-January itself. By this time, students in playgroup and nursery have already admitted and pursuing their education. The age group of students of 5+, who enter 6th year, also should get the benefit, but the aforesaid Government Resolution of 2015 which becomes effective from the academic year 2016-17 mandates that the students must be 6+, i.e. after entering 7th year they will be entitled to enter the 1st Standard, which circumvents the rights of the children to right to education by one year since admission to 1st Standard is pushed one year ahead.

3. According to them, when the Constitution of India recommends the age of 6 to 14 as compulsory education making the age as 6+ by the Government Resolution would mean the compulsory education is from the age group of 7 to 14 since 1st Standard would be the starting point of education. With the present Government Resolution, a student who is entitled to join the 1st Standard compulsorily must be in the age group of 6+ means by the time he appears for 10th Standard, it would be 16+. Therefore, there would be discrimination for the students of privately pursuing 10th Standard since Higher Secondary Education Board sets the age

as 14+ (14 years completed) to enable the students to directly appear for 10th Standard privately. The purpose behind Article 21A of the Constitution will be fulfilled in its true spirit and sense only if the entry level age to 1st Standard is fixed as 5+.

4. On going through the contentions and on hearing the arguments of learned counsel for the petitioners, we understand the main grievance of the petitioners seems to be that the age of 6 years means after completing 5 years. Therefore, the Government Resolution ought not to have indicated the age as 6+ and it should have just mentioned the age group of 6. In the understanding of the petitioners, if a child completes 5 years and enters 6th year, it would mean the child is 6 years old. Therefore, the sign “+” must be removed so that the child who completes 5 years could seek admission to 1st Standard. The very understanding of the petitioners, according to us, is wrong. If you were to call a child as 6 years old, the child must complete 6 years and not who completes 5 years and enters 6th year. For illustration purpose, if one celebrates 1st year birthday of a child, they do not celebrate when the child is just born or at the age of one month or two months. The first birthday would be celebrated only after the child completes first year and the child can be said one year old. Similarly, unless the child completes 6 years, one cannot refer to the child as 6 years old. Therefore, in the wisdom of the policy makers, they have fixed the minimum age to get admission to 1st Standard as 6+ which would

mean a child who has completed 6 years and not a child who is running in the 6th year.

5. Even otherwise, the competency and authority of the policy makers in fixing the age group cannot be decided before a Court of law since the experts in the subject must have been consulted and after several meetings and discussions such decision would have been taken.

6. We are of the opinion that the lis raised in the petition cannot become subject matter of public interest litigation and accordingly the PIL is dismissed.

(M.S. SONAK, J.)

(CHIEF JUSTICE)