

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10261 OF 2016

S.S. Chaubey Education Society .. Petitioner
V/s
State of Maharashtra & Ors. .. Respondents

Mr. Sandeep Mishra for the petitioner.
Mr. Mandar Limaye for respondent no.4.
Mr. P.P. Kakade, A.G.P. for the State.

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

DATE : 25th OCTOBER 2016

P.C.:

Heard learned counsel for the petitioner and the learned Government Advocate.

2. Apparently the petitioner has permission to run and impart education in pre-primary section. This permission is in 2004. Subsequently after 3 months of starting classes in primary section, the petitioner claimed to have made an application in terms of Rules 106 and 107 of the Bombay Primary Education Rules. However, the application was not taken to a logical end by pursuing the matter. When petitioner received the impugned notice asking not to establish primary section by the authority, then only he has knocked

at the doors of this Court. Is it open to the petitioner to contend that for the last 8 years it is running the primary section, therefore it should be allowed to continue without adhering to the procedure envisaged under the modified scheme. The fact that the petitioner slept over the matter without pursuing its application for permission to run primary section would indicate that the petitioner took it for granted that nobody will question the petitioner in continuing the primary classes.

3. We also cannot appreciate the super-technicality pointed out by the petitioner that the impugned notice directs not to establish and it does not refer to closure of primary section, which is established. Since the primary section is being run without any kind of permission from the authorities concerned, we are of the opinion that the petitioner cannot maintain and sustain its stand with regard to primary section and so far as pre-primary, the authorities cannot interfere with running the classes of pre-primary.

4. With these observations, the writ petition is disposed of. However, the disposal of the writ petition will not come in the way of considering the application of the petitioner for permission for primary classes if such application is pending.

(M.S. SONAK, J.)

CHIEF JUSTICE