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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION No. 11 OF 2014

The OCI / PIO Students' Parents
Association ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

None for the Petitioner.

Mr. N. C. Walimbe, AGP for the Respondent - State.

CORAM : V. M. KANADE, &
Mrs. SWAPNA S. JOSHI, JJ.

DATE : SEPTEMBER 22, 2016

PC.

1. None appears on behalf of the Petitioner. By this petition, which is filed as PIL, under Article 226 of the Constitution of India, Petitioner is seeking following reliefs:

- (a) The Respondents may kindly be directed to make changes to their present Rules related to eligibility of resident OCI/PIO students for admissions against the state quota seats and to adopt similar Rules/policies as in existence in Andhra Pradesh and Kerala

regarding the OCI/PIO students.

- (b) This Hon'ble Court may direct the Respondents to take the decision swiftly without consuming any further time and declare the same publicly.
- (c) Considering the past experience of one of such parents of OCI/PIO the Respondents may kindly be directed to file an affidavit before the Hon'ble Court after implementation of Court's order regarding changes in Rules related to eligibility of resident OCI/PIO students.
- (d) Such other further order as this Hon'ble Court may deem fit and proper under the peculiar facts and circumstances of the case.”

2. The Petitioner is seeking an appropriate writ order and directions, directing respondents to change the present rules relating to the eligibility of resident OCI/PIO students for admission against the state quota seats. It is quite well settled that this Court while exercising writ jurisdiction under Article 226 of the Constitution of India cannot give a direction to the State to either frame Rules or change the Rules, which are already framed.

3. The Respondent – State has filed affidavit in reply. It is

clarified in the affidavit that the notifications, which are issued, are regarding registration of Overseas Citizens of India (OCI). It is further clarified that OCI is not to be construed as “dual citizenship”. It is also mentioned in the said affidavit that a distinction has been made between Non Resident Indian (NRI) and the Overseas Indian. In view of the affidavit in reply filed by the State, we are not inclined to entertain this PIL. Reserving the right of the aggrieved person to challenge the said notifications, and to seek appropriate directions by filing the writ petition or make a representation before the appropriate authority, PIL is disposed of.

Sd/-

[Mrs. SWAPNA S. JOSHI, J.]

Sd/-

[V. M. KANADE, J.]

Vinayak Halemth