

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2302/2016

(MAHAVEER VIDYA MANDIR, WAGHAPUR & OTHERS **VERSUS** STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri U.P. Deopujari, counsel for the petitioners.
 Shri A.K. Bangadkar, A.G.P. for the R-1 to 3.
 Shri R.S. Nagpure, counsel for the R-4 & 5.

CORAM : SMT.VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : MAY 5, 2016.

By this writ petition, the petitioners challenge the report prepared by the Scrutiny Committee under Section 6(1) of the Maharashtra Self Financed Schools (Establishment and Regulation) Act, 2012. The petitioners seek a direction to the Scrutiny Committee to decide the objection of the petitioner no.1 and submit a fresh report to the State Government.

The respondent nos.4 and 5 had applied for permission to start a new English Medium Primary and Upper Primary School under the provisions of the Act of 2012 in Waghapur, District Yavatmal. The application of the respondent nos.4 and 5 was scrutinized by the Scrutiny Committee under Section 6(1) of the Act. The Scrutiny Committee found that the respondent nos.4 and 5 were eligible for grant of permission to start the new English Medium Primary School. It is the case of the petitioners that the petitioner no.1 had raised an objection to the starting of new English Medium Primary School by the respondent nos.4 and 5 in the near vicinity of the school run by the petitioners and the said objection ought to have been considered by the Scrutiny Committee before preparing the report under Section 6(1) of the Act. It is the case of the petitioners that the report was prepared by the Scrutiny Committee without considering the objection of the petitioner no.1 and hence, the said report is liable to be set aside and a direction to the respondent no.2 to prepare a fresh report is necessary.

On hearing the learned counsel for the parties and on a perusal of the provisions of Section 6 of the Act of 2012, we find that it is not necessary for the Scrutiny Committee to decide the objection before preparing the report in respect of the eligibility of an applicant for starting the school, under the provisions of the Act of 2012. The Scrutiny Committee is only enjoined with a duty to consider the application in accordance with the norms laid down under the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and the rules made thereunder as well as such other norms and standards as may be prescribed from time to time, viz. the applicant's financial condition, the extent of assets and liabilities to set up the infrastructure of the school and the other conditions that are required to be satisfied in terms of Section 6(1) of the Act. The Scrutiny Committee is required to prepare a report after considering the relevant criteria and the report has to be submitted to the State Government. Sub-Section 2 of Section 6 provides that before submission of the report to the State Government, the Scrutiny Committee is required to display the report on the website of the State Government with a view to invite objections and suggestions within a period of fifteen days. The report is then required to be submitted by the Scrutiny Committee to the State Government along with the objections and suggestions, if received. It is apparent on a reading of the provisions of Section 6(1) and 6(2) of the Act that before preparation of the report, the Scrutiny Committee is not required to invite objections and suggestions from the public. The Scrutiny Committee is not required under Section 6(2) to consider the objections and it is only required to submit the objections and suggestions, if received, along with the report to the State Government for further action. The case of the petitioners that it was necessary for the Scrutiny Committee to decide the objections of the petitioners is ill-founded. The Scrutiny Committee is only enjoined with the duty to transmit the report to the State Government along with the objections and suggestions and then the

State Government may grant or refuse to grant permission to the applicant to establish a new school in terms of the provisions of Section 7 of the Act of 2012. Since the State Government has yet not passed any order on the application of the respondent nos.4 and 5 after the receipt of the report of the Scrutiny Committee, the petition is premature. The State Government may grant or may refuse to grant permission to the respondent nos.4 and 5 to start a new English Medium Primary School.

Since there is no merit in the case of the petitioner that it was necessary for the Scrutiny Committee to first decide the objection of the petitioner no.1 before preparation of the report, the petition is liable to be dismissed. The petition is dismissed as such with no order as to costs.

JUDGE

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