

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 2133 OF 2002

Gajanan Shikshan Sanstha,
Ganeshwadi, Tal. Karjat,
Dist. Ahmednagar,
Through its President
Vilas S/o Bapu Kayagude,
Age: 35 Years, Occu: Agril.,
R/o Ganeshwadi, Tq. Karjat,
Dist. Ahmednagar.

....Petitioner.

Versus

1. The State of Maharashtra
Through the Government Pleader,
High Court of Bombay,
Bench at Aurangabad
2. The Deputy Director of Education,
Pune Region, Pune.
3. The Education Officer (Sec.)
Zilla Parishad Ahmednagar.

....Respondents

Mr. S.V. Kshirsagar h/f. Mr. A.S.Deshpande, Advocate for
Petitioner.

Mrs. P.V. Diggikar, AGP for Respondents/State.

WITH

WRIT PETITION NO. 3503 OF 2002

Osmanabad Zilla Samaj Seva Mandal,
Osmanabad, Bombale Hanuman Chowk,
(Wasahat), Osmanabad- Through its
Secretary Shri. Pandurang Baburao Late,
Age: 45 Years, Occu: Service, R/o Osmanabad
Taluka Osmanabad, District Osmanabad. **....Petitioner.**

Versus

1. The State of Maharashtra
2. The Deputy Director of Education,
Aurangabad Region, Station Road,
Aurangabad.
3. The Education Officer (Secondary)
Zilla Parishad Osmanabad.**Respondents**

Mr. P.G. Rodge, Advocate for Petitioner.
Mrs. P.V. Diggikar, AGP for Respondents/State.

WITH
WRIT PETITION NO. 1016 OF 2004
WITH
CIVIL APPLICATION NO.11660 OF 2008

Vidhaya Vikas Shikshan Prasarak
Mandal, Tugaon (Dhoki). Tq. and
Dist. Osmanabad, Through its
President Chandrakant
Pandharinath Hajgude,
Age: 43 Years, Occu: Agril,
R/o Tugaon (Dhoki),
Tq. & Dist. Osmanabad.**Petitioner.**

Versus

1. The State of Maharashtra
Through Secretary School
Education Department
Mantralaya, Mumbai- 32.**Respondent.**

Mr. T. B. Bhosle, Advocate for Petitioner.
Mrs. P.V. Diggikar, AGP for Respondent/State.

WITH
WRIT PETITION NO. 4162 OF 2002

Kai. Mohinibai Badriprasad Agrawal
Shikshan Prasarak Mandal Visarwadi,
Taluka Nawapur, District Nandurbar

Through its President
Shri. Subhash Badriprasad Agrawal
Age: 45 Years, Occu: Social Work,
Resident of Visarwadi, Tal. Nawapur,
District. Nandurbar.**Petitioner.**

Versus

1. The State of Maharashtra
Through its Secretary School
Education Department
Mantralaya, Mumbai
2. The Director of Education,
Maharashtra State,
Central Building, Pune.
3. The Regional Deputy Director of Education,
Nashik Region, Nashik.
4. The Education Officer (Secondary),
Zilla Parishad, Nandurabar,
District Nandurabar.**Respondents.**

Mr. S. T. Shelke, Advocate for Petitioner.
Mrs. P.V. Diggikar, AGP for Respondents/State.

WITH
WRIT PETITION NO. 4343 OF 2002

Shri. Sangmeshwar Bhauddeshiya
Shikshan Prasarak Mandal,
Sonwal Galli, Ausa. Dist. Latur.
Through its Secretary,
Shivshankar S/o Virbhadrappa Kalyani
Age: 40 years, Ocuu: Business, &
Secretary of Trust. R/o Ausa, Tq. Ausa.
Dist. Latur.**Petitioner.**

Versus

1. The State of Maharashtra
Through its Secretary

Education Department
Maharashtra State, Mantralaya, Mumbai

2. The Education Officer (Primary)
Zilla Parishad, Latur,
Dist. Latur.
3. The Deputy Director of Education
Aurangabad Division, Aurangabad.**Respondents.**

Mr. V. D. Salunke, Advocate for Petitioner.
Mrs. P.V. Diggikar, AGP for Respondents/State.

WITH
WRIT PETITION NO. 2052 OF 2003

Shri Kshetra Uttareshwar Shikshan
Sanstha, Kelgaon, Post Massajog,
Taluka Kaij, District Beed,
Through its Secretary,
Gopinath Sukhdeo Ghule,
Age : 44 Years, Occu: Social
Worker, resident of Kelgaon, Taluka
Kaij, District : Beed.**Petitioner.**

Versus

1. The State of Maharashtra
Secretary Education Dept.
Mantralaya Mumbai.
2. The Secretary,
Department of Education,
State of Maharashtra,
Mantralay Mumbai-32.
3. The Deputy Director of Education
Aurangabad Region, Aurangabad.
4. The Education Officer (Secondary)
Zilla Parishad, Beed,
Taluka and District Beed.**Respondents.**

Mr. A. N. Kakade, Advocate for Petitioner.
Mrs. P.V. Diggikar, AGP for Respondents/State.

WITH
WRIT PETITION NO. 2544 OF 2003

Bhartiya Gramin Vikas Sanstha,
Nandur (Ghat) Taluka Kaij,
District : Beed, of village
Pitthi (Ghat) Taluka Kaij
District : Beed, Through its
Secretary, Ramdas S/o Daywanrao Gite,
Age: 40 years, Occu: Social worker,
and Secretary, resident of at Post
Dhotra, Taluka kaij, District
Beed.**Petitioner.**

Versus

1. The State of Maharashtra
2. The Secretary,
Department of Education
State of Maharashtra,
Mantralay Mumbai-32.
3. The Deputy Director of Education
Aurangabad Region, Aurangabad.
4. The Education Officer (Secondary)
Zilla Parishad, Beed,
Taluka and District Beed.**Respondents.**

Mr. A. N. Kakade, Advocate for Petitioner.
Mrs. P.V. Diggikar, AGP for Respondents/State.

WITH
WRIT PETITION NO. 1015 OF 2004

Shivshakti Bahu-udheshiya
Gram Vikas Mandal Ingoda
Tq. Paranda, Dist. Osmanabad
Through its President

Shri. Subhash S/o Vasant Rao Jagtap
Age: 33 Years, Occu: as above
R/o Ingoda Tq. Paranda.

....Petitioner.

Versus

1. The State of Maharashtra
Through the School Education
Department Mantralaya, Mumbai.
2. The Deputy Director of
Education, Station Road,
Aurangabad.
3. The Education Officer Secondary
Zilla Parishad, Osmanabad.

....Respondents.

Mr. N.S. Kadam, Advocate for Petitioner.
Mrs. P.V. Diggikar, AGP for Respondents/State.

WITH
WRIT PETITION NO. 3519 OF 2004

Maharani Tarabai Mahila
Gram Vikas Pratishthan,
Anandwadi, Tq. Karjat,
Dist. Ahmednagar,
(Through its Secretary,
Smt. Shalini Bhausagheb Khose,
Age: 36 Years, Occu: Social Work,
R/o Rashin, Tq. Karjat,
Dist. Ahmednagar.

....Petitioner.

Versus

1. The State of Maharashtra
for Secretary, School Education
Department Maharashtra State,
Mantralaya, Mumbai.
2. Dy. Director, Education,
17, Ambedkar Marg,

Near Red Temple,
Pune Division, Pune-1.

3. Director of Education
Maharashtra State,
Puna Secretary,
School Education Department,
Mantralaya, Mumbai.

4. Education Officer (Secondary)
Zilla Parishad, Ahmednagar.

....**Respondents.**

Mr. P. R. Katneshwarkar, Advocate for Petitioner.
Mrs. P.V. Diggikar, AGP for Respondents/State.

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : July 3, 2017.

ORAL JUDGMENT : [PER T.V. NALAWADE, J.]

. Heard both the sides. The learned counsel for petitioners from Writ Petition Nos. 3503/2002 and 1016/2004 specifically argued about the entitlement of the petitioners to get the permission on no grant basis from the date of permission. They submitted that their proposals were not properly considered and to some institutions to whom permission was granted subsequent to them and prior to them, permission was granted on no grant basis and in some cases grant was given in phased manner.

2. Entitlement of such institutions to get grants or to

get permission on no grant basis or permanent no grant basis was considered by this Court in many cases. The learned A.G.P. placed reliance on the cases reported as **2004(3) Bom.C.R. 723 [Keraleeya Samajam & Ors. Vs. State of Maharashtra & Ors.]** and **2006 BCI 493 (NAGPUR BENCH) [Choulwar Edn. Society Vs. State of Maharashtra]**. This Court has considered the relevant provisions of Maharashtra Secondary School Code viz. provision 86.4 and also the provisions of Articles 14 and 21 of the Constitution of India. It is laid down that there is no constitutional right to the institutions like the present petitioners to get the grant in aid. It is laid down that if the Government has come with a policy decision and has prepared different schemes for giving permission and that may be on no grant basis or permanent no grant basis, then it is the policy of the Government and as a matter of right, nobody can get the permission under particular scheme.

3. In the present matters, the proposals were made for getting permission and undertakings were given to the effect that the institutions will not be claiming grants at any time. Separate procedure was prescribed for giving permission to institutions on no grant basis and permanent no grant basis.

Due to the undertakings given and the particular procedure followed by the present petitioners, the permission was granted to them to start the schools on permanent no grant basis.

4. Though in the past, there were such schemes of the Government, it appears that by Government Resolution dated 20.7.2009 the Government removed the difference between the permissions which were granted on no grant basis and permanent no grant basis. Some conditions are laid down and subject to those conditions, the institutions like present petitioners can get the grants. Thus, due to G.R. of 2009 the word 'permanent' in the permission is now removed and these institutions are now treated at par with the institutions to whom the permissions are granted on no grant basis. However, the right to get grant to whom the permission was granted to start schools on permanent no grant basis is subject to conditions given in G.R. Of 2009. Due to the financial constraints the Government has taken such policy decision and as no right as such is vested in the petitioner institutions, no relief can be granted to them. In view of the aforesaid decision and particularly the G.R. dated 20.7.2009, this Court holds that relief cannot be granted and nothing survives in the petitions. In the

result, the petitions stand disposed of as dismissed. All the civil applications are disposed of. Rule stands discharged.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/