

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3263 OF 2016

Sai Dhushant Avhad

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.V.S. Bedre, Advocate for the petitioner.

Mr.P.S. Patil, AGP for respondent/State.

Mr.S.T. Shelke, Advocate for respondent No.2.

Mr.V.D. Hon, Sr. Counsel i/b. Mr.A.V. Hon, Advocate for respondent No.3.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 12.10.2017

P.C. :-

1. Mr.Bedre, learned Counsel for the petitioner states that the petitioner comes from Below Poverty Line. The son of the petitioner is studying in 5th standard with respondent No.3. In-fact, he is studying from nursery with respondent No.3. The petitioner is not in a position to bear the fees of respondent No.3. In view of provisions of the Right of Children to Free and Compulsory Education Act, respondent No.3 cannot charge any fees from the petitioner.

2. Mr. Shelke, learned Counsel for respondent No.2 submits that the name of the petitioner is not recommended in 25% quota of students to whom institution like respondent - school is liable to give free education. An affidavit to that effect is filed by respondent No.2.

3. Mr. Hon, learned Sr. Counsel submits that fees of the respondent - School is Rs.26,200/- per annum for academic year 2017-18 and for the last year it was Rs.20,900/- per annum. The petitioner is earning about Rs.12,000/- per month and also holds agricultural land. The petitioner is liable to pay fees to the respondent - institution. The petitioner has also filed Civil Suit bearing R.C.S. No.297 of 2015 and an interim order was passed in the said Civil Suit directing the petitioner to deposit Rs.45,080/-. Said order was passed on 02.03.2016. Said suit is still pending.

4. Considering the fact that the name of the petitioner is not recommended in 25% quota, respondent No.3 cannot be compelled to give free education to the petitioner. As per section 12(1)(c) of the Act, the private unaided school is required to give free education to the children to at-least 25% of the strength of the class i.e. to children belonging to weaker sections and disadvantaged groups. The Education Officer has filed affidavit stating that 25% students recommended for being given free education as per Section 12 (1)(c) of the Act, does not contain name of the petitioner. It also appears that father of the petitioner earns about Rs.10,000/- to Rs.12,000/- per month from his service. The certificate to that effect is also filed on record. He also owns some part of agricultural land.

5. Considering the above, the writ petition cannot be entertained.

6. It is made clear that respondent No.3 shall not cancel admission of the petitioner and shall give time to the petitioner for payment of fees. However, the petitioner shall clear the fees payable to respondent No.3 before final examination of 5th standard.

7. The writ petition is accordingly disposed of.
No costs.

[S.M.GAVHANE, J.]

[S.V.GANGAPURWALA, J.]