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

WRIT PETITION NO. 5704 OF 2005

**SAMTA SHIKSHAN PRASARAK MANDAL THR PRESIDENT & ANR
VERSUS
STATE OF MAH & ORS**

**...
Advocate for Petitioners : Milind Patil
AGP for Respondents: Mrs.A.V.Gondhalekar
Advocate for Respondent no.4 : Mr.T.B.Bhosale.**

**...
CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL,JJ.**

DATE : 16/08/2017

PER COURT :-

The permission granted to the respondent no.4 for running secondary school at village Shelgaon, Tq. Kallamb is assailed.

2] Mr.Patil, learned counsel for the petitioner strenuously contends that while granting permission to the respondent no.4. to run the school at Shelgaon, the policy and the guidelines laid down, were not followed. The permission was granted to the petitioner to transfer the school to village Sarnai. Permission granted to respondent no.4 school, is at a distance of 1½ Km. of the petitioner's school. The learned counsel submits that because of the permission granted to the respondent no.4, the strength of students in the petitioner school, has been reduced. According to the learned

counsel, the respondent no.4 had not deposited the necessary amount within the prescribed time period. Subsequently by special order, the authorities accepted the application of the respondent no.4 with late fees. Respondent no.4 has violated the provisions of law. The authorities also exceeded their limits as the District Committee has not shown the school run by petitioner trust situated at Sarnai, the recommendation by the committee is without application of mind. The respondent no.4 has obtained the permission to run the school at Shelgaon on the basis of incorrect information. Grave injustice has been caused. No permission could have been granted to run the new school within the vicinity of 5 Km. of the existing school of the petitioner.

3] We have heard the learned AGP and the learned counsel for respondent no.4.

4] It has been stated by respondents 1 and 2 in the affidavit that the proposal received from the respondent no.4, was placed before the district level committee for scrutiny and recommendation. After recommendation from the district level committee, the proposal was forwarded to the State level committee for further scrutiny. After considering recommendation of the district level committee and the State level committee, permission was granted to respondent no.4, to

run the secondary school at Shelgaon from academic year 2005-2006.

5] The strength of students can also be considered. In the year 2004-2005, the petitioner school had 62 students in 8th standard and in 2005-2006, i.e. the year the respondent no.4 started its school at Shelgaon, the strength in the petitioner school had increased to 74 and the respondent no.4 had 31 students.

6] We had asked Mr,Patil, learned counsel for the petitioner, about the existence of the petitioner school and the respondent no.4. School today. It is submitted by Mr.Patil that the petitioner school is functioning well.

7] It is more than 12 years, the petitioner and respondent no.4 schools are functioning with their full strength.

8] In light of the above, we are not inclined to interfere in the permission granted to the respondent no.4. Rule discharged. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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