

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

DIST.: NANDED

WRIT PETITION NO.7599 OF 2007

- 1) Gramvikas Shikshan Sanstha, Chikhali, Tal. Kandhar, Dist. Nanded, through its President, Ganpatrao s/o Pandurangrao Gaikwad, Age : 52 years, Occ.: Agriculturist, R/o.: Chikhali, Tal. Kandhar Dist. Nanded.
- 2) Subhashrao Patil Secondary School, Kalka, Tal.Kandhar Dist.Nanded, through is Head Master, Shivaji Puyed, Age : 35 years, Occ.: Service, R/o.:Kalka, Tal. Kandhar Dist. Nanded.

...Petitioners.

Versus

- 1) The State of Maharashtra, through its Secretary in School Education & Sports Department, Mantralaya, Mumbai - 32.
- 2) The Deputy Director of Education, Latur Division, Latur.
- 3) The Education Officer (Secondary), Zilla Parishad, Nanded.

...Respondents.

Mr. V.D. Gunale, advocate for petitioners

Mr. S.K. Tambe, A.G.P. for respondents

**CORAM : SUNIL P. DESHMUKH AND
SANGITRAO S. PATIL, JJ.**

DATE : OCTOBER 10, 2017

ORAL JUDGMENT : (PER : SUNIL P. DESHMUKH, J.)

The petitioners purport to take exception to order dated

31-05-2005 by respondent no.2, granting permission to additional division of 5th standard, attached to petitioner No.2 Secondary School, on permanent non grant-in aid basis. It is the contention of petitioners under this petition that permission granted should be deemed to be on non grant-in aid basis.

2. The petitioner had applied for permission to open and run the Secondary School at Kalka Tal. Kandhar Dist. Nanded. The proposal accordingly has been submitted and recommended by respondents. The Government had granted permission to the petitioner to open a school on permanent non-grant in aid basis. Initially the permission had been granted for 8th standard. However, subsequently as per the natural growth, the school was also granted 9th and 10th standards permission from the year 2001 onwards. The petitioner is having facility of adequate teaching and non-teaching staff to run 5th and 7th standards. Accordingly, proposal had been submitted for permission to additional division of 5th to 10th standard in the year 2001 on non grant in aid basis. The Education Committee of Zilla Parishad had resolved and no objection was given to petitioners institution for opening additional division of 5th standard on non-grant in aid basis from 2002 - 2003. The Education Officer had also recommended the additional division of 5th standard under its

communication dated 27-02-2006, 12-11-2002, 07-06-2002 and 01-01-2005. However, the Government had granted permission to petitioner No.2 school to start additional 5th standard on permanent non grant in aid basis. Said permission has been granted with effect from 2003 - 2004.

3. It is the case of the petitioners, since petitioner no.2 is being run on grant in aid basis, permission for additional 5th standard ought to have been granted not on permanent aid basis but for non-grant in non grant in aid basis.

4. Perusal of the order dated 13th December, 2005 shows that while according permission on permanent non grant in aid basis, the same had been granted taking into account various Government resolutions inter alia commendation dated 01-12-2005. In the Government Resolution dated 27th June, 2003 annexed by petitioners as Exh.F on page 46 of petition, it has been referred to that in case of proper and complete proposal, the same be processed in accordance with the details of the Government resolutions referred to at reference 1 and 2, which in turn refers to Government decision on 1st March, 1999 and 9th August, 2001. It further transpires that the Government has passed further resolutions in 2001, February, 2003 and April, 2003 as referred to in Government

resolution of 27-06-2003. In the circumstances, it appears that pursuant to prevailing policy the proposal of the petitioners for additional permission of 5th standard class to petitioner no.2 school has been processed and granted on permanent non grant in aid basis.

5. In such circumstances we do not deem it appropriate at this stage of the matter to interfere in the order dated 31-12-2005.

6. Writ petition stands disposed of.

7. Rule stands discharged.

[SANGITRAO S. PATIL, J.]

[SUNIL P. DESHMUKH, J.]

nbs/c-224