

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9096 OF 2017

Master Pavan Mundaware
Through Guardian
Jayashree Vijay Mundaware,
Adult Indian Inhabitant,
Residing at 4, L.G. Castle Apt,
Govind Nagar, Nashik 422009

... Petitioner

Versus

- 1) The Principal/Head Mistress of
Ashoka Universal School
Chandsi/Wadala, Nashik
- 2) Ashoka Education Foundation,
a public charitable Trust, through
its trustee Mr. Ashok Motilal Kataria
having its office at Anshuman
near Forest Nursery, Gangapur Road,
Nashik 422013
- 3) The Deputy Director of Education
Nashik Road, Nashik.
- 4) The Education Officer (Secondary)
Zilla Parishad, Nashik
- 5) The Education Officer (Primary)
Zilla Parishad, Nashik
- 6) The Administrative officer
Shikshan Mandal, Nashik
Municipal Corporation, Nashik

- 7) Director of Education, Pune
- 8) Commissioner of Police, Nashik
- 9) State of Maharashtra
Through the Secretary, Ministry
Education, Mantralaya, Mumbai. ... Respondents

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Mr. Siddharthshankar A. Sharma Advocate for Petitioner.

Mr. R.S. Apte, Senior Advocate a/w Mr. A.A. Garge, for
Respondent No.1.

Mr. A.P. Vanarse AGP for State.

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**CORAM : ANOOP V. MOHTA AND
SMT. BHARATI H. DANGRE, JJ.**

DATE : 13th SEPTEMBER, 2017.

ORAL JUDGMENT (Per Anoop V. Mohta, J.) : -

1. The Petitioner has again filed this writ Petition though there is a specific order passed by this Court after hearing the parties as the Petitioner was expelled for the reasons which are recorded in Judgment dated 21st July, 2015 in Writ Petition No. 5378 of 2013. Between the same parties for the similar issues and based upon earlier High Court order dated 16th August, 2013 passed against the Petitioner. The operative order of the Judgment is as under.

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- a) We hold that Writ Petition filed by Petitioner is maintainable against Respondent Nos. 1 and 2 (Un-aided Minority Educational School/Institution) in the facts and circumstances of the case.
- b) We hereby declare that the impugned action/orders of expelling the Petitioner's son and daughter are illegal, impermissible and bad in law, including the endorsement “Terminated because of parents indecent and illegal behavior”, therefore quashed and set aside accordingly.
- c) We direct Respondent Nos. 1 and 2 to promote Master Pawan Mundaware to VII standard for the academic year 201516 and permit him to continue future study in the School along with other students. However, it will be subject to any eligibility test of VI Standard, only if necessary and/or required.
- d) The Petitioner to deposit arrears of fees, if any, without late fee, within one month from today and shall continue to pay the regular fees along with other students.
- e) The Petitioner and her husband have already filed written undertakings to this Court in view of order dated 16 August 2013. That will continue without prejudice to the rights and contentions of the parties in this Petition, till the Petitioner's son complete his education in the Institute/School. They have also filed further undertakings to this Court that they will not make any complaint before any forum or any authority against Respondent Nos. 1 and 2.
- f) The Petitioner and her husband shall abide by the assurances given to this Court which have been recorded earlier. The Petitioner and her husband not to disturb the peace and harmony of the school.
(These directions be implemented forthwith.)

- g) They shall endeavour to settle the dispute/conflicts and/or compound the Criminal complaints, if any.
- h) The Petitioner and her husband have already given undertaking that they will not enter the premises of the school of Respondents, unless the school Authorities call them either for attending the parents' meetings or for any other purposes.
- i) Liberty is granted to the parents, in case they want to meet the child, to apply for appropriate permission and Respondents-Institution/School to consider the same sympathetically.
- j) Both the parties to maintain good and cordial relations in all respects.
- k) The parties are at liberty to settle the matter and/or apply for appropriate order in case of any difficulty.
- l) It is desirable that the Respondent-State Government and/or other Authority should frame some policy and/or some rules and regulations to deal with such aspects of expulsion of the students and dealing with the internal dispute between the parents and Management and/or other authorities and provide necessary alternative and effective mechanism to resolve the conflicts of such nature.
- m) Writ Petition is accordingly allowed.
- n) Rule made absolute accordingly.
- o) There shall be no order as to costs.

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(Emphasis added)

2. Petitioner as stated, not complied with the above order. Petitioner's conduct remained the same as recorded in affidavit filed by Respondent Nos. 1 and 2. The statement is made by learned Senior Counsel appearing for Respondents that except Petitioner, all other parents around 3000 students have paid/been paying the fee so prescribed by the Respondents for 2016-2017 and 2017-2018 also.

3. The Petitioner's grievance, even if any of the fee structure that need to be considered by the concerned department in view of specific provisions of law which regulate such fee structure also.

4. Learned Counsel appearing for Petitioner has agitated the same issue which was agitated in earlier occasion as recorded in the Judgment after hearing the parties. In our view, Petitioner should have complied with and follow those directions/order.

5. The present Petition is filed in July 2017 against order of expulsion dated 1st April, 2017. There is no justification for such delay. It appears that petitioner/parents are not interested in pursuing the further education in the present institution.

6. Considering the interest of student, on 14th August, 2017, permitted the Petitioner to deposit an amount of Rs. 35,000/- within a period of one week and balance within two weeks thereafter, for the 9th standard. The petitioner has not deposited balance amount.

7. The statement is made that no further amount is deposited till this date. We are therefore, inclined to grant the time. But the Petitioner through the advocate still agitating the same issue i.e. the said amount, is nothing but exorbitant fee/capitation fee. This can not be reason for the Petitioner not to follow the earlier order dated 21st July, 2015.

8. We are inclined to observe that the petitioner is at liberty to apply to the Education Department concerned for further admission in other nearby school. The concerned department to deal with the same for another school in accordance with law.

9. The reliance is placed by filing short synopsis, compilation and submission and agitated the same issues by referring to the judgments of this Court of which facts are totally different. This

Court after hearing the parties on identical facts and circumstances, heard the matter, and passed the order/judgment. The extract of operative part which is reproduced above, which deals with the similar conduct and the agitation. Therefore, we see no case is made out by the Petitioner. The Petition is dismissed with above liberty. No costs.

(BHARATI H. DANGRE, J.)

(ANOOP V. MOHTA, J.)