

THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1696 OF 2006

Unaided Schools Forum ... **Petitioner**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Vishal Kanade a/w. Mr.Piyush Raheja, Mr.Vishesh Malaviya with Ms.Nikita Mishra and Ms.Madhavi Doshi, Advocate for the Applicant.

Ms.Geeta Shastri, AGP a/w. Ms.Jyoti Chavan, AGP for the Respondent/State.

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**CORAM : S.V.GANGAPURWALA &
A.M.BADAR JJ.**

DATED : 28th July 2017.

P.C.

1 The Petition is filed seeking following relief.

“(b) By an appropriate Writ, direction or order of this Hon'ble Court, Respondents be directed to reimburse the entire tuition fees and other fees due and payable the Unaided and permanently Unaided Primary, Secondary, Higher Secondary Schools and Junior Colleges towards imparting the education to the Reserved Category

students, at the rate fixed by such institutions from the year 1999 till date and to reimburse regularly in future”

2 The learned counsel for the Petitioner submits that the Petition is Unaided School Forum. The Unaided Schools are the members of the Petitioner Forum. The Respondent No.8 informed that the Educational Institution running a Primary, Secondary, Higher Secondary Schools and also Junior Colleges shall not collect the tuition fees from the reserved category students. The learned counsel submits that in view of the Government Resolution dated 13th June 1996 and the Government Resolution dated 27th May 2003, the Unaided Institutions are entitled for the reimbursement of the fees in respect of reserved category students. The representation is made to the Respondent Authority on or about 24/10/2005 and reminder was also issued on 09/01/2006, but the Respondent Authority did not take cognizance of the same.

3 The learned Additional Government Pleader submits that now new Government Resolutions have come into effect. The Government Resolution dated 27th May 2003 was applicable only to Secondary and Higher Secondary Schools, so also the Government Resolutions dated 13th June 1996 and 27th May 2003 specifically provide that the reimbursement of fees will be at the Government rate and not at the rate which Unaided Private Institutions would charge as per their own will.

4 We have considered the submissions. Upon introduction of the Right to Education Act, the parties would be governed by the said Act. The matter is required to be considered for a period prior to the implementation of Right to Education Act. We have considered the Government Resolution dated 13th June 1996. The Government Resolution specifically says that the same would be applicable only to those institutions who charged fees as per the rate prescribed by the Government. So also, the Government Resolution dated 27th May 2003 prescribes that the same would be applicable to the Unaided Secondary and Higher Secondary Educational Institutions, who charged fees as per the rate prescribed by the Government. If at all the Unaided Educational Institutions are entitled for the reimbursement of the fees of reserved category candidates, the same would be at Government rate and after proof of the fact that the said fees was not charged from the reserved category candidates. It appears that the representation was made by the Petitioner in this regard on 24th October 2005 and reminder was also given on 09/01/2006. But the same was not considered by the Government nor decision pursuant to the same was taken by the Government. Considering the above, we pass the following order :

- (i) The Respondent Authority shall take decision upon representation given by the petitioner.

- (ii) In case, the same is not traced out by the Government, the Petitioner is at liberty to file a fresh comprehensive representation along with all the details to the Respondent No.2 Authority.
- (iii) The Respondent Authority shall thereafter take decision upon the said representation expeditiously preferably within six months from the date of receipt of the representation keeping in mind the observations made by us in the present Order.
- (iv) Writ Petition is accordingly disposed of in above terms.
Rule discharged. No costs.

(A.M.BADAR J.)

(S.V.GANGAPURWALA J.)