

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

WRIT PETITION NO. 5009 OF 2018

Nida Multipurpose Women's Association .. Petitioners
and Anr.

Versus

The State of Maharashtra & ors. .. Respondents

Mr.C.V. Dharurkar, Advocate for the petitioners.
Mr.A.S. Shinde, AGP for respondent/State.

**CORAM : PRASANNA B.VARALE &
S.M.GAVHANE, JJ.**

DATED : 20.07.2018

P.C. :-

1. Heard Mr.C.V. Dharurkar, learned Counsel appearing for the petitioners. Mr. Dharurkar, learned Counsel by inviting our attention to the documents placed on record submitted that the petitioner was desirous of opening new secondary school in the area, namely, district – Beed and at places namely, Khausbaugh, Dist. Beed and other place Aher Wahegaon, Ta.Georai, Dist. Beed for Urdu medium. A statement is made before this Court by the learned Counsel, on instructions, that the petitioner institutes are granted status of minority

institute by the competent authority. Then by inviting our attention to the various orders passed by this Court, learned Counsel submitted that as the proposals were kept pending and no decision was taken by the competent authority, the petitioner was required to approach this Court by filing writ petitions. Mr.Dharurkar then submitted that one of such last orders is of 20.04.2014 in Writ Petition No.7911 of 2014. Then Mr. Dharurkar, learned Counsel submitted that the petition was disposed of with liberty to the petitioner to file proposal/representation to respondent No.1 as and when respondent No.1 invites proposal/application for opening new Urdu Medium school and then respondent No.1 was directed to consider the proposal on its own merits, within the dates stipulated in the advertisement. Mr. Dharurkar, learned Counsel then submitted that initially in the Government policy, a pre-requisite for permission to open secondary school was including of name of the place in the perspective plan, but subsequently the State Government by way of Government Resolution dated

14.06.2012 on the back-drop of the Right to Education Act, removed the condition by placing heavy reliance on the Government Resolution. The Learned Counsel then submitted that insofar as the primary and secondary schools of Urdu medium, Kannada medium, Hindi medium, Gujarati medium, English medium etc. are concerned, the State Government resolved to grant permission on need base and it is further made clear that for such grant of permission, the perspective plan or master plan would not be a hurdle. Learned Counsel Mr. Dharurkar then submitted that the petitioner in response to the advertisement published by the State Government submitted his proposal and requested the Education Officer (Secondary) to accept the proposal by communication dated 02.09.2014. A copy of such proposal is placed on record at Exh. "L". Mr. Dharurkar, learned Counsel then submitted that by communication dated 26.12.2014, the Deputy Education Officer (Secondary), Zilla Parishad, Beed, informed the petitioner institute that the proposal of the petitioner is returned back. Mr. Dharurkar,

learned Counsel then submitted that the ground for returning the proposal is the name of those places wherein the petitioner institute was desirous of opening new college is not included in the perspective plan. Mr. Dharurkar, learned Counsel then submitted that the petitioner submitted representation to the State Government i.e. the Additional Chief Secretary of the School Education and Sports Department. By inviting our attention to the copy of the representation, which is placed on record at Exh. "N", Mr. Dharurkar learned Counsel submitted that the petitioner institute referred to earlier orders passed by this Court and then requested the authorities to consider the proposal sympathetically on need-base criteria and then to grant permission to run secondary school, at the places for which proposal is submitted. Mr. Dharurkar, learned Counsel then submitted that on 13.09.2017 again representation is submitted to the State Government reiterating the request of the petitioner. Mr. Dharurkar, learned Counsel submitted that after lapse of considerable period, no decision is

taken on the representation and the authorities are sitting idle on the representation. Thus, Mr. Dharurkar, learned Counsel prayed for direction to the respondent authorities to decide the representation forthwith.

2. Per contra, learned AGP submits that there is change in the policy of the Government. Learned AGP then inviting our attention to the documents placed on record i.e. circular, by the Director of Education (Secondary and Higher Secondary), submitted that reference is made of the Government Resolutions in the communication and the policy has undergone change.

3. As we are not expressing any opinion on the merits of the proposal of the petitioner and we are of the opinion that the petition can be disposed of by directing the respondent authorities and particularly respondent No.1 to decide the representation of the petitioner within stipulated period and further in our opinion, this direction would meet the ends of justice

without causing any prejudice to the respondent authorities.

4. Respondent No.1 – State is directed to decide the representation of the petitioner – institute dated 13.09.2017, as expeditiously as possible and not later than 10 weeks from the date of order of this Court. Needless to state that respondent No.1 to decide the representation on its own merits and as per the prevailing norms and policy of the State Government for grant of opening new secondary school including the Urdu medium school. The petition is accordingly disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B.VARALE, J.]