

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3343 OF 2011

Netaji Subhashchandra Bose **PETITIONER**
Education Trust's Brooklyn
Birdies European English School,
Nashik, Through its Secretary,
Kanak S/o Manakchand Surana,
Aged 72 Years, Occupation
Business, Resident of Agarwal
Nagar, Malegaon Road, Dhule,
District Dhule

V E R S U S

- 1 The State of Maharashtra, **RESPONDENTS**
through the Secretary, Education
Department, Mantralaya, Mumbai
- 2 The Information Commissioner,
The State of Maharashtra,
Trimbak Road, Near Rest House,
Nashik, District Nashik
- 3 Vijaykumar Vasant Mandaware,
Aged 36 Years, Occupation

Business, Resident of 4, L.G.
Kesal Apartment, Govindnagar,
Nashik - 9

Mr. V.D. Hon, Advocate for the Petitioner
Mr. M.M. Nerlikar, A.P.P. for the Respondents/State

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

DATE : 23rd APRIL, 2018

ORAL JUDGMENT [PER: T.V. NALAWADE, J.] :

This petition is filed to challenge the show-cause-notice dated 20th January, 2011, issued by the Appellate Authority appointed under Right to Information Act, by which the authority had directed the petitioner, Education Trust to remain present before it for hearing. Respondent No.3 - Vijaykumar Vasant Mandaware has filed the application for seeking some information from the petitioner and it is his grievance that the said information is not supplied to him.

2. The information sought is about the payment which is being paid to the teaching staff, non-teaching staff, the steps taken for giving contribution towards provident fund and the steps taken for fixing the fees which can be charged for giving admission to the students.

3. When the aforesaid information of aforesaid nature is sought and it is refused, the appellate authority under Right to Information Act is created only to take decision over the dispute created by the Institution like present one about its liability to supply the information. This Court cannot ignore the legislation made by the State and the guidelines given by the Supreme Court, due to which the education cannot be treated as a trade or business. There is Act like the Maharashtra Educational Institutions [Prohibition of Capitation Fee] Act, 1987. Thus, profiteering is not allowed in Educational Institutions. Some procedure is required to be followed for giving admission to the students. Similarly, the pay-scales which are adopted by the

State Government with regard to teaching or non-teaching staff are applicable to Educational Institutions, even if they are not receiving grant-in-aid.

4. In view of these circumstances apparently the private institution, which is not receiving grant-in-aid cannot deny to supply the information. This is with regard to the provisions of Law. The educational institution, which runs the schools can do so only after getting the permission from the State Government. Aforesaid information needs to be supplied to the authority of the State, and so, the petitioner cannot take a stand that it is not covered under Right to Information Act.

5. In Writ Petition No. 8679 of 2010, this Court has granted the interim relief vide order dated 24th September, 2010 in favour of the petitioner, in which similar relief is claimed. Reliance is placed of that order. It is misuse of process of Law as only notice to explain is there at present. This Court holds that

the interference is not possible in the action taken by the authority under Right to Information Act.

In view of above, Writ Petition stands dismissed. Rule is discharged.

(**SUNIL K. KOTWAL, J.**)

(**T.V. NALAWADE, J.**)