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

WRIT PETITION NO.5129 OF 2006

Samta Shikshan Prasarak Mandal,
Mothi Latha, Osmannagar, Tq. Kandhar,
Dist. Nanded,
through it's Secretary,
Shamsundar Shankar Jahagirdar,
Age: 70 years, Occu: Pensioner,
R/o. Osmannagar, Tq. Kandhar,
Dist. Nanded

..PETITIONER

VERSUS

1. Shri. Saraswati Shikshan
Prasarak Mandal, Shiradhon,
Tq. Kandhar, Dist. Nanded,
Through its Secretary
2. Trimurti Madhyamik Vidhyalay,
Osmannagar, Tq. Kandhar,
Dist. Nanded,
through its Head Master
3. Education Officer (Secondary),
Zilla Parishad, Nanded
4. Deputy Director of Education,
Latur Division, Latur
5. Director of Education,
Maharashtra State, Pune
6. Secretary,
Education Department,
Mantralaya, Mumbai
7. The State of Maharashtra,
through Education Department,
Mantralaya, Mumbai

..RESPONDENTS

(2)

Mr A. N. Nagargoje, Advocate for petitioner;
Mr V. D. Gunale, Advocate for respondent Nos.1 & 2
Mr A. S. Shinde, A.G.P. for respondent Nos.3 to 7

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

DATE : 22nd June, 2018

ORAL ORDER:

Heard Mr Nagargoje, learned Counsel for petitioner, Mr Gunale, learned Counsel for respondent Nos.1 and 2 and learned A.G.P. for respondent Nos.3 to 7.

2. The present petition is filed in the year 2006, challenging the letter/communication dated 20th July, 2005, issued through the office of Deputy Director of Education, Latur, Division Latur to the Education Officer (Secondary), Zilla Parishad, Nanded. By the said communication, the State Government granted permission to respondent No.1 to start new secondary school on permanent non-grant basis at a place, namely, Osmannagar, Tq. Kandhar, Dist. Nanded, from the academic session/year 2005-2006. The challenge was raised on the ground that the permission is granted in contravention to the State Government's policy of the area distance to be maintained in two schools as well as on the ground that there would be an unhealthy competition between two schools.

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3. Perusal of the order sheet shows that by an order dated 4th August, 2010, the petition is admitted by granting Rule, but the Division Bench, in clear and unambiguous words, declined to grant any interim relief, as such it is stated in the order 'No interim relief'.

4. The reply filed by the State Government shows that as per the prevailing policy, the norms for grant of school were laid down in the Government Circular dated 4th February, 2000 and it was the policy of the State Government to grant permission to run the school for 1st to 7th standard for the population of 1000 in a village and for secondary school, an enrollment of 25 students in 7th standard. It is submitted that the population of village Osmannagar is more than 1000 i.e. 5693. The proposal was received on behalf of respondent No.1 for opening a secondary school on permanent non-grant basis. As respondent No.1 had fulfilled all the requisite criteria laid down in the Government Circular dated 4th February, 2000, permission was granted to it. It is submitted that even the District Committee recommended the proposal of respondent No.1 in view of the Government Circular dated 5th June, 2003. Copies of certain communication and Circular dated 5th June, 2003 are annexed to the reply filed by the State.

5. Mr Gunale, learned Counsel for respondent Nos.1 and 2 submitted that respondent No.1 - Society is running the school and the secondary

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classes, till date, in view of the communication dated 20th July, 2005 and respondent No.1 made all attempts to provide better educational facilities to the students. He submitted that as per his instructions, for academic year 2017-2018, the institute was having strength of 244 students taking education in the institute.

6. It is not in dispute that during the passage of time, the State Government's policy has also undergone change and the condition of maintaining distance between two schools is relaxed by the State Government.

7. Considering all above referred facts, in our opinion, nothing remains in the petition. The challenge in the petition fails. The petition is accordingly dismissed and disposed of.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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