

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 WRIT PETITION NO. 4075 OF 2013

- [1] Shri Swami Samarth Bah. **PETITIONERS**
Shashnik Samajik Sanstha
Osmanabad through its President
Shri Vishwash J. Shinde,
Age 50 years, Occ. Social Work,
R/o. Kotgalli, Osmanabad,
Taluka & District Osmanabad
- [2] Satyabhama English Primary
School, Osmanabad, Through
Administrative Officer/
Principal Jayant S/o Jeevanrao
Dalve, Age 29 years, Resident
of Kotgalli, Osmanabad,
Taluka & District Osmanabad

V E R S U S

- [1] The State of Maharashtra, **RESPONDENTS**
Through its Secretary,
Department of School Education
Mantralaya, Mumbai – 32
- [2] The Education Officer [Primary]
Zilla Parishad, Osmanabad,
Taluka & District Osmanabad

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Advocate for Petitioners : Mr. Murge Estling S.
AGP for Respondents/State : Mr. Y.G. Gujrati
Advocate for Respondent No.2 : Mr. R.D. Biradar
holding for Mr. S.B. Ghute

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

DATE : 14th FEBRUARY, 2018

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

Rule. Rule made returnable forthwith. By consent of both the sides, this petition is taken up for final hearing. Heard both the sides.

2. Today, learned counsel for the petitioners placed on record, copy of oral Judgment, delivered by this Court, in Writ Petition No. 4091 of 2013, decided with so many writ petitions on 5th July, 2013. No other proceedings are involved and this Court set aside and quashed the order made by the Education Officer, Primary. As the same point is involved in the present matter, therefore, this petition also needs to be allowed in the same terms. The relevant observations and the findings of this Court in above referred matters can be found in paragraph No.17, 18 and 19, as under :-

"17. It is not disputed before us that the Education Officer is not authorized to take impugned action and the procedure as prescribed under Rule 12 is mandatory and the Government shall have to adopt such procedure while taking action of withdrawal of recognition. It would be open for the State Government to follow the procedure prescribed under the rules in deserving cases and take appropriate action in accordance with Law.

18. A prayer has been made to restrain the petitioners from continuing to operate the school till completion of the exercise of re-examination of the cases by the State Government and during the continuation of proceedings of de-recognition which the State Government may propose to initiate. We have not been pointed out any rule or provision in the act providing for suspension of the authorization to run the school during conduct of an inquiry by the State Government. The request made by the State Government is not in consonance with the provisions of the Act and

Rules.

19. In view of the stand taken by the State Government in the affidavit in reply and for the reasons recorded above, the orders impugned in these petitions, issued by the Education Officer, Primary withdrawing re-cognition of the schools are quashed and set aside. Rule is accordingly made absolute. No order as to costs."

In referred terms, the present Writ Petition is also allowed.

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

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