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

WRIT PETITION NO.7535 OF 2018

1. Dnyaneshwar s/o Namdeo Navhi,
Age: 42 years, Occu: Business &
President of School Management Committee,
Talegaon, Tq. Jamner, Dist. Jalgaon
 2. Vinod s/o Ashok Padolse,
Age: 36 years, Occu: Agril.
 3. Gajanan s/o Deochand Jadhav,
Age: 47 years, Occu: Agril.,
All r/o Talegaon, Tq. Jamner,
Dist. Jalgaon
- ..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through- The Secretary,
School Education & Sports Department,
Mantralaya, Mumbai-32
 2. The Deputy Director of Education,
Nashik Division, Nashik
 3. The Education Officer (Secondary),
Zilla Parishad, Jalgaon,
Tq. & Dist. Jalgaon
 4. The Amar Mitra Mandal,
Dhamangaon, Tq. & Dist. Jalgaon,
Through its- President
 5. Madhamik Vidyalaya, Talegaon,
Tq. Jamner, Dist. Jalgaon,
Through its Head-Master
- ..RESPONDENTS

Mr Balaji S. Shinde, Advocate for petitioners;
Mr C. S. Kulkarni, A.G.P. for respondent Nos.1 to 3

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

DATE : 10th July, 2018

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioners and the learned A.G.P. appearing for respondent Nos.1 to 3.

2. This is a petition filed by one Dnyaneshwar N. Navhi, who claims to be the President of the School Management Committee and other two petitioners, one Vinod Ashok Padolse and Gajanan Deochand Jadhav. In the present petition, which is filed on 27th June, 2018, the petitioners challenge the order passed by the Education Officer (Secondary), Zilla Parishad, Jalgaon, dated 2nd November, 2013.

3. The communication dated 2nd November, 2013 is the permission granted to respondent No.4, so as to transfer its secondary school from a place Fupnagari, Tq. Jalgaon, Dist. Jalgaon to a place Talegaon, Dist. Jalgaon. It is submitted by the learned Counsel for the petitioners that the communication and order dated 2nd November, 2013 is causing prejudice to the petitioners. By way of the said transfer, the students of the Zilla Parishad School are put to sufferance. Then the learned Counsel for the petitioners submitted that the said transfer order is in breach of Government Circular dated 31st July, 2013. He vehemently submitted that as per the said

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Circular, there are certain conditions which are to be complied with while effecting the transfers. He, by inviting our attention to Clause No. 2 (ii) of the Circular, submitted that the school is now transferred at a distance of more than 5 Kms. and this is clearly breach of condition of clause 2(ii). It was also submitted by the learned Counsel for the petitioners that the petitioners have made various representations to the authorities since year 2013 and inspite of such representations, no heed is paid by the authorities to their grievance. As such, the petitioners are left with no choice but to approach this Court.

4. On considering the submissions of the learned Counsel for the petitioners and on perusal of the material placed on record, we are of the opinion that the petition proceeds on an altogether erroneous premises. The transfer order, which is impugned in the petition, is subject to certain conditions. Perusal of the documents show that the transfer order was passed on the request made by respondent No.4 - Institute. Now, there is no dispute on the issue that such a transfer can be sought for by the Institute, subject to the compliance of the conditions incorporated in Circular dated 31st July, 2013. Perusal of the said Circular further makes it clear that the Institute is duty bound to comply with the conditions, if such conditions are imposed while effecting the transfers. Clause 2 (vi) of the said Circular specifically refers and states that if it is noticed by the State Government that the Institute fails in complying the conditions or the Institute submits

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misleading information, in that case, the State Government reserves the rights to cancel the order of transfer.

5. There is no any dispute that with a laudable object, the Circular dated 31st July, 2013 is issued by the State Government. The object is to provide quality education to the students at a place which is nearby to them. The Circular then states about the permission, being sought for by the Institute for transfer of the schools.

6. On the backdrop of the Circular, if the order dated 2nd November, 2013 is perused, it reveals that the transfer order is not an absolute order granting a wholesome permission to respondent No.4 - Institute to transfer its school. The order dated 2nd November, 2013 specifically refers to certain conditions and it is made clear in the order that the transfer would take effect only when the conditions, which take care of the infrastructural facilities as well as availability of the adequate teaching staff will be fulfilled by the Institute. Apart from these prerequisites, the communication also takes care of approval or concurrence by the parents and/or the Committee of teachers. It would be necessary to refer to Clause 4 of the communication and same reads thus:-

"४. यासाठी पालक/शिक्षक समिती यांची स्थलांतरास सहमती असावी. व स्थलांतरामुळे विद्यार्थ्यांच्या शिक्षणावर त्याचा परिणाम होणार नाही याची काळजी घेण्यात यावी"

7. Clause 4 of the communication also reflects the intention that by the said transfer, the academic career of the students is not to be in sufferance. On a specific query made to the learned Counsel, whether there is any such objection raised by either the Committee of the teachers or Committee of the parents for such transfer, the learned Counsel submitted that he is not having any instructions to that effect.

8. It is not in dispute that the school Committee or the parents Committee is to be formed in each school and parents can raise their grievance to the authorities. This is a mode of addressing the grievance of the parents community and the parents Committee, which is representative of the parents can put any grievance of the parents to the competent education authorities. Clause 4 of the order dated 2nd November, 2013 takes care of such a situation. Learned Counsel for the petitioners then submitted that the petitioners and other persons made various representations to the authorities and our attention is invited to the representation submitted on 25th May, 2015 to the President of the Zilla Parishad, Jalgoan and then the representations in the year 2016 to the Principal Secretary of School Education as well as the Director of Education, Pune.

9. Considering all these aspects, we are of the opinion that the petition can be disposed of at admission stage itself. It will not be out of place to

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state that it is not the grievance before us by any of the Committee members of the teachers or Committee members of the parents submitted that because of the transfer, the students are put to some sufferance. By way of the present petition, it is the President of the School Committee of the Zilla Parishad School, who is before us alongwith two other petitioners.

10. The document placed on record at Exh.'C' is an important document. The communication is from the Additional Secretary of the State to the Director of Education. The said communication deals with the permission sought for by respondent No.4 - Management. Even in the said communication dated 2nd August, 2013, the Additional Secretary referred condition i.e. condition No.4 seeking the approval or the concurrence from the parents Committee or the teaching Committee.

11. Considering all these facts, we are of opinion that the petition is devoid of any merit and same deserves to be dismissed. As such, the petition is accordingly dismissed.

12. The learned Counsel for the petitioner submitted that the direction be issued to the authorities to take decision on the representations submitted by the petitioners, namely, the representation dated 25th May, 2015 and 22nd September, 2016. If these representations are pending before the concerned authorities for decision, the authorities to take decision on these

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representations as expeditiously as possible and preferably within six weeks from the date of the order of this Court.

The petition is disposed of accordingly.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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