

1. The civil application No. 2705 of 2018 is filed praying for deleting the name of petitioner No. 2. The same is signed and verified by the petitioner No. 2. In view of that, name of petitioner No. 2 is deleted.

2. The petitioners assail the order dated 7th July, 2017, directing closure of the school at 'Shivacha Tanda'.

3. The learned advocate submits that the son of the petitioner is studying in the Zilla Parishad school namely 'Shivacha Tanda'. The school is closed down only on the ground that distance between the two schools run by the Zilla Parishad is less than 1 Km. However the respondent has failed to consider that the school at 'Mandwa' is situated in a hilly region. It has a difficult terrain, even river crosses between the two villages. The learned advocate relies on Rule 6 of the Right of Children to Free and Compulsory Education Rules, 2010.

4. Mr. Chate, learned advocate for respondent No. 3 submits that the schools at such a short distance are not feasible and viable. The original school is at 'Mandwa Tanda'. The school at 'Shivacha Tanda' and 'Maidari Tanda' are subsequent and as they are situated within the distance of 1 Km. from the original school decision is rightly taken.

5. We have also heard the learned Additional Government

Pleader.

6. Rule 6 of The Right of Children to Free and Compulsory Education Rules, 2010, reads thus -

“6. Area of limits of neighbourhood.-

(1) The area or limits of neighbourhood within which a school has to be established by the appropriate Government or the local authority shall be, -

(a) in respect of children in Classes from I to V, a school shall be established within a walking distance of one km of the neighbourhood;

(b) in respect of children in Classes from VI to VIII, a school shall be established within a walking distance of three km of the neighbourhood.

(2) Whether required, the appropriate Government or the local authority shall upgrade existing schools with Classes from I to V to include Classes from VI to VIII and in respect of schools which start from Class VI onwards, the appropriate Government or the local authority shall endeavour to add Classes from I to V, wherever required.

(3) In places with difficult terrain, risk of landslides, floods, lack of roads and in general, danger for young children in the approach from their homes to the school, the appropriate Government or the local authority shall locate the school in such a manner as to avoid such dangers, by reducing the area or limits specified under sub-rule(1)

(4) For children from small hamlets, as identified by the appropriate Government or the local authority, where no school exists within the area or limits of neighbourhood specified under sub-rule (1), the appropriate Government or the local authority shall make adequate arrangements, such as free transportation and residential facilities, for providing elementary education in a school, in relaxation of the area or limits specified in the said rule.

.....”

7. No doubt, as per Rule 1, the schools has to be at a distance of 1 Km. Sub-Rule 3 of Rule 6, however requires that if there are areas such as hilly region, difficult terrain or some other aspect because of which travel of the students would be harmful, then the distance can be reduced.

8. It is not disputed that the Zilla Parishad school was started at 'Shivacha Tanda' and under the impugned order the same is closed down. The petitioner has relied on the certificate issued by Tahasildar, showing that 'Mandwa Tanda' is situated in a hilly region. The impugned order does not consider the said aspect and only on the ground that the distance is less than one Km has passed the impugned order.

9. We are only concerned with the legality of the order to the extent of the school at 'Shivacha Tanda' and we are restricting the present petition to the extent of school at 'Shivacha Tanda'.

10. Considering the fact that all these aspects are not considered while passing the impugned order, we set aside the impugned order and direct the Chief Executive Officer, Zilla

Parishad, Beed to re-consider the aspect about the viability / feasibility of the school at 'Shivacha Tanda' afresh by considering the various inspection reports. The decision shall be taken by the Chief Executive Officer in that regard expeditiously and preferably by the end of May – 2018.

11. Till then, the *status-quo* as on today be maintained.

12. The writ petition is accordingly disposed of. No costs.

13. In view of disposal of writ petition, civil applications also stand disposed of.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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