

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

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Brijmohan Dhirajprasad Mishra

VERSUS

The State Of Mah And Ors

Mr. Deshmukh Sachin S. , Advocate for Petitioner

Mr. A. B. Girase, G.P. for Respondent/State in all matters.

WITH

CIVIL APPLICATION NO.:6445 OF 2012

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Chandoba@chandrakant Gangaram Bhalerao

VERSUS

Brijmohan Dhirajprasad Mishra And Ors

Mr. Shendage Manushri S And A S Rasal , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10247 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Jai Maharashtra Shikshan Prasarak Sanstha Through Secretary And

Another

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Sapkal V.D. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10249 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Mahila Vikas Mandal Aurangabad Through President And Others
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Sapkal V.D. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10248 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Janta Shikshan Prasarak Mandal Buldhan Through President And
Another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Sapkal V.D. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10250 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Chatrapati Shivaji Secondary And Higher Secondary Vidyalaya Through
Head Master A
VERSUS
The State Of Maharashtra And Others

Mr. Kolhare S.r. And Kochar Pundlik S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10251 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Saraswati Primary School Ravankola And Others
VERSUS
The State Of Maharashtra And Others

Mr. Kolhare S.r. And Kochar Pundlik S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10246 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Hindustani Education Society Through Secretary And Another
VERSUS
Brijmohan Dhirajprasad Mishra

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10402 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Tukaram Naik Primary Vidyalaya Udgir Through Head Master And
Others
VERSUS
The State Of Maharashtra And Others

Mr. Kolhare S.R. And Kochar Pundlik S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10405 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Hindustani Education Society Through Secretary And Another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10407 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Amrutbaba Vikas Sanstha Andora Through Incharge Head Mistress
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10409 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

The Statmodern Shikshan Parasarak Mandal Latur Through Secretary
And Others
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10403 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

National Educatin Society Latur Thorugh Secretary And another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10404 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Vijay Subhash Gunjal And Others
VERSUS
The State Of Maharashtra And Others

Mr. Irale Patil D.R. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10399 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

The Maharashtra Rajya Manya Khajgi Prathmik Shikshak Va Shikshketr
Karmachari Mah
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Ghatol Patil Shahaji B. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10398 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

M G Marathi Sindhi Hindi Vidhyalay Jalna Through Headmaster And
Others
VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Thombre Chandrakant V. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10400 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Ujjwala Madhavrao Kothalikar
VERSUS
The State Of Maharashtra And Others

Mr. Katneshwarkar P.R. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10401 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Akhil Bharatiya Urdu Shikshak Sangh Through State President
VERSUS
The State Of Maharashtra And Others

Mr. Gapat Pramod B , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10410 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Narasham Prathmik Shala Through Headmaster And Another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Kolhare S.R. And Kochar Pundlik S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10408 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Kai Tatyasaheb R F Patil Shikshan Mandal Deogaon Through President
And Another
VERSUS
The State Of Maharashtra And Others

Mr. Phatale Sagar S , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10406 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Pachora Taluka Co Operative Education Society Pachora Through
Chairman And Another
VERSUS

The State Of Maharashtra And Others

Mr. Phatale Sagar S , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10395 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Lok Jagruti Shikshan Sanstha Walandi Through Headmaster Govind

Pandharinath Mane

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10394 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Fala E Millat Bahuuddeshiya Shikshan Prasarak Mandal Nilanga

Through President An

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.n. , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10397 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Gram Vikas Bahuuddeshiya Seva Bhavi Sanstha Sindkhedthrough

Secretary And Another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10396 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Jagdamba Mahila Sevabhavi Sanstha Latur Through Secretary And
Another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10905 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Vinayak Manoharrao Padmawar
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Kolhare S.R. And Kochar Pundlik S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10900 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Jivandeep Model School Kalutanda Through Headmaster And Others
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Kolhare S.R. And Kochar Pundlik S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10899 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Laxmibai Primary School Udgir Through Head Master And others
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Rodge Pratap G., Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10903 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Shri Shivaji Mofat Education Society Kandhar Through Secretary And
Another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Panpatte V.S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10897 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Guru Kanhayya Prathmik Vidya Mandir Through Headmistress And
Others

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Pawar Ajay D. , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10896 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Bauddha Tatwdnyan Kendra Dhule Through President And Another

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Pawar Ajay D. , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10894 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Rajeshwari Primary School Udgir Through Headmaster

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Rodge Pratap G. , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10895 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Shubhasneha Shikshan Sanstha Aurangabad Through President Anita
Sudhakar Pagare A

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Thombre S.S. , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10893 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Laxman Shikshan Prasarak Mandal Latur Through President And
Another

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10892 OF 2018

IN

PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Janpath Shikshan Prasarak Mandal Latur Through Secretary And
Another

VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner

WITH

CIVIL APPLICATION NO.:10888 OF 2018

IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Rani Laxmibai Shikshan Sanstha Yeshwant Nagar Through Secretary
And Another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Panpatte V.S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10891 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Masoom Educational And Welfare Society Parbhani Through Secretary
And Others
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Munde Sambhaji G. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10889 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Tanzimi Centers Ismalpura Through President And Others
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Syed Masood Chand , Advocate for Petitioner

WITH
CIVIL APPLICATION NO.:10890 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Akhil Bhartiya Urdu Shikshan Sanghthana Through State President
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Syed Masood Chand , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:11014 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Sant Gadgebaba Primary School Meharun Through Headmaster Sunil
Dayaram Patil
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Ghatol Patil Shahaji B. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:11013 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Ratna Jain Primary School Pratapnagar Through Headmaster Uttam
Hiraman Chaudhari
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Ghatol Patil Shahaji B. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:11448 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Roshan Urdu Primary School Babhalgaon Through Headmaster
Mohsinali Murtuzali Sayy
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:11446 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Smt Vatsalabai Naik Balvikas Mandal Through Presidentnaresh
Bahusing Naik
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Kolhare S.R. And Kochar Pundlik S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:11447 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

The Christian And Missionary Alliance Church Of India Through

Managing Director A
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Kolhare S.R. And Kochar Pundlik S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:11449 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Maharashtra Bahujan Mahila Vikas Sanstha Through Secretary Nita
Devidas Dongre
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Kolhare S.R. And Kochar Pundlik S. , Advocates for Petitioner
WITH
PUBLIC INTEREST LITIGATION NO.:31 OF 2012

Jaikumar Mukundrao Jadhav
VERSUS
The State Of Maharashtra And Anr

Mr. Talekar S.B. And U.R. Awate , Advocates for Petitioner
WITH
CONTEMPT PETITION NO.:186 OF 2014
IN
PUBLIC INTEREST LITIGATION NO.:18 OF 2012

Brijmohan Dhirajprasad Mishra

VERSUS
Mahaveer Damodhar Mane, Pune

Mr. Deshmukh Sachin S. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10389 OF 2018
IN
CONT. PETITION NO.:186 OF 2014

Amrutbaba Vikas Sanstha And Ora Through Incharge Head Mistress
VERSUS
Brijmohan Dhirajprasad Mish Ra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10388 OF 2018
IN
CONT. PETITION NO.:186 OF 2014

National Educatin Society Latur Thorough Secretary And another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10387 OF 2018
IN
CONT. PETITION NO.:186 OF 2014

Modern Shikshan Prasarak Mandal Latur Through Secretary And
Another
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10386 OF 2018
IN
CONT. PETITION NO.:186 OF 2014

Rashida Begum Urdu High School Harsool Through Head Master
VERSUS
The State Of Maharashtra And Others

Mr. Thombre Chandrakant V. , Advocate for Petitioner
WITH
CIVIL APPLICATION NO.:10390 OF 2018
IN
CONT. PETITION NO.:186 OF 2014

Lok Jagruti Shikshan Sanstha Walandi Through Head Master Govind
Pandharinath Mane
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. In C.P. , Advocate for Petitioner
WITH

CIVIL APPLICATION NO.:10391 OF 2018
IN
CONT. PETITION NO.:186 OF 2014

Fala E Millat Bahuuddeshiya Shikshan Prasarak Mandal Nilanga
Through President
VERSUS
Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. In C.P. , Advocate for Petitioner
WITH

CIVIL APPLICATION NO.:10392 OF 2018
IN

CONT. PETITION NO.:186 OF 2014

Jgadamba Mahila Sevabhavi Sanstha Latur Through Secretary And
Another
VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. In C.P. , Advocate for Petitioner
WITH

CIVIL APPLICATION NO.:10393 OF 2018
IN

CONT. PETITION NO.:186 OF 2014

Gram Vikas Bahuuddeshiya Seva Bhavi Sansta Sindkhed Through
Secretary And Another
VERSUS

Brijmohan Dhirajprasad Mishra And Others

Mr. Irpatgire A.N. In C.P. , Advocate for Petitioner

WITH
WRIT PETITION NO.:9115 OF 2018

Gramin Bal Vikas Shikshan Sanstha Bhusani Through Secretary
Dnyaneshwar Tukaram M

VERSUS
The State Of Maharashtra And Others

Mr. Patil Dnyaneshwar J , Advocate for Petitioner

WITH
WRIT PETITION NO.:9116 OF 2018

N G Nathani Sindhi Hindi Vidhyalay Jalna Through President And
Others

VERSUS
The State Of Maharashtra And Others

Mr. Thombre Chandrakant V. And Jagtap Sumedha T. , Advocates for
Petitioner

WITH
WRIT PETITION NO.:9154 OF 2018

Veerbhadreshwar Shikshan Sanstha Parali Through President And
Another

VERSUS
The State Of Maharashtra And Others

Mr. Thombre Chandrakant V. And Jagtap Sumedha T. , Advocates for
Petitioner

WITH
WRIT PETITION NO.:9168 OF 2018

Shri Ganesh Yuvak Sanstha Beed Through Secretary Mahendra
Purushottam Mekhe And Anr

VERSUS

The State Of Maharashtra And Others

Mr. Sapkal V.D. , Advocate for Petitioner

WITH

WRIT PETITION NO.:9169 OF 2018

Kranti Junior Adhyapak D. Ed. Mahavidyalay Through Secretary Sonia
Dinesh Bagade

VERSUS

The State Of Maharashtra And Others

Mr. Sapkal V.D. , Advocate for Petitioner

WITH

WRIT PETITION NO.:9170 OF 2018

Bhartiya Bahuudeshiya Shikshan Prasarak Mandal Udgir Through
Secretary Kashinath

VERSUS

The State Of Maharashtra And Others

Mr. Patil Dnyaneshwar J. , Advocate for Petitioner

WITH

WRIT PETITION NO.:9171 OF 2018

Mahila Vikas Mandal Aurangabad Through President Mathyu Vijay
Shrisaunder And Others

VERSUS
The State Of Maharashtra And Others

Mr. Sapkal V.D. , Advocate for Petitioner
WITH
WRIT PETITION NO.:9172 OF 2018

Pachora Taluka Sahakari Shikshan Sanstha Through Chairman And
Another
VERSUS

The State Of Maharashtra And Others

Mr. Phatale Sagar S. , Advocate for Petitioner
WITH
WRIT PETITION NO.:9173 OF 2018

Jai Maharashtra Shikshan Prasarak Sanstha Through Secretary
Jaiprakash Vishwanath
VERSUS

The State Of Maharashtra And Others

Mr. Sapkal V.D. , Advocate for Petitioner
WITH
WRIT PETITION NO.:9174 OF 2018

Tatyasaheb R F Patil Shikshan Mandal Deogaon Through President And
Another
VERSUS

The State Of Maharashtra And Others
Mr. Deshmukh Mahesh S. , Advocate for Petitioner
WITH
WRIT PETITION NO.:9175 OF 2018

Muslim Education And Welfare Association Beed Through President Sk
Samir Ahmed
VERSUS
The State Of Maharashtra And Others

Mr. Thombre Chandrakant V. And Jagtap Sumedha T. , Advocates for
Petitioner
WITH
WRIT PETITION NO.:9297 OF 2018

Haji Salahuddin Ahmed Education And Social Welfare Society Through
Secretary
VERSUS
The State Of Maharashtra And Others

Mr. Thombre Chandrakant V. , Advocate for Petitioner
WITH
WRIT PETITION NO.:9418 OF 2018

Janta Shikshan Prasarak Mandal Buldhan Through President And
Others
VERSUS
The State Of Maharashtra And Others

Mr. Sapkal V.D. , Advocate for Petitioner

WITH
WRIT PETITION NO.:9181 OF 2018

Ujjawala Madhavrao Kothalikar
VERSUS
The State Of Maharashtra And Others

Mr. Katneshwarkar P. R., Advocate for Petitioner

**CORAM : S.V. GANGAPURWALA AND
S. M. GAVHANE, JJ.
DATED : 25th September, 2018**

PER COURT:

. The Public Interest Litigation Nos. 18/2012 and 31/2012 seek direction against the authorities to initiate action on the basis of the defaulting institutions based on the report of Special Pat Padtalni 2011. According to the petitioners, the report of the Pat Padtalni has been received in the year 2011. Large scale malpractices have been noticed. However, the authorities have shown lethargy in taking any action against the defaulting institutions. The defaulting institutions have garnered huge amounts of the public funds in the nature of grants, so also, appointed excess teachers and received salary and non salary grants. The authorities are not initiating any action against the said

erring institutions.

2. Writ petitions are filed individually by some of the institutions receiving notice from the authority as to why criminal action shall not be taken against them pursuant to the report of Special Pat Paddalni of the year 2011 and the strength of student in the subsequent years.

3. The learned counsel for the writ petitioners and the intervenors in the Public Interest Litigation submit that in Public Interest Litigation No. 18 of 2012 this court under order dated 11th October, 2012 directed hearing of the Public Interest Litigation along with Writ Petition No. 4168 of 2012 with connected matters. However, this order was not brought to the notice of this court by the petitioners in Public Interest Litigations and the State and this Public Interest Litigation continued independently Writ Petition No. 4168 of 2012 is decided independently by this court. The Division Bench of this Court under judgment and order dated 24.10.2013 decided the writ petition challenging the Government Resolution dated 2nd May, 2012 and thereby struck down clauses 1.2 to 1.7. According to the learned counsel for the petitioners and the intervenors, the said clauses specifically dealt with filing criminal cases against the institutions wherein the students were shown absent. The said clauses have been struck down. This court also came to the conclusion that the methodology

adopted for conducting the Special Pat Padtalni was erroneous. According to them the respondents can not initiate criminal action on the basis of the Pat Padtalni report of the year 2011 as the same has been set aside by this court in its judgment dated 24.10.2013 in Writ Petition No. 4168 of 2012. The learned counsel further submits that, the First Information Report has been lodged under the order of dictation. The higher officers have directed the Education Officer to lodge the criminal cases and submit the report against all these institutions. The issuance of notices itself is bad in law. The notices on the basis of the Pat Padtalni which has been set aside by this court in Writ Petition No. 4168 of 2012 can not be the basis for issuing notices and filing criminal cases. No independent mind has been applied. The communications are by the higher officers and the State to the Education Department to lodge the criminal cases. It is clear that the petitioners say would not be considered by the respondents.

4. Mr. Girase, the learned Government Pleader submits that by filing an affidavit in Public Interest Litigation No. 31 of 2012 the State has brought to the notice of this court the judgment delivered in Writ Petition No. 4168 of 2012 dated 24.10.2013. The State has not suppressed the judgment. This court passed various orders in the present Public Interest

Litigation thereby refusing any relief to the writ petitioners and State has made a statement that the action would be taken against the erring institutions. On the basis of the same, notices have been issued to the erring institutions, though in the Pat Padtalni report 1652 erring institutions are mentioned. The notices have been issued to only 780 schools after verifying the record.

5. According to the learned Government Pleader the action would be taken by the State after receiving the reply and taking the decision upon the show cause notices issued to them. The present writ petitions filed by individual institutions are pre-mature. The learned Government Pleader submits that in similar cases this court in Writ Petition No. 8242 of 2018 under order dated 24.07.2018 had dismissed the petition on the ground that it is pre-mature and in this writ petition this court also refused to grant interim orders.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. There can not be any debate on the proposition that erring institutions have to be dealt with iron hand. If the institutions garners

public funds in the shape of grants by showing excess number of students, then such institutions have to be dealt with all rigours under law.

8. We are confronted with the various orders passed by this court.

9. The Government had issued resolution dated 02.05.2012 pursuant to the Special Pat Padtalni conducted in or about October – 2011. The Government Resolution prescribed for taking various steps. The said Government Resolution was assailed in Writ Petition bearing No. 4168 of 2012. Unfortunately, it appears that the order passed on 12th October, 2012 in Public Interest Litigation Nos. 18 of 2012 and 31 of 2012 was not brought to the notice of the court and the said Writ Petition No. 4168 of 2012 was independently decided by this court on 24.10.2013. The said writ petition was challenging the Government Resolution dated 02.05.2012 issued on the basis of Pat Padtalni of 2011 was issued. This court in the said judgment observed thus:

34. In the instant matter, prior to issuing impugned Government Resolution, a novel method has been evolved by the State Government of deploying employees of Revenue Department for verifying attendance of the students in the schools under the special drive

undertaken by the State. As has been referred to above, the State government does have powers to appoint officers for the purposes of superintendence and inspection, however, there has to be an authorization in respect of powers and duties in favour of such officers, as may be prescribed. In the instant matter, it does not appear that the special drive conducted by the Revenue officials has been under the orders, as contemplated by Section 48 of the Bombay Primary Education Act, 1947. It would be open for the State Government to cause inspection of the schools through the officers appointed in that behalf excluding officers of the Education Department, however, in terms of sub-section (2) of Section 48, the State shall prescribe powers and duties of such officers. The provisions of Section 48 contemplate an order prescribing powers and duties of the officers appointed for conducting inspection of the schools. In the instant matter, the procedure, as prescribed under Section 48, does not appear to have been followed.

36. *It is quite surprising that the State Government suspects impartiality and loyalty of its own officers serving in the Education Department. Sweeping allegations have been made against the officers working in the Education Department. It is also not clarified as to what steps are taken by the State Government against erring officers whose integrity is suspected. The functions of the officers of Revenue Department are quite distinct and it can not be inferred that they are conversant with the functioning of the Education Department. It is also intriguing to note that while doubting integrity of the officers of the Education Department, whether the State Government indirectly proposes to certify integrity and character of all the officers of the Revenue Department. The stand taken by the State Government, in its affidavit in reply, is not at all acceptable and we put on record our displeasure as regards the sweeping allegations made in the affidavit in reply concerning officers functioning in the Education Department.*

42. As has been observed above, in the instant matter, the directives issued under the impugned Government Resolution in clauses 1.2 to 1.7, are contrary to the express provisions of the Act and the Rules framed thereunder. An order, issued against an employee, directing him to retire compulsorily before attaining age of superannuation, has been set aside by the High Court in the matter of **Sukanya Apte & another Vs. State of Maharashtra & others**, reported in **2007 (5) Bom. C.R. 472:[2007 (6) All MR 59]** and in the matter of **Namdeo Bikkad & another Vs. State of Maharashtra (Writ Petition No. 1772 of 1997, decided on 14.07.2006)**, holding that since the provisions of MEPS Act and Rules framed thereunder do not provide for compulsory retirement of an employee, such an order is unsustainable in law. In the instant matter, directives have been issued by the Government under the Government Resolution, which are clearly in contravention of the Act and the Rules.

10. This court while concluding the judgment had clarified that the powers of the State Government to initiate criminal prosecution against the management, the private staff, Headmasters, Teachers and other employees is not taken away and in the event it is found that private management or its employees have indulged in activities which amount to an offence under the provision of Indian Penal Code or any other enactment it would be open for the State Government to initiate

prosecution against such management and the employees concerned. It is further observed that the management and the employees can not be prosecuted and charged with commission of an offence merely because during special drive attendance of the students is found to be less than 50%. The management as well as employees of the school if are suspected to be guilty of fabricating of record or indulging in any unlawful activities and are responsible for creating false record to demonstrate inflated strength of students in school with a view to extract inadmissible financial gain, can be prosecuted by taking recourse to the provisions of the Indian Penal Code.

11. The judgment of this court in Writ Petition No. 4168 of 2012 has given powers to the State Government to take action if it is found by the State Government that the schools have fabricated the record or indulged in unlawful activities and are found responsible for creating false record to demonstrate more students in the school with a view to get inadmissible financial gain. It is for the Government on perusal of the record to arrive at a conscious conclusion of the unlawful gain being obtained by the institutions.

12. Today only show cause notices are issued to the petitioners filing

independent writ petitions and the intervenors. The explanation is sought from these institutions. The respondent authorities are duty bound to consider the explanation given by the petitioners and also the orders passed in the present Public Interest Litigations from time to time or also the judgment of the Division Bench of this court in Writ Petition No. 4168 of 2012 dated 24.10.2013. All these aspects will have to be considered by the State Government while deciding the show cause notices and arrive at a conscious conclusion of the institutions garnering inadmissible financial benefits or otherwise.

13. This court can not stall the criminal law being set into motion if the State finds that the institutions have defaulted and erred in extracting inadmissible financial benefits. If at all the decision is taken by the State after considering the explanation and still the parties are aggrieved the remedy is open for them to assail the action of the State.

14. It appears that the State Government and its superior authorities have issued communications to the Education Officers to lodge the criminal cases, the same will have to be read to mean against the erring institutions and not as a matter of policy against each and every institution. Naturally, the authority while taking the decision upon the

show cause notices will consider the explanation given by the petitioners, the records and the orders passed by this court in Public Interest Litigations and also Writ Petition No. 4168 of 2012 dated 24.10.2013, and then take a conscious decision upon it.

15. As the show cause notices issued by the respondents are not finally decided we refrain from commenting upon the merits of the same. As the State has initiated further course of action the purpose of the Public Interest Litigations also does not survive. We expect the State to take decision on the show cause notices expeditiously.

16. As the purpose of the Public Interest Litigations stand served, the Public Interest Litigations are disposed of. So also as the actions are initiated, the Contempt Petition stands disposed of. Writ Petitions also stand disposed of. Civil Applications stand disposed of.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

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