

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.11897 OF 2018

Kai. Sahebrao Hungargekar Primary
School, Tuljapur

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.V.S.Tanwade, advocate for the petitioner.

Mr.A.B.Girase, Government Pleader for Respondents No.1 to 3.

CORAM : R.M.BORDE &

MANGESH S. PATIL, JJ.

DATE : 24th October, 2018

PER COURT:

1 The issue raised in the instant petition is no more *res integra* and is covered by the decision rendered by the Division Bench in Public Interest Litigation No.18 of 2012 (Brijmohan DhirajprasadMishra Vs. State of Maharashtra and others, decided on 25.09.2018) and as such the instant petition can also be conveniently disposed of in terms of the directions issued in the above referred PIL.

2 In paragraphs no.12 to 15, the Division Bench has directed, as quoted below:

“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.

The Writ Petition is, thus, disposed of in terms of the aforesaid directions.

MANGESH S. PATIL
JUDGE

R.M.BORDE
JUDGE

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