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

WRIT PETITION NO.779 OF 2017

1. Samta Sevabhavi Shikshan Prasarak
Mandal, Osmanabad, Taluka and
District Osmanabad,
Through : Its Vice-President
2. Marathi Kanya Primary School,
Shikshak Colony, Osmanabad,
Tq. & Dist. Osmanabad,
Through : Its Headmaster
3. Ashish s/o Ashok Pawar,
Age: years, Occu: Service,
Marathi Kanya Primary School,
Shikshak Colony, Osmanabad
4. Sachin s/o Bankat Shinde,
Age: years, Occu: Service,
Marathi Kanya Primary School,
Shikshak Colony, Osmanabad

..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through : The Secretary,
Education & Sports Department,
Mantralaya, Mumbai
2. The Commissioner of Education,
Maharashtra State, Pune
3. The Director of Education,
Maharashtra State, Pune
4. The Deputy Director of Education,
Latur Region, Latur
5. The Education Officer (Primary),
Zilla Parishad, Osmanabad

..RESPONDENTS

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Mr K. J. Ghute Patil, Advocate for petitioners;
Mrs G. L. Deshpande, A.G.P. for respondent Nos.1 to 4;
Mr S. N. Rodge, Advocate for respondent No.5

**CORAM : PRASANNA B. VARALE
AND
MANGESH S. PATIL, JJ.**

DATE : 26th November, 2018

ORAL ORDER:

Heard Mr Ghute Patil, learned Counsel appearing on behalf of the petitioners. With consent of the parties petition is taken up for hearing and final disposal.

2. Petitioner No.1 is a society/institute, whereas petitioner No.2 is the school being run by petitioner No.1 society and petitioner Nos.3 and 4 are the Teachers appointed by petitioner No.1.

3. The petitioner society and other petitioners are before this Court with two-fold prayers. The first prayer is in respect of non grant of approval to the appointment of petitioner Nos.3 and 4 and the other prayer is, though the petitioner institute is having the sufficient strength of students for additional divisions and though the petitioner institute submitted the proposal for sanction of staff qua the number of students, the Education Officer (Primary), Zilla Parishad, Osmanabad is not forwarding the proposal to the

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State Government for its decision. It may not be necessary for us to refer to the facts in detail or to the material placed on record.

4. During the pendency of the petition, it was brought to the notice of this Court that the Education Officer (Primary) is in the process of hearing the parties and that exercise is initiated by him. The petitioners were permitted to amend the petition to place on record the relevant documents. Mr Ghute Patil, learned Counsel appearing on behalf of the petitioners by inviting our attention to the documents placed on record submitted that petitioner No.2 i.e. the Headmaster of Marathi Kanya Primary School, Osmanabad was called upon by the Education Officer (Primary) for hearing and by communication dated 3rd October, 2018 petitioner No.2 was informed about the scheduled date of hearing. Petitioner No.2 was directed to attend the hearing along with the record. The hearing was scheduled on 12th October, 2018 in the office of the Education Officer (Primary) at 11.00 a.m.

5. Mr Ghute Patil, learned Counsel appearing on behalf of the petitioners as well as learned Counsel appearing on behalf of the Education Officer (Primary) submit before this Court that though the hearing was scheduled on 12th October 2018, for some reason the Education Officer was unable to hear the parties and the hearing was adjourned. Learned Counsel for the Education Officer (Primary) submits before this Court that the

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Education Officer would fix a date of hearing as early as possible and he would inform the date of hearing to the petitioners and he would take decision on the issue of grant of approval to petitioner Nos.3 and 4. In view of this statement made by the learned Counsel appearing on behalf of the Education Officer (Primary), in our opinion, the first grievance of the petitioners is addressed to and the ends of justice would be met by directing the Education Officer (Primary), Zilla Parishad, Osmanabad to take a decision within a stipulated period. Accordingly, we direct the Education Officer (Primary), Zilla Parishad, Osmanabad to hear the petitioners and then pass appropriate order within ten weeks from the date of the order of this Court.

6. Insofar as the second prayer of the petitioners and more particularly petitioner No.1 is concerned, perusal of the material placed on record shows that by way of an on-line process, the petitioner institute submitted a proposal on 17th June, 2016 to the office of the Education Officer (Primary). A document is placed on record at Exhibit 'K'. It is a copy of the communication forwarded to the Education Officer (Primary) by the Headmaster i.e. petitioner No.2 dated 14th September, 2016 submitting the claim for the staff sanction. Learned Counsel Mr Ghute Patil submits that the petitioners' are raising their claim in view of the Right of Children to Free and Compulsory Education Act, 2009 as well as the Government Resolution dated 13th December, 2013. It is submitted before us by the

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learned Counsel that in the other schools run by the petitioner institute, the institute has been granted additional staff in accordance with the Right of Children to Free and Compulsory Education Act, 2009 as well as the Government Resolution and the proposal is now pending before the Education Officer (Primary). Mr Ghute Patil was justified in submitting before us that the Education Officer (Primary) be directed to forward the proposal to the State Government and more particularly respondent no.1 - Secretary, Education & Sports Department of the Government of Maharashtra so that there could be an early decision on the proposal. Learned Counsel also prayed for a stipulation of period to decide the proposal by the State Government on receiving the proposal from the Education Officer (Primary), Zilla Parishad, Osmanabad.

7. As there is no dispute on the factual aspects that the proposal is already submitted to the Education Officer (Primary) and it is pending with him, no prejudice would cause to the respondents - State authorities by issuing directions; firstly to respondent no.5 Education Officer (Primary), Zilla Parishad, Osmanabad to forward the proposal received by him as expeditiously as possible and not later than four weeks from the date of the order of this Court to respondent no.1 and further direction to respondent no.1, on receiving the proposal from respondent no.5 Education Officer (Primary), Zilla Parishad, Osmanabad to decide the same within six weeks from the date of receipt of proposal from respondent no.5. Needless to state

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that respondent no.1 to decide the proposal on its merits and on the backdrop of the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and Resolutions or Circulars issued by the State Government on the subject of grant of staff or grant of additional staff to the education institute.

With the aforesaid directions, writ petition stands disposed of.

(MANGESH S. PATIL, J.)

(PRASANNA B. VARALE, J.)

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