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

WRIT PETITION NO.2318 OF 2013

Dr. Babasaheb Ambedkar Educational
Institute, Bhusawal & another ... PETITIONERS

VERSUS

Hindi Seva Mandal, Bhusawal & others ... RESPONDENTS

.....
Shri L.V. Sangeet, Advocate for petitioners
Shri J.R. Shah, Advocate for respondents No.1 and 2
Mrs. D.S. Jape Ansingkar, A.G.P. for State
Shri S.B. Yawalkar, Advocate for respondents No.3 and 4
Shri M.S. Sonawane, Advocate for respondent No.6
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CORAM: T.V. NALAWADE AND
 SUNIL K. KOTWAL, JJ.

DATED : 1st MARCH, 2018.

ORAL ORDER :

1. The petition is filed under Articles 226 and 227 of the Constitution of India for giving directions to the respondents to close down Marathi medium school of respondents No.1 and 2, which is run at Railway North Colony, Bhusawal with immediate effect. Other relief is claimed against the respondent State to cancel the minority status given to the respondent minority

institution on the ground that it is running Marathi medium school when the minority status is on the basis of Hindi language of persons who have formed the association and consequential reliefs of some directions are also claimed. Both the sides are heard.

2. Following two points were mainly raised by learned counsel for the petitioner.

- (i) Whether minority institution which is granted status on the ground of linguistic minority (for Hindi language) can run Marathi medium school; and
- (ii) As per the information, the respondent institution was probably granted permission to run Marathi medium school at the address like Shivajinagar, Bhusawal and so, whether it can be allowed to run the Marathi medium school at other address like Railway North Colony.

3. For the first contention, it can be said that, law is settled on the rights of minority institution and the law can be found in the cases reported in **(2002) 8 SCC 481 [T.M.A. Pai Foundation and others Vs. State of Karnataka and others]** and **(2003) 6 SCC 697 [Islamic Academy of Education and another Vs. State of Karnataka and others]**. In these cases, the Apex Court has considered the provisions of Articles 30 and 29 of the Constitution of India. The Apex Court has laid down

that, even after getting the minority status, the minority institution is entitled to do what the non-minority institutions are permitted to do. Thus, it cannot be said that minority institution which is created for protection of Hindi language cannot run Marathi medium school. For this reason, this Court holds that, no direction can be given to the respondent State to withdraw the status granted to minority institution on the ground that it is also running Marathi medium school.

4. On the second point, it can be said that, there is some record with the petitioners to show that the place from Railway North Colony was given to the institution for running Hindi medium school by Railway. There is also record like information supplied by the institution itself showing that Marathi medium school was being run at Shivajinagar, which is situated at quite some distance from Railway North Colony. It is the grievance of the petitioner institution, which is running Marathi medium school that, the respondent institution has illegally started Marathi medium school at Railway North Colony and it is situated within 100 metres from the school of the petitioners and due to that, unhealthy competition is created. It is the contention of the petitioner institution that, there is no permission obtained by the respondent institution for changing the place from Shivajinagar to Railway North Colony.

5. It appears that, there is no proper record available in respect of granting this permission. The Education Department has also no complete record in respect of the application made. There is some record showing that there is permission to the respondent institution to run all the three schools like Hindi medium, English medium school and Marathi medium school. As there is grievance of aforesaid nature, the respondents No.5 to 8 authorities need to take steps to make enquiry into the grievance of the petitioners of aforesaid nature.

6. Learned counsel for the respondent institution submitted that, in the year 2009 necessary enquiry was made in respect of the grievance and order was made that there was permission, but that enquiry was with regard to permission, whether the permission was granted to start Marathi medium school and that enquiry was not with regard to the place where the school was to be started. In this regard, the petitioners will be entitled to make detail representation to aforesaid respondents and the respondents are expected to make necessary enquiry into the grievance. The respondents, authorities are also expected to take steps if some illegality is found i.e the place was changed. Opportunity of hearing needs to be given to both the sides and they need to be allowed to produce appropriate record before the authorities even during

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enquiry. The enquiry is to be completed within five months after giving necessary representation by the petitioner.

7. With the aforesaid observations, present proceeding is disposed of.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

fmp/