

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

BENCH AT AURANGABAD.

WRIT PETITION NO.13676 OF 2017

Sou.Jyoti W/o Gautam Ghangao ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.S.D.Kaldate, advocate holding for
Mr.S.A.Ambad, advocate for the petitioner.
Mrs.Vaishali Patil Jadhav, A.G.P. for the State.
Mr.U.S.Mote, advocate for Respondent Nos.2 to 4.

...

**CORAM : S.V.GANGAPURWALA AND
A.M. DHAVAL, JJ.**

Date : 12.02.2018.

PER COURT :

1. Mr.Kaldate, learned counsel for the petitioner submits that the School Management Committee was elected. The petitioner along with other 11 parents were elected as members of the School Management Committee on 28.6.2017. Fresh notice is issued on 17.11.2017, for reconstitution of the School Management

Committee. The School Management Committee is for a period of two years. The notice issued is illegal. Before the expiry of two years, the Respondents can not reconstitute the School Management Committee. The learned counsel relies on Rule 3 of The Right of Children to Free and Compulsory Education Rules, 2010. According to learned counsel, no notice is issued to the petitioner before taking decision to reconstitute the School Management Committee. The act is without adherence to the principles of natural justice. 50% representation is given to the women and also to persons from reserved category.

2. Mr.Mote, learned counsel submits that the earlier School Management Committee constituted was erroneous. The parents were not present.

3. The notice was given to 24 parents of the students of 2nd class, only 5-6 were present. In respect of 4th standard, notice was given to 40 parents, only 12-15 were present. The same is the position in respect of other classes. It is

also brought to the notice of the authority that representation is not given to the disadvantage and weaker sections. Even the members from the local body are not included in the said Committee.

4. Considering the aforesaid illegalities, the Committee is required to be reconstituted.

5. We have considered the submissions.

6. The School Management Committee is to be constituted as per Section 21 of The Right of Children to Free and Compulsory Education Act, 2009.

7. The Committee is to be constituted consisting of elected representatives of the local authority, parents or guardians of children admitted in such Schools and teachers.

8. Rule 3 of The Right of Children to Free and Compulsory Education Rules, 2010, reads as under :

"3. Composition and functions of the School Management Committee. -

(1) A School Management Committee (hereinafter in this rule referred to as the said Committee) shall be constituted in every school, other than an unaided school, within six months of the appointed date, and reconstituted every two years.

(2) Seventy five percent, of the strength of the said Committee shall be from amongst parents or guardians of children.

(3) The remaining twenty five percent, of the strength of the said Committee shall be from amongst the following persons, namely :-

(a) one third members from amongst the elected members of the local authority, to be decided by the local authority;

(b) one third members from amongst teachers from the school, to

be decided by the teachers of the school;

(c) one third members from amongst local educationists or children in the school, to be decided by the parents in the said Committee.

(4) To manage its affairs, the said Committee shall elect a Chairperson and Vice Chairperson from among the parent members; the head teacher of the school, or where the school does not have a head teacher, the senior most teacher of the school, shall be the ex officio member convener of the said Committee.

(5) The said Committee shall meet at least once a month, and the minutes and decisions of the meetings shall be properly recorded and made available to the public.

(6) The said Committee shall, in addition to the functions specified in clauses (a) to (d) of section 21, perform the following

functions, namely :-

(a) communicate the simple and creative ways to the population in the neighbourhood of the school, the rights of the child as enunciated in the Act, as also the duties of the appropriate Government, local authority, school, parent and guardian;

(b) ensure the implementation of clauses (a) and (e) of section 24, and section 28;

(c) monitor that teachers are not burdened with non academic duties other than those specified in section 27;

(d) ensure the enrolment and continued attendance of all the children from the neighbourhood in the school;

(e) monitor the maintenance of the norms and standards specified in the Schedule;

(f) bring to the notice of

the local authority any deviation from the rights of the child, in particular mental and physical harassment of children, denial of admission, and timely provision of free entitlements as per sub-section (2) of section 3;

(g) identify the needs, prepare a plan, and monitor the implementation of the provisions of section 4;

(h) monitor the identification and enrolment of, and facilities for education of children with disability, and ensure their participation in, and completion of elementary education;

(i) monitor the implementation of the mid-day meal in the school;

(j) prepare an annual account of receipts and expenditure of the school.

(7) Any money received by the said Committee for the discharge

of its functions under this Act, shall be kept in a separate account, to be audited annually.

(8) The accounts referred to in clause (j) to sub-rule (6) and sub-rule (7) should be signed by the Chairperson or Vice-Chairperson and Convenor of the said Committee and made available to the local authority within one month of their preparation."

9. As per said Rule 3 Seventy five percent of the Committee from amongst parents or guardians of children. Remaining twenty five percent of the strength of the Committee shall be amongst the following persons :

(a) one third members from amongst elected members of the local authority;

(b) one third members from amongst teachers from the School, to be decided by the teachers of the school;

(c) one third from amongst local educationists or children in the School to be

decided by the parents in the said Committee.

10. Sub-clause 4 deals with the election of Chairperson and Vice-Chairperson.

11. The School Management Committee constituted on 28.6.2017 does not have representation from the teachers from the elected representatives of the local body and one third members from the local educationists or children in the School.

12. In view of that the School Management Committee which was constituted was not as per the Rules.

13. In light of the above, no case for interference is made out. The Writ Petition is dismissed. No costs.

(A.M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

