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

WRIT PETITION NO. 15193 OF 2017

Ahmednagar Social Association,
Ahmednagar, Dhanvantari Campus,
Datrange Mala, Nalegaon, Ahmednagar,
Through its Secretary,
Rehan Shafi Ahmed Kazi,
Age: 45 years, Occ: Agri.,
R/o. Datrange Mala, Nalegaon,
Ahmednagar.

..PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary to the
Government of Maharashtra
in School Education & Sports
Department, Mantralaya, Fort,
Mumbai-32.

2. The Administrative Officer,
Ahmednagar Municipal Corporation,
Ahmednagar.

..RESPONDENTS

Mr N.P. Patil Jamalpurkar, Advocate for petitioner;
Mr R.B. Bagul, A.G.P. for respondent No.1;
Mr V.S. Bedre, Advocate for respondent No.2

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 6th August, 2018

ORAL ORDER:

Heard learned Counsel for the parties.

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2. The petitioner is an institute, namely Ahmednagar Social Association, Ahmednagar and is running a primary school in Marathi medium at Mukundnagar, Ahmednagar. By inviting our attention to the representation placed on record at Exh.A, it is submitted by Mr Patil, learned Counsel appearing on behalf of the petitioner that the petitioner institute is imparting education for the classes of Ist to VIIth standards from the year 2016. Nearly 20 students are admitted in VIIIth standard class. It is submitted that the proposal for permitting the petitioner to run VIIIth standard class by way of natural growth is submitted to the Administrative Officer of Municipal Corporation i.e. respondent no.2, but no decision was taken. Learned Counsel then by inviting our attention to the other documents, namely the communication forwarded from respondent no.2 to the Head Master of the petitioner institute, submitted that respondent no.2 sought for certain documents in respect of the distance between the petitioner school and the other school. Mr Patil then invited our attention to the representation dated 29th August, 2017 submitted to respondent no.2. It is stated that the petitioner institute is running classes for standards Ist to VIIth and also permitted to run classes for standard IXth and standard Xth from the year 2016-17. Mr Patil submitted that as per the query raised in communication dated 9th March, 2016, the petitioner institute also supplied the necessary documents to show the distance and in spite of submitting all the relevant material, no decision was taken and as such the petitioner was left with no choice but to approach this Court. Mr Patil then invited our

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attention to the order passed by the Division Bench of this Court on 11th March, 2016 in Writ Petition No.10690 of 2015.

3. Mr Bedre, learned Counsel appearing on behalf of respondent no.2 opposed the petition. Mr Bedre submitted that in view of the Government Resolution dated 2nd July, 2013 if there is another school running within the radius of 3 Kms., then the permission for VIIIth standard class cannot be granted. Mr Patil opposed the submission that criteria of distance is removed by the State Government and the petitioner only raises a grievance that respondent no.2 to submit the proposal to the State Government for appropriate decision. The State Government may take appropriate decision on receiving the proposal by respondent no.2 with his recommendations. Respondent no.2 caused a serious prejudice to the petitioner by keeping the proposal pending and sitting idle on the said proposal. Mr Bedre also stated that permission is granted to some other schools as the said schools were ready to conduct VIIIth standard class on self-finance basis and on certain terms and conditions. Mr Patil submitted that whether to grant a permission to the institute to run the classes on grant basis or self-finance basis is the discretion of the State Government and respondent no.2 has no role to play in that aspect.

4. Considering the submissions of the respective learned Counsel, we find considerable merit in the submission of the learned Counsel appearing

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on behalf of the petitioner. In view of the above referred facts and the interim order passed by this Court dated 11th March, 2016 in Writ Petition No.10690 of 2015, we dispose of the petition with directions to respondent no.2 to forward the proposal to respondent no.1 within three weeks with recommendations and not raising the same technical riders as raised in this petition. The State Government i.e. respondent no.1 in turn to take decision within four weeks from the date of receipt of proposal from respondent no.2.

Writ Petition is accordingly disposed of.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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