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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.818 OF 2017

Krushnamai Shikshan Prasarak
Mandal Dhamner,
Tal-Koregaon, District-Satara.

.. Petitioner

V/s.

1) The State of Maharashtra,
Through the Secretary,
Education Department,
Mantralaya, Mumbai-400 032.

2) The Education Officer,
(Secondary), Zilla Parishad,
Satara.

.. Respondents

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Mr. N. V. Bandiwadekar for the petitioner.

Mr. A. B. Vagyani, Government Pleader, a/w B. V. Samant, AGP, for the
Respondent-State.

.....

CORAM : A. K. MENON, J.

RESERVED ON : 28TH FEBRUARY, 2018

PRONOUNCED ON : 3RD MAY, 2018.

JUDGMENT:-

1. By this writ petition, the petitioner challenges the action of the respondent-State in having issued the impugned order dated 2nd December,

2016 sanctioning the teaching posts in the schools of the petitioner as a result of which the number of posts stands reduced.

2. The facts is brief are as follows:-

The petitioner runs an educational institution by the name Karmaveer Bhaurao Patil Vidyalaya, Dhamner in Satara District. The first respondent is the State and the second respondent is Education Officer (Secondary), Zilla Parishad, Satara, who is the sanctioning authority for posts of teachers and non-teaching staff in secondary schools within the District. The second respondent is also the competent authority to grant approval to the appointment of employees, sanctioning teaching & non-teaching posts and releasing grants for payment of salary to such employees.

3. In 1972-73, the petitioner is believed to have started a Marathi Medium School in Village Dhamner for Standard VIII students as per permission granted by the State Government. The second respondent granted recognition to the school on 25th October, 1972. In 1973, as a result of natural growth, the second respondent granted permission to start Standard IX in the said school followed by Standard X in 1974. Thus, the school had classes from Standard VIII to X. In due course there was a need felt for Standard V to VII in view of the fact that in the locality no such schools were available. The petitioner, therefore, applied for permission to commence Standards V to VII.

Initially, they were granted permission for Standard V then Standard VI and by order dated 23rd July, 1979 to commence Standard VII. As a result, the petitioner school began conducting Standard V to X. Village Kathapur lay at a distance of 5 to 6 kms from Dhamner Village. The students of that Kathapur had no access to education and the number of students were not sufficient to grant permission to set up an independent school. Considering the need for the education of the children of Kathapur, the petitioner applied to the State Government for permission to open a branch at village Kathapur.

4. On 17th October, 1989, the second respondent informed the petitioner that it was granted permission to start one division of Standard VIII from June 1989 at Kathapur as a “Bhagshala” of the main school at Dhamner. Accordingly, from academic year June 1989, Standard VIII commenced. By way of natural growth permission was granted to conduct classes for Standard IX. Further permission was given for one division of Standard X at the said Bhagshala from June 1990. Thus, the effective academic year June 1991–1992, the Bhagshala conducted one division each of Standard VIII, IX and X. The classes were held separately at Dhamner and Kathapur. The students from Village Kathapur attended the Bhagshala and these from Dhamner at the main school. The respondent no.2 had sanctioned certain number of teaching posts in the school considering the sanctioned number of divisions and on a yearly basis. The respondent no.2 considered divisions of the main school and

Bhagshala separately and the number of teachers required were fixed accordingly. This process continued year on year from 1989-90 to 2014-15.

5. The petitioner has contended that in the staff schedule for academic year 2013-14, total 14 teaching posts were sanctioned consisting of one headmaster and 13 teachers. The controversy in the present petition pertains to appointment of the number of teachers. It is contended by Mr. Bandiwadekar, the learned counsel appearing on behalf of the petitioners that 13 posts of teachers were sanctioned consisting the different divisions at Dhamner and Kathapur. Around on 23rd February, 2016 the second respondent issued an order to sanction the staff schedule for academic year 2014-15 by which only 12 posts were sanctioned consisting of one headmaster and 11 teachers. This resulted in a reduction of two posts. On 10th March, 2016, the second respondent issued an order and sanctioned staff schedule for academic year 2015-16 in respect of the petitioners school, 12 teaching staff were sanctioned consisting of one headmaster and 11 teachers. Thus, once again a lesser number of teachers were approved. The petitioner, therefore, vide letter dated 22nd March, 2016 raised an objection to the sanctioning of a lower number of posts for teachers, inter alia, the petitioner contended that by an order dated 17th October, 1989 the Government had granted permission to start the Bhagshala at Kathapur and for many years the staff schedule had been sanctioned taking into consideration the main school at Dhamner and

Bhagshala at Kathapur were appeared that the sanction of the staff had not taken into account by considering both the schools as one unit which is illegal and unjust. The respondent was requested to issue appropriate sanction orders for sufficient number of teachers for both the units separately on the basis of the divisions at Dhamner and Kathapur. There was no response to this request and therefore a representation dated 23rd June, 2016 was made which highlighted the fact there was a likelihood of three teachers being rendered. The respondent no.1 was therefore requested to consider of granting permission to the Bhagshala by sanctioning sufficient number of teachers in staff schedule.

6. Mr. Bandiwadekar, the learned counsel submitted that the petitioner's requests fell on deaf ears and the respondent no.2 contended that since there were reduction of sanctioned number of posts, three teachers are required to be declared surplus and therefore the management was requested to intimate the teachers accordingly. In view of this development, the petitioner informed three teachers that they were required to be declared surplus. However, the petitioner once again made a request to the second respondent to take into consideration the situation, the Bhagshala was placed in, highlighting the fact that more teaching staff were required to be sanctioned. In view of the fact that two units cannot be considered in common, both the units required separate staff and this has been recognized for years. It was therefore suggested that

the earlier strength be restored. While awaiting a response during the academic year 2016-17 the sanctioned posts of teachers were further reduced to 9 consisting of one headmaster and 8 teachers thereby resulting in reduction of two posts of teachers.

7. Being dissatisfied, the petitioner once again made a representation dated 15th December, 2016 pointing out three teachers had been rendered surplus which had a serious effect on teaching at the main school and the Bhagshala, that the teachers would be required to rush from the main school to the Bhagshala and vice versa to conduct classes at both these units and this was becoming inconvenient, Mr. Bandiwadekar submitted that the respondent was required to re-fix the staff schedule and the sanction posts of teachers taking into consideration both the units separately. The respondent did not take any steps and therefore the petitioner was required to approach this Court seeking relief against the impugned order dated 2nd December, 2016. Mr. Bandiwadekar submitted that the posts sanctioned were not in accordance with the needs of the school and this resulted in a drop of the standard of teaching. These two schools have been conducted as separate units for the last 26 years.

8. Mr. Bandiwadekar pointed out that the main school as well as Bhagshala had jointly 11 divisions (except in the year 1995 when there were only 10 divisions). Furthermore, the pattern of sanctioned staff with process of

sanctioning staff continued to be monitored by the second respondent every year. He assailed the communications dated 23rd February, 2016 and the order dated 10th March, 2016 which resulted in reduction in the sanctioned posts of teachers. He submitted that the required number of teachers are not being sanctioned and children's education would be badly affected. Presently the petitioners are managing the teaching work at Bhagshala by deputing the teachers working in the main school at Dhamner. The teachers have also starting teaching at both schools on occasions when teachers are deputed from the main school to Bhagshala, and vice versa. Mr. Bandiwadekar submitted that there was a need to direct the second respondent to reconsider the matter and sanction sufficient number of posts so as to permit the petitioners to run the school efficiently in the interest of all students. Mr. Bandiwadekar pointed out to the second respondent that the Bhagshala was being run for the past 27 years and there should be no reason for any change that has now been made considering the fact that there are sufficient number of students available in the main school as well as the Bhagshala. He submitted that the continuance of the school at the Bhagshala is necessary to ensure students interests are taken care of. The second respondent's action are illegal and unsustainable since the units were separated by distance of 5-6 kms therefore he submits that the impugned orders dated 3rd February, 2016, 10th March, 2016 and 2nd December, 2016 is illegal and unjust and deserves to be quashed and set aside.

9. Mr. Samant, the learned AGP, Mr. Samant, initially relied upon an affidavit of respondent no.2 wherein after narrating the basic facts, the deponent took up the contention that the Education Officer had sanctioned teaching and non-teaching staff according to the number of divisions before 2013-14 and accordingly the "Sanch Manyata" for the year 2013-14 revealed that the Education Officer had sanctioned the teaching and non-teaching staff as per the strength of the students only as per the Government's programme in implementing the Government Resolution dated 13th December, 2013, according to which, the number of staff members are as per strength of the divisions and the Bhagshala is not counted in determining the number of staff required. Reliance was placed on the Government Decision dated 13th December, 2016 in this behalf.

10. An additional affidavit came to be filed on behalf of the Education Officer, Mr. Devidas Balkrishna Kulal in which it is contended that the Education Officer had permitted the Krushnamai Shikshan Prasarak Mandal to open a branch at village Kathapur as of 17th October, 1989, subject to conditions set out below;

- (a) no staff would be approved for the school until there was natural growth of the school;
- (b) the average attendance of students would not be relaxed and;
- (c) the Government was not inclined to bear any additional load.

11. It is contended that the sanctioning process was now computerized and the number of teachers required to be sanctioned are decided in accordance with the computer programme under the new dispensation, a login is provided to the headmaster who gets current information of the number of school and the students class rooms etc. and the number of teachers are determined by the computer programme. This is made available by the National Informatics Centre, Pune and after it is checked by the respondent no.2 who signs it and it is provided to the headmaster. Reliance was placed on the Government Resolution dated 28th August, 2015 in this behalf. Mr. Samant therefore submitted that the petition should not be entertained and is liable to be dismissed.

12. Reliance was placed on the Government Resolution dated 28th August, 2015 whereby the earlier Government Resolutions on the issue were superseded and under clause 2.1.1 of the Resolution provided that every school required to have 60 students for which two teachers will be assigned. Thereafter in the event of increase of the number of students by 30 an additional teacher will be assigned. Reliance was also placed on clause 2.8.1 of the Government Resolution which reads that in respect of Division no.5, one teacher would be allotted in respect of 20-30 students and thereafter when the total number of students reaches 35 one additional teacher will be appointed. Reference was made to the petitioner's documentation.

13. After this matter was taken up for hearing, it was found that the respondents had not dealt with the factual aspects of the proper perspective and hence leave of the Court was sought for filing an additional affidavit. The additional affidavit of one Ramesh Uddhav Chavan came to be filed on 27th February, 2018 wherein the factual position is set out as follows:-

After the school started in the year 1972-73, the Bhagshala was established in 1989 as a part of the main school and now it is the separate school. The order dated 17th October, 1989 of the Education Officer which permitted the Bhagshala sets out that it does not recognize the Bhagshala as a separate school and considered it as a part of the main school at Dhamner. All additional burden, financial and otherwise in respect of the sub-school (Bhagshala) is to be borne by the management and not by the Government. Till 2012-13, the number of teachers sanctioned was on the basis of number of divisions in the school and the sub-school taken as one unit. Till 2012-13 the number of teachers was sanctioned on the basis of total numbers in the main school and the sub-school. Even on the basis of number of divisions, the number of sanctioned teachers were 13 in the year 2011-12 and 12 in 2014-15 and in the meanwhile the Right of Children to Free and Compulsory Education Act, 2009 came into force on 1st April, 2010. The State issued G.R. dated 28th August, 2015 regarding the number of sanctioned teachers on the basis of Pupil Teacher Ratio (PTR) as per the provisions of the Right to Education

Act (RTE Act) and implementation of the G.R. started throughout the State with effect from Academic year 2015-16 and it is accordingly that the number of teachers had been sanctioned for both the schools as one unit since the total number of students were taken as 254 in the year 2015-16 whereas for the academic year 2016-17 the number of teachers was reduced to 8 considering a total student strength of 234.

14. According to the learned AGP, the number of students in the main school and the Bhagshala has changed from year to year and the numbers were consistently been taken on the basis of one unit. It was contended by the learned AGP that the State is bound to follow the provisions of the RTE Act and this is also be recognized in the decision of a Division Bench of this Court in Writ Petition no.9026 of 2014 dated 15th December, 2015 whereby the challenge to the constitutional validity of the schedule to the RTE Act was rejected since no interference was called for in the State's education policies. The services of surplus "permanent teachers" were only protected to the extent they were continued in the school. The State was directed to ensure Government took steps to achieve the objects of the Act. All the petitions challenging validity of the Act was, therefore, dismissed.

15. It is further contended that the present petition is filed only to protect the interest of the teachers and not students but there was no cause of

action to file the present petition and the petitioner's school at Dhamner and Bhagshala in Kathapur are actually one unit and as evident from the fact that the main school and Bhagshala had one headmaster. There is no separate recognition granted by the Education Department to the Bhagshala. The school has also only UDISE number which is used for the purpose of registration and recognition by the Government. The grant for the main school and the Bhagshala is common and both the schools have one common SCC Board code.

16. According to Mr. Samant, the learned AGP, the stand of the petitioners that the main school and the Bhagshala are separate units is an afterthought and that the terms of the order dated 17th October, 1989 were clear inasmuch as the said order has not been challenged. It is further submitted that in the MEPS Rules and S.S Code, there is no provision for separate recognition for the sub-school. The Education Department also does not recognize the sub-school as a separate school and that the stand of the petitioner that the main school and the sub-school are separate units and are required to be considered separately is an afterthought. For the last 27 years, no such stand has been taken and the relief sought now was contrary to the order dated 17th October, 1989. The learned AGP further submitted that as far as the interests of the students were concerned, the distance between the Bhagshala and the main school is only 4.7 kms. the deponent had recently verified the distance on 23rd February, 2018. There is good connectivity

between Kathapur and Dhamner via the State Highway. There are ample facilities of Bus services and private carriers on the road. Besides for the students in Kathapur, there is an alternate school at Jihe, Taluka Satara which is at a distance of 900 meters from the sub-school of the petitioner which is also a fully aided school. Thus the students of Kathapur have an alternative school to attend and this is evident from the reduction in the number of students at the Bhagshala. That having been said, it was submitted by Mr. Samant that it is open for the Bhagshala to apply separately for starting a new school at Kathapur by converting the Bhagshala into a separate full-fledged school and this can be considered by the State on its own merit in accordance with law and as per the policy of the State Government. Reliance was placed by the learned AGP on the letter dated 8th February, 2018 and in response thereto by the Director of Education, dated 14th February, 2018. The letter dated 8th February, 2018 makes reference to the petitioner's challenge in this Writ Petition whereby it was communicated by the Deputy Secretary that since the Bhagshala and the main school had one UDISE number and sought the response of the Director of Education. The Director of Education has since responded confirming that since the number of students were few, it was not possible to sanction posts for additional teachers and that if the Bhagshala seeks separate registration, it would be possible to consider such an application.

17. On the aforesaid basis, the learned AGP submitted that the

petitioners had no occasion to complain. It is further submitted by the learned AGP that the sanction order dated 23rd February, 2016 in respect of academic years 2013-14 and 2014-15 were governed by G.R. Dated 13th December, 2013 and dealt with Standard I to VIII. The G.R. Dated 20th November, 2013 dealt with Standard IX and X. As regards sanction order dated 10th March, 2016 in respect of the academic year 2015-16 pertaining to Standard I to X were governed by G.R. Dated 8th January, 2016 and the sanction order dated 2nd December, 2016 in respect of – by the G.R. Dated 28th August, 2015 read with G.R. Dated 8th January, 2016. Sanction order dated 23rd February, 2016 was governed by G.R. dated 13th December, 2013 in respect of Standard I to VIII, IX and X Order dated 10th March, 2016 sanctioned in respect of Standard I to X by G.R. dated 28th August, 2015 read with G.R. dated 8th January, 2016 and by the third G.R. dated 28th August, 2015 read with G.R. 8th January, 2016.

18. Mr. Samant, the learned AGP submitted that for the academic year 2013-14 the number of students has been ascertained on the basis of data provided by the School. Further the number of students is a combined figure of the main school at Dhamner and sub-school at Kathapur. He has submitted a very broad lay out class-wise computation for each of the relevant years which is reproduced below:-

Class	Number of students	Criteria	Number of Teachers Sanctioned
5 th	32	One teacher per 30 students	2
6 th to 8 th	138	One teacher per 35 students	4
9 th and 10 th	137 [69+68] Therefore two divisions 9 th and two divisions of 10 th	1.5 units per division of student. One division is of 20 to 60 students.	6
Total	307 [32+138+137]		12
	Headmaster		1

19. This required a total number of 12 teachers as seen from the table above. In respect of academic year 2014-15, the following table discloses the number of teachers in relation to the number of students.

Class	Number of Students	Criteria	Number of teachers sanctioned
5 th	29	One teacher per 30 students	1
6 th to 8 th	115	One teacher per 35 students	4
9 th and 10 th	131 [58+73] Therefore one divisions 9 th and two divisions of 10 th	1.5 units per division of student. One division is of 20 to 60 students.	4
Total	275 [29+115+131]		9
	Headmaster		1

20. Mr. Samant submitted that the requirement of providing number of teachers is based on the number of students as provided in the Schedule of RTE Act and in that year there were total of about 307 students across the main school and the Bhagshala. He also invited my attention to the number of students in relation to academic year 2015-16. In this manner, the learned AGP demonstrated that number of posts would change depending on the number of students and accordingly the applicable surplus would fluctuate and there was no reason for any grievance to be made.

21. The learned AGP further submitted that the contention of the petitioners that the Bhagshala should be treated as a separate entity was not correct since the Circular did not provide for considering the Bhagshala as a separate school for deciding the number of teachers required. Mr. Samant also invited my attention to the fact that in the reply dated 23rd February, 2018 the two schools have always been considered as one unit by the petitioners and also by the respondents. Since the year 1989 there is only one sanction order for each year for the number of teachers and the petitioner cannot be permitted to consider these schools as separate units. The learned AGP submitted that the number of students in the petitioner's school was clearly on the decline. In 2013-14 there were 307 students which reduced to 275 in the academic year 2014-15. In academic year 2015-16, there were 254 students and in the academic year 2016-17 the number of students further declined to 235

students. The reduction in number of students is the real reason of falling numbers of the sanction in posts of teachers and the respondents have correctly applied the rules. The computation is entirely in accordance with the circulars issued from time to time and there is no challenge to the Circulars and therefore, the challenge in the petition lacks merit.

22. On behalf of the petitioner, Mr. Bandiwadekar submitted that as per the G.R. dated 28th August, 2015 for upto 60 students two teachers were to be provided and thereafter every 35 students there will be one additional teacher. That in a school where a post of additional teacher is admissible, it would be necessary to have an additional class room. In other words, without an additional class room the extra post of teacher would not be sanctioned. As regards existing secondary schools, for both the classes of Standard IX and X, if the students are more than 40, three teachers are admissible, one for language and one for science and maths and one for social science. He further submitted that as per clause 2.3.2 of G.R. dated 8th January, 2016 provided that even in a case of one student in Standard IX and X, three teachers would be required one each for language, maths/science and social science. Relying upon the order dated 17th October, 1989 whereby the permission was granted to start the Bhagshala it was submitted that although initial permission was to start one division of Standard VIII and one division of Standard IX in Marathi medium, additional staff would be considered only subject to natural growth of the

school. The State was not liable to bear any additional burden for the Bhagshala and this is to be ensured. It is in this background that we consider the facts of the present case and the requirement of the school is to be considered in accordance with the number of teachers.

23. In the course of his submissions, Mr. Bandiwadekar had tendered a table showing that for Standard V in academic year 2014-15 there is a deficit of one teacher sanctioned for 29 students. A post has been sanctioned in respect of Standards VI, VII, VIII and IX, and there is no short fall, however, for Standards IX and X in the main school, in Standard IX there were 30 students and in Standard X there were 37. This required three teachers at the main school whereas at the Bhagshala in Standard IX there were 28 students and 36 in Standard X once again requiring 3 teachers in accordance with the schedule to the RTE Act. Thus, total six teachers have been required whereas only 4 had been sanctioned. Therefore, the school was falling short of two. Similarly, in the case of 2015-16 for Class V for 42 students, two teachers were required and only one post had been sanctioned whereas for Class IX and X three teachers were required in the main school and three in the Bhagshala. As against total of 6 teachers, the number of posts sanctioned would only 4 leaving deficit of 6. Thus, there was a total deficit of the three teachers in the said year. However, in the case of academic year 2016-17, the deficit increased whereas in Standard V deficit continued. In Standard IX and X in respect of three teachers at the main

school and three at Bhagshala only three had been sanctioned leaving a deficit of 3. Furthermore, for Standard VIII at the Bhagshala there were 17 students and one post should have been sanctioned but no post had been sanctioned. The submission on behalf of the petitioner was on the basis that the number of teachers who had been originally sanctioned has not been maintained inasmuch as there has been a steadily decline. Initially the deficit was of 3 one for Standard V and two for Standard IX and X. This deficit continued in academic year 2015-16 but increased to 5 in academic year 2016-17.

24. There is no dispute as regards the fact that the schedule to the RTE Act provides for one teacher for 30 students in Standard V, one teacher for 35 students for Standard VI to VIII and 1.5 units per division of student consisting of 20 to 60 students for Standard IX and X. Academic year 2013-14 and 2014-15 is the same. For academic year 2015-16 and 2016-17 one teacher is required for every 30 students in Standard V and one for 35 students in Standard VI to VIII. For Standard IX and X they required one teacher for 40 students subject to a minimum of 3 for Standard IX and X. In the instant case, it appears that the student-teacher ratio has been maintained as evident from the tabular statement reproduced in the discussion above. The question that arises for consideration is whether the petitioner is entitled to sanction an additional number of posts merely because they had enjoyed the benefit of a larger number in the past.

25. The other question that arises for consideration is whether the number of posts would have to be sanctioned on the basis of the main school and the Bhagshala being separate units. If I come to the conclusion that the Bhagshala is to be treated as part of the main school, there would be no occasion to consider a higher number of teachers if the Bhagshala is to be treated as an independent school then that would entail sanction of additional posts. In the instant case, it is evident that the school has originally set up in the year 1989 was for Standard IX and X as a secondary school. In 1979, Standard V to VII, were aided and thus the school had Standard V to X. The petition proceeds on the basis that the Bhagshala was set up at Kathapur since there was no facility for education and that students were deprived of education. Moreover, the strength of the students in the village was not sufficient to grant permission for an independent school. However, this overlooks the facts that the petitioner had sought permission to open only a branch to start with one division of Standard VIII for 1989. Naturally there would have been sufficient schooling facilities in the vicinity for Standard I to VI so as to justify the commencement of Standard VIII at the Bhagshala. Natural growth is the understandable and therefore permissions were granted for one division of Standard IX and X in 1990-91. Once again there would have to be a feeder school for Standard I to VI in order to enable the Bhagshala to cater to the needs of the Standards VIII, IX and X. It would therefore be appropriate to

presume such feeder school is available in the vicinity as otherwise it runs counter to the petitioner's contentions that there were no facilities for education in the vicinity. However, it is not for this Court to enter upon this controversy.

26. In this facts of the case I conclude that the school was really one unit and was treated as one, the entitlement of number of teachers would have to strictly follow the schedule of the RTE Act as presently advised. In respect of the orders in question rival contentions have been ably canvassed before me by Mr. Bandiwadekar and Mr. Samant. Clearly the RTE Act was applicable and it does appear that the number of students held the key. The petition was initially filed sought to challenge only the impugned order dated 2nd December, 2016 thereafter by way of amendment, the challenge was expanded to the orders dated 23rd February, 2016 and 10th March, 2016. However, as rightly contended by Mr. Samant, the learned AGP, the student-teacher ratio has been maintained. There is no substantive challenge to the provisions of the Circulars which have complied from time to time. The principal plank on which the case of the petitioner rests is their contention that the main school at Dhamner and Bhagshala at Kathapur are separate units to be considered as separately only owing to the distance between the two. The moot question is whether merely because the school is situated at a distance of 4-5 kms it would justify sanction of additional posts? and secondly the facts justify

sanction of additional posts since Standards VIII, IX and X are admittedly being conducted both at Dhamner and Kathapur. The RTE Act provides that upto 35 students in Standard VIII there would be one teacher and for every 45 students there would be 3 teachers (one each for language, science/maths and social science). Merely because the Bhagshala is located separately but under the same registration was it obligatory on the State to sanction further posts? In my view the answer must be negative and I am in agreement with the submissions of the learned AGP which are well founded viz. the prime consideration of the petitioner is convenience of the teachers, the management of the school and not of students. It has also been demonstrated that the number of teachers in the school has been reducing probably due to the other school in the vicinity or for other reasons. The State has made it clear that if the petitioner wishes to seek separate approval of the Bhagshala as a full-fledged school such a proposal will be considered by the State on its own merits. At present it continues to be a division of the main school and effectively one school.

27. It is for the petitioner to arrange for the teachers at the main school to attend the sub-school after adjusting their individual schedules. The fact that the Bhagshala has been functioning at a different location from the year 1989 would not entitle them to claim additional sanctioned posts especially in view of the statement on oath by Mr. Ramesh U. Chavan, Deputy Education

Officer that an alternative school exists which is at a distance of 900 meters from the Bhagshala and the said school is fully aided school, a fact that has not been controverted by the petitioner.

28. In my view, the interests of the children are unlikely to be affected. The interests of the children have not been sacrificed by the State by declining to sanction additional posts. It is obvious that the petitioners have attempted to retain the number of posts initially sanctioned with a view to ensure the convenient running of the school. However, the question to be answered is whether the State is bound to sanction additional posts for that reason. In my view, the answer must be in the negative. The present sanction under the provisions of the Act cannot be faulted. In view of the fact that the school logs itself feeds into the systems, the particulars of the number of students and the standards in which they attend, as evident from Exhibit H to the petition, there cannot be any reason to be aggrieved. The Act provides for the manner in which any educational institution registered with the State may seek teaching staff in the Sanch manyata. Considering the number of students about which there is no dispute sufficient number of posts have been sanctioned commensurate with the schedule to the Act. The State having granted recognition and being obliged to follow the provisions of the Act is not expected to sanction additional posts given the current strength of the students. If the number of students were to be higher, then certainly the demand for

additional posts would have been justified. However, in the facts of the present case, the impugned orders in my view do not call for any interference. In the result, the petition must fail. Therefore, I pass the following order:-

- (i) Writ petition is dismissed.
- (ii) No orders as to costs.
- (iii) Ad-interim order dated 24th January, 2018 stands vacated.

(A. K. MENON, J.)