

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

WRIT PETITION NO. 11991 OF 2016

Pruthvi Palak Sanstha

... Petitioners

Vs

1 Navi Mumbai Municipal Corporation
and Anr.

... Respondents

Mr. Devyani Kulkarni for the Petitioners.

Mr. Sandeep V. Marne for the Respondent Nos.1 and 2.

Mr. S.B. Kalel, AGP, for the Respondents Nos.3, 4, 4I, 4II, 4III & 5-
State.

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

THURSDAY, 09TH AUGUST, 2018

P.C. :

1 By this petition under Article 226 of the Constitution of India, the petitioners desire that they should be restored the facilities and in terms of paragraph 27(a) of the petition which reads as under :

“27(a) That this Hon’ble Court may kindly issue a Writ of Mandamus or a writ, order or direction in the nature of

Mandamus or any other appropriate writ, order or direction thereby directing the Respondents to restore the facilities and thereby comply with the following -

- i. Fix the school working for the students to six hours a day, five days a week.*
- ii Provide two way bus facilities to the students.*
- iii Provide proper uniforms to the students.*
- iv Provide appropriate nutritious food to the student which is easier for the students to eat.*
- v Provide students with their rightful scholarship.”*

2 On such a writ petition, we had passed a very detailed order pointing out that it is an imminent case where the petitioner must sit with the Navi Mumbai Municipal Corporation officials and work out a scheme. Our order passed on 21st June, 2018, is in the following terms :

“1 Let both the sides explore the possibility of assisting those intellectually disabled children of the concerned members of the petitioner, so that they spend longer time in a special care facility. The specialized care, according to Shri.Marne, is provided by some of the institutions and establishments in the vicinity of the residence of these children and the Navi Mumbai Municipal Corporation through its wings and departments concerning education and working for the disabled, would render all assistance so that the petitioners'/members' children are accommodated in proper fulltime specialized school. The Navi Mumbai Municipal Corporation will hold no grudge

against the children of the members of the petitioner Association if they disassociate themselves or discontinue their association with the current facility.

2. Let this possibility be explored by both the sides and to avoid fruitless litigation in the interest of those disabled children who have nothing to do and possibly their egos will never clash with that of either the Municipal Officials or those managing care centers.

3. List the matter on 19th July 2018.”

3 On 19th July, 2018, the matter was adjourned only to afford a final opportunity to the parties.

4 The petitioner has thus been accommodated by granting adjournments of more than a month.

5 There is an affidavit, which has been filed by the Navi Mumbai Municipal Corporation. The Director, Education Training & Service Centre For Persons With Disabilities of this Corporation says in paragraph 2 that as of now, children of only ten members of the petitioner-Association who have signed the alleged Resolution dated 12th July, 2016, continue to take training in the Education Training Centre. The children of the rest of the parents have passed out or have left this Training Centre. Now, the Education Training Centre has identified five specialized

schools imparting education and training and necessary facilities to intellectually disabled children. The details of the same are set out at page 486 of the paper-book in the affidavit in paragraph 3. Then, it is stated that these five schools are located within the vicinity of the residence of the ten children.

6 Thereafter, the assistance was given by forwarding a communication to these five special schools and whether they would be willing to cooperate in the matter of absorption of the concerned children in their schools for full-time training subject to the willingness of the concerned parents. The letters have been received from the five special schools conveying their willingness to admit the concerned children.

7 Now, even the parents of these children have communicated their willingness and even the steps taken. The training would be given for two hours daily thrice a week in the second year and two years twice a week in the third year and two hours once a week in the fourth year even after absorption of the concerned children in such schools. Then, there are Scholarships also offered. There are further facilities as enlisted in this

affidavit.

8 It is, therefore, clear that the Navi Mumbai Municipal Corporation is extending all the assistance to these parents of the intellectually disabled children. While we sympathize with them, we do not see how we can, in a policy matter, prescribe and as per the wishes of the parents, a schedule or a timing by which these children spend more than the hours, referred above and set out in the affidavit, in these schools.

9 Eventually what we find is that there are steps taken by the Municipal Corporation. Now, the parents have to come forward and take the initiative. We can always request the Municipal Corporation not to be rigid and inflexible in this regard. The moment children are taken to such schools by their parents, then, depending upon their comfort and their initiative, the disabled children can spend more time at such schools. Even the schools would be ready and willing to extend the necessary help and assistance. At least as a beginning, the parents must take advantage or benefit of this scheme is the desire of the Municipal Corporation.

10 In policy matters of the above nature, beyond directing the Municipal Corporation to continue these facilities even after the number of children is reduced or keeps on dwindling, we cannot do anything further.

11 We have done whatever is required and in terms of the mandate of law, namely, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

12 In the above circumstances, the writ petition is disposed of by accepting all the statements in this affidavit of the respondent Nos.1 and 2, as undertakings to this Court. There would be no order as to costs.

SMT. BHARATI H. DANGRE, J.

S.C. DHARMADHIKARI, J.

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