

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO.11 OF 2016

Savari Muthu Micheal Selven	..Petitioner
Versus	
The State of Maharashtra and others	..Respondents

ALONGWITH
NOTICE OF MOTION NO.643 OF 2017
IN
PUBLIC INTEREST LITIGATION NO.11 OF 2016

Savari Muthu Micheal Selven	..Applicant
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IN THE MATTER BETWEEN

Savari Muthu Micheal Selven	..Petitioner
Versus	
The State of Maharashtra and others	..Respondents

Mr. Sagar Ganpat Talekar, Advocate for the Petitioner/Applicant.
Mr. L. T. Satelkar, AGP for Respondent Nos.1 to 3.
Mr. H. C. Pimple a/w Mr. Sagar Patil i/by Mr. Jernold Josep Xavier,
Advocate for Respondent Nos.4 and 5.

CORAM : B. R. GAVAI &
B. P. COLABAWALLA, JJ.
DATE : 9th JANUARY, 2018

PC.

1] It is the grievance of the Petitioner that the notification dated 15th March 2013, by which the Rules called as Maharashtra Right of Children Free and Compulsory Education Rules, 2010, the manner of admission of Minimum 25% Children in Class I or Pre-School at the entry level for the children belonging to disadvantaged group and weaker

section has made applicable only to the schools covered by Section 2(n) (iii) and (iv) as prescribed in Section 12(1)(c) of the Right to Children to Free and Compulsory Education Act, 2009, and not being made applicable to the schools covered by clause (i) and (ii) of Sub Section (n) of Section 2 and such are discriminatory in nature.

2] The second grievance of the Petitioner is that the fees which are to be reimbursed to the schools covered by the said Rules are not reimbursed to the said schools within the stipulated period.

3] In so far as the first grievance is concerned, we find that the said grievance is without substance. The perusal of clause (iii) of Sub Section (n) of Section 2 would reveal that, said Section deals with the school belonging to specified category. In so far as clause (iv) is concerned, it deals with an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority. It could thus be seen that, the said Rules have been framed pertaining to 25% admissions to be granted in schools belonging to the specified category and the unaided schools not receiving grant in aid from the State Government.

4] Perusal of Sub Section (1) of Section 12 would reveal that separate provisions have been made under clauses (a), (b) and (c) for

different types of schools.

5] In so far as schools specified in clause (i) of Sub Section (n) of Section 2 i. e. a school established, owned or controlled by the appropriate Government or local authority, clause (a) of Sub Section (1) of Section 12 provides that, such schools would be bound to provide free and compulsory elementary education to all the children admitted therein.

6] Clause (b) of Sub Section (1) of Section 12 is applicable to schools coming in clause (ii) of Section (n) of Section 2. The said schools are receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority. For these types of schools, it is provided that they shall provide free and compulsory education to such proportion of children admitted therein. In proportion to the grant-in-aid received by them subject to minimum 25%. It could thus be seen that, the provision is made in the statute itself. If a school receives 100% grant-in-aid, such a school will have to provide free and compulsory education for all 100% students. Likewise, if it is receiving 50% grant-in-aid, still have to provide free and compulsory education to 50% students. Only rider is that even if school receives grant-in-aid less than 25%, still it will be required to provide free and compulsory education to minimum

25% students.

6] It could thus be seen that, when the statutory provisions contained in Section 12 themselves have made sufficient provision for schools covered under clause (i) and (ii) of Sub Section (n) of Section 2, there is no necessity to make any rules for regulating admissions therein. In so far as the schools covered under clause (iii) and (iv) of Sub Section (n) of Section 2 are concerned, they stand totally on different footing. We therefore do not find that there is any substance in the challenge with regard to the discrimination.

7] In so far as the second grievance is concerned, if any of the managements has a grievance that they are not receiving reimbursement of the fees, they can very well approach this Court. A Public Interest Litigation would not be tenable at the behest of the party who is competent enough to espouse its own cause. In that view of the matter, we find that there is no merit in the Petition. The same is dismissed.

8] In view of dismissal of Public Interest Litigation, Notice of Motion does not survive and accordingly stand disposed of.

[B. P. COLABAWALLA, J.]

[B. R. GAVAI, J.]