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IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 3893/2017

(Shri Sant Sakubai shikshan Sanstha and another vs. The Education Officer (Primary) Z.P Wardha
and others)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

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Mr. U.A. Patil, Advocate for the petitioners
Ms. Anita Singh, Adv.h/for Mr P.D.Meghe, Advocate for respondents 1 and 4
Mr. Ambarish Joshi, Assistant Government Pleader for respondents 1 to 4

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.
DATED : 26th March, 2018.

Heard.

By this Writ Petition, the petitioners challenge the order of the Education Officer (Primary), Zilla Parishad, Wardha, dated 9.6.2017, granting permission for starting of the VIIIth standard in the Zilla Parishad School.

According to the petitioner, the School of the petitioner is within a distance of 3 km. from the school of the Zilla Parishad where permission is granted by the Education Officer to start VIIIth standard. According to the petitioner, in view of the Government Resolution dated 28th August, 2015 and the directive of the Deputy Director of Education dated 27th July 2016 as also the provisions of Rule 6 of the Right of Children to Free and Compulsory Education Rules, 2010 (in short "**Rules of 2010**"), it would not be permissible for the State Government or the Zilla

Parishad to grant permission to another school to start VIIIth standard classes when the said school is within a distance of 3 km. from the existing school having VIIIth standard classes.

We are not inclined to interfere with the impugned order and consider granting the relief sought by the petitioner. It is notable that the permission is not granted by the impugned order to a private management to start the VIIIth standard classes as the impugned order grants permission to the Zilla Parishad School that conducts the classes upto VIIth standard to start the VIIIth standard classes. It appears that students are taking education in the Zilla Parishad school from standard Ist to VIIth and the Zilla Parishad school would be entitled to start the VIIIth standard classes, more so when free education is imparted to the students in the Zilla Parishad schools. Admittedly, one of the Sections of VIIIth standard in the petitioner-School is not yet brought on grant-in-aid. If permission is not granted to the Zilla Parishad to start the VIIIth standard classes the students who are taking education in the Zilla Parishad school would be required to take education on payment of fees in the school of the petitioner. We do not find anything in Rule 6 of the Rules of 2010 and the Government Resolution dated 28th August, 2015 that prohibits the opening of VIIIth standard classes within a distance of 3 km. from an existing school. In fact, on a reading of the provisions of Rule 6 of the Rules of 2010, we find that a duty is enjoined upon the appropriate Government or the Local authority to provide a school for

classes VI to VIII within a distance of 3 km. from the neighbourhood/ residence of the children. The object of Rule 6 is to provide a school within a walking distance of 3 km. from the residence/ neighbourhood of the students who are desirous of taking education in standard VIth to VIIIth. The Government appears to have framed the policy in the Government Resolution by keeping the object of Rule 6 of the Rules in view. In any case, in the facts and circumstances of the case, it cannot be said that the respondent no.3 could not have granted permission to the Zilla Prishad school to start the VIIIth standard classes.

In the result, the Writ Petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE