

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

30 WRIT PETITION NO.5208 OF 2018
WITH CIVIL APPLICATION NO.4005/2019
IN WRIT PETITION NO.5208/2018

JAI BHAVANI BAHUDDSHIYA MANDAL NASHIRABAD SANCHLIT
ZIPARU ANNA PRATHMIK VIDYA MANDIR, JALGAON
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners: Mr Chalak Amol B.

AGP for Respondents State: Mr A.R. Kale

Advocate for Respondent No.4:Mr. Pradeep V. Tapse-Patil

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 15th April, 2019

PER COURT :

1. Mr. Chalak, the learned Advocate for the petitioner submits that the petitioner was entitled for grant-in-aid from the academic year 2011-12. Though the petitioner was eligible in all respect, case of the petitioner was negatived. The petitioner approached this Court by filing writ petition No. 8255/2015. This Court, under its order dated 20.04.2016 allowed the petition and directed the respondents to reconsider the case of the petitioner afresh, ignoring the reasons assigned by the Committee while refusing the request of the petitioner for release of grant-in-aid from the year 2011-12. The respondent was directed to decide the same by 13th May, 2016, however, the same was

not decided within the stipulated period and the respondents thereafter, in June, 2017, decided the said proposal of the petitioner and held the petitioner to be entitled for 20% grant-in-aid in terms of Government Resolution dated 1st July, 2016. Learned Counsel submits that the same is illegal. The petitioner should have been given 20% grant in aid from the year 2013-14 i.e. the date when other similarly situated schools were given grant in aid.

2. Learned AGP submits that the grant-in-aid is not a right of the petitioner institution. Grant in aid depends upon availability of funds with the Government. The Government Resolution dated 1st July, 2016 makes this fact clear. According to the learned counsel the petitioner is entitled for 20% grant in aid from the year 2016-17.

3. The petitioner was considered ineligible to receive 20% grant in aid from June, 2013 on the ground of deficiency. The petitioner challenged the said order by filing Writ Petition No. 8255/2015. This Court, under order dated 20th April, 2016 observed that the District Committee has given 71 marks to the

petitioner, the Scrutiny Committee has also given 71 marks and the 3rd Party Evaluation Committee has given 76 marks. The petitioner has achieved the benchmark of 70% marks. In the report, it is mentioned that backlog of one post is not filled in. The Court observed that the petitioner has right to demonstrate that the backlog does not exist. The Court thereafter observed that the respondents have not properly considered the contention of the petitioner and also verified the record maintained by the petitioner in respect of backlog. The Court, therefore, directed the 3rd party Evaluation Committee to reconsider the case of the petitioner. The 3rd party Evaluation Committee concluded that the petitioner is entitled for grant in aid but has observed that the petitioner is entitled for 20% grant-in-aid without referring to the period since when the petitioner is entitled to. However, the Government resolution dated 1st July, 2016 states that the petitioner would be entitled to from the year 2016-17 onwards depending upon the available of funds.

4. The 3rd party Evaluation Committee has held some

of the institutions eligible for 20% grant in aid from June, 2013. The petitioner is also required to be placed alongwith the schools held eligible for grant in aid from June,2013 (Pages 57 to 68). Of course, if those institutions are not given grant in aid from June, 2013, the petitioner also would not be entitled from June, 2013. But if those institutions have been paid grant-in-aid from June, 2013 then the petitioner is also entitled for the same.

5. The respondents shall, as such, consider that the petitioner is eligible for grant in aid from June, 2013 and shall pay the petitioner grant in aid from June, 2013 if it is paid to the other institutions (page 57 to 68) of Nashik Region.

6. Writ petition is accordingly disposed of. No costs.

7. In view of disposal of the writ petition, Civil Application is also disposed of.

(A. M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

JPC