

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

44 WRIT PETITION NO.5352 OF 2018

**VIDYADHAN PRATISHTHAN AURANGABAD THRU SECRETARY
HEMLATA G AGADE**

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Suryawanshi R.R.

AGP for Respondent : Mr. S.G.Karlekar

Advocate for Respondent No. 6 : Mr. H.K. Munde h/f. Mr. Sonwalkar
Vilas R.

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**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 06/08/2019

PER COURT :

1. The petitioner is assailing the communication dated 28.09.2017 granting permission to the petitioner institution to run the junior college on self finance basis with Marathi medium. One Vithal Shikshan Prasarak Mandal, Omerga had applied for starting the junior college with Marathi Medium on 26.08.2005. Under order dated 31.05.2006, said Vithal Shikshan Prasarak Mandal, Omerga is granted permission to run the junior college, however, it appears that the same

was with English Medium. According to the petitioner, the said Vithal Shikshan Prasarak Mandal, Omerga on 20.06.2006 and 20.07.2008 represented that the permission was sought to run Science Junior College with Marathi Medium. The said institution was, thereafter, transferred to the petitioner. The petitioner moved the proposal for changing the medium to Marathi instead of English. The application is allowed. However, on condition that the same would be on self finance basis. The same is assailed in the present petition.

2. We have heard Mr. Suryawanshi, the learned counsel for the petitioner.

3. Mr. Karlekar, the learned A.G.P. submits that the school has been transferred to the petitioner institution in the year 2009 and since then it is running the English Medium Junior College. The petitioner submitted the proposal for change of medium, the same is allowed, as per the policy of the State of granting fresh permission on self finance basis. The same is in tune with the Maharashtra Self-Financed Schools (Establishment and Regulation) Act, 2012.

4. We have considered the submissions. It appears that Vithal Shikshan Prasarak Mandal, Omerga had submitted application for the start of Higher Secondary Science Stream (Junior College) with Marathi Medium for the academic year 2005-06. The proposal was

allowed, however, while granting permission the same appears to have granted for English Medium. The petitioner has placed on record the communications made by the Vithal Shikshan Prasarak Mandal, Omerga on 20.06.2006 and 20.07.2008, wherein, the representation was made that the permission sought was in Marathi Medium. However, wrongly the permission has been granted to run the Junior College (Higher Secondary) with English Medium. It does not appear that the decision was taken upon the said communication. In 2009, the said School/Junior College was transferred to the petitioner institution. The petitioner institution, thereafter, submitted the proposal for changing the medium in Marathi.

5. Authorities will have to consider the application filed by the petitioner. If the erstwhile institution had filed application to start the Junior College (Science Stream) with Marathi Medium then the said application had to be considered for Marathi Medium. The application could have been rejected, if the State was not inclined to grant permission in Marathi Medium. It also appears in the document filed on record that erstwhile institution immediately in the year 2006-08 communicated that the permission was sought to run Junior College with Science Stream in Marathi Medium but the permission is granted to run the said Junior College in English Medium. The

correction was sought in the said communication with regard to the medium. In 2009, the said Junior College was transferred to petitioner institution. The petitioner has also applied for correction of the medium.

6. In fact, the present case would be for correction of the medium of instructions for the Junior College. The medium of instructions was only sought to be changed and not a new permission was sought so as to apply the self finance act. The authority was required to consider the application given by erstwhile institution to start the college and thereafter, whether the mistake was committed in the grant of permission with regard to the medium. The said aspect does not appear to have been considered while passing the impugned order.

7. In the result, the impugned order is quashed and set aside. The authority shall reconsider the proposal of petitioner for change of medium. It shall consider whether the initial application was filed by the erstwhile society, seeking permission to run the Junior College, in Science Faculty with Marathi Medium. It shall also consider the subsequent applications filed in the year 2006 and 2008 and applicable to the petitioner. It shall thereafter take decision as to whether the

petitioner is permitted to change the medium of instructions as sought.

8 The impugned order as such is quashed and set aside. The decision shall be taken by the appropriate authority within 6 months from today. Writ petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S. V. GANGAPURWALA, J.)

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