

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.13034 OF 2018
WITH
CIVIL APPLICATION NO.6565 OF 2019
IN
WRIT PETITION NO.13034 OF 2018**

Namankit English School Trustees
Association, Maharashtra,
Through
Subhash Dinesh Choudhari
Age: 47 years, Occu. Agril, &
Joint Secretary of petitioner,
R/o. At Post Chimthane,
Tq. Shindkheda, District, Dhule ..PETITIONER

Versus

1. The State of Maharashtra,
through its Secretary,
Tribal Development Department
Mantralaya, Mumbai-32.
2. Commissioner,
Tribal Development Department,
Adivashi Vikas Bhavan,
Agra Road, Nashik. ..RESPONDENTS

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Mr. V. J. Dixit, Senior Advocate with Mr. S. V.
Dixit, Advocate for the Petitioner.
Mr. V. M. Kagne, A.G.P. for Respondent Nos.1 and 2.

...

**WITH
WRIT PETITION NO.6475 OF 2019**

Gramin Shikshan Sanstha, Nalegaon
Through its Secretary
Ramrao S/o. Baburao Budre,
Age: 63 years, Occu. Agri., &
R/o. Nalegaon Tq. Chakur, Dist. Latur ..PETITIONER

Versus

1. The State of Maharashtra,
through its Secretary,
Tribal Development Department
Mantralaya, Mumbai-32.

2. Commissioner,
Tribal Development Department,
Adivashi Vikas Bhavan, Agra Road,
Nashik, Tq. & Dist. Nashik. ..RESPONDENTS

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Mr. T. M. Venjane, Advocates for the Petitioner.
Mr. V. M. Kagne, A.G.P. for Respondent-State.

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

Closed for Orders on : 09.07.2019.

Order Pronounced on : 06.08.2019.

FINAL ORDER (Per S. V. Gangapurwala, J.) :-

1. The petitioners in both these writ petitions assail the Government Resolution dated 18.05.2018 and 20.08.2018.

2. The State Government considering that the tribal population in the State of Maharashtra is about 85.77 lacs (8.85%) and that the literacy rate amongst the Scheduled Tribe is 52.2% and further that the tribal students are lagging behind in the higher education, introduced a scheme under Government Resolution dated 28.08.2009 to bring the tribal students into the main stream and to provide them education in the reputed schools with English medium. Further modification was made in the said scheme. Under the Government Resolution dated 28.08.2009, the benefit of scheme was to be given to 2500 tribal students every year. Under Government Resolution dated 21.04.2015 the beneficiary students were increased to 25,000. Subsequently, under Government Resolution dated 27.06.2016 further modifications were made and

marking system was given to the schools. Thereafter, the impugned Government Resolution dated 18.05.2018 is issued. Under Government Resolution dated 18.05.2018, the earlier Government Resolution dated 27.06.2016 is superseded.

3. Mr. Dixit, learned senior counsel for the petitioner strenuously contends that:

(A) The Government Resolution dated 18.05.2018, 20.08.2018 and Letter dated 17.11.2018 issued by respondent no.1 are issued without properly appreciating the object and purpose of Scheme of State Government and by impugned Government Resolutions such purpose is frustrated. Government Resolution dated 28.08.2009 aimed at educating students from scheduled tribe category in renowned school in English medium alongwith other students so as to make students from scheduled tribe competent to face challenges in the era of globalization and also to provide opportunity of good quality education which would help them in obtaining higher education. The purpose of affording educational opportunities to students belonging to scheduled tribe category is not getting fructified as the number of beneficiaries were increased from 2500 to 25000 and due to retrospective applications of impugned Resolution dated 18.05.2018, many educational Institutions are not given admission of new students and only few educational Institutions are given students to avoid financial burden of Scheduled Tribes students

without considering its adverse effect on the beneficiaries.

(B) The proposals for academic year 2018/-2019 were called from various Institutions in pursuance of the Government Resolution dated 27.06.2016 and, therefore, subsequent introduction of impugned Government Resolution dated 18.05.2018 would not be applicable to proposals called and received prior to issuance of such Government Resolution. Government Resolution dated 18.05.2018 would be applicable prospectively and will not apply to pending proposals. The Government Resolution dated 20.08.2018 is arbitrary and malafide, it not only depicts prima facie discrimination but also does not given reasons as to why Schools as referred in Clause-IV were not given admission of new students though they were found to be eligible. The Government Resolution dated 20.08.2018 gave exclusive relaxation of condition of limitation of 50% students belonging to Scheduled Tribe on flimsy grounds and imaginary considerations. It is practically impossible to ascertain the level of education of good values and good character given in particular school, still school run by Vishwatmak Jangli Maharaj Sanstha is held to be giving education of good values and character than others. Such discrimination amongst equals is not based on intelligible differntia and, therefore, such discrimination and special treatment to particular Institution is unsustainable in the eyes

of law.

(C) No reasons are provided in respect of 21 Institutions as referred in Clause No.5 so as to deny admissions of new students and also no reason is given in respect of 14 schools though held eligible in Clause No.4, but admissions of new students are not given. Sub Clause-III and IX of Clause-6 is contrary to Clause-3 of Government Resolution dated 18.05.2018. The assessment of the Institution for academic year 2018-2019 ought to have been made on the basis of Government Resolution dated 27.06.2016 and not on the basis of Government Resolution dated 18.05.2018.

(D) The Government Resolution dated 28.08.2009, it was provided, that an Agreement is to be executed with educational Institution by the authority at the time of admissions of the students and Institutions were asked to undertake to provide facilities and education to such students till 12th standard. Agreements were executed and now impugned Government Resolution dated 20.08.2018 is contradictory to such condition of contract entered by the State Government with educational Institutions. Government Resolution provides that, if Institutions as referred in Clause No.5 fail to comply with the standards provided in G.R. dated 18.05.2018 within period of one year then the admissions already given to students would be cancelled and transferred to Ashram Schools. This clause is against the Agreement executed with

educational Institutions and illegal.

(E) The purpose of introduction of this scheme for students from Scheduled Tribes was to ensure availability of equal opportunity to students, who were deprived of such educational opportunities or would have remained deprived of such opportunity. Due to introduction of impugned Resolutions and decision of not giving admission to majority of Institutions has resulted in deprival of students from Scheduled Tribe from availability of opportunity. This is not only violative of policy of State Government dated 28.08.2009 but also violative of Right to Education and Right to live with dignity as contemplated under Article 21 of Constitution of India. No hearing or opportunity was given to educational Institutions before introduction of impugned Resolution dated 18.05.2018 and even no sufficient reason is given for change in the policy. Even while taking any decision or action against educational institutions no notice, hearing or reasoned order is passed. All the Institutions who have applied for selection made huge investments so as to comply with the standards provided in the Government Resolution dated 27.06.2016, however, due to arbitrary change in the policy and rejection of the proposals such educational Institutions would suffer huge financial loss. Since proposals were called as per standards provided in Government Resolution dated 27.06.2016, respondent no.1 cannot abruptly and

arbitrarily change the rules of the game. Doctrine of legitimate expectation and promissory estoppel is squarely applicable in the instant case and, therefore, impugned Resolution dated 18.05.2018 and 20.08.2018 deserves to be quashed and set aside.

(F) In the preface of Government Resolution dated 18.05.2018, it is stated that, the Resolution is introduced due to non-implementation of Government Resolution dated 27.06.2016. However, it is the job of Officers of the Department to implement Government Resolution and such reason cannot be said to be justifiable as proposals were called for academic year 2018-2019 and were under consideration. If at all Government Resolution on 27.06.2016 was not effectively implemented then authorities should have ensured compliance of the said Government Resolution and change in the standards may not be necessary and may not be the solution for non-implementation of earlier Government Resolution.

(G) The respondent no.1 is a Welfare State and change in policy cannot be arbitrary and ought to have been based on reasonable consideration. If policy is changed frequently then it would result in anarchical situation. The actions of State cannot be based on extraneous consideration. Government Resolution dated 18.05.2018 stipulates that, entire teaching staff should have acquired educating qualifications in English Medium only. However, it is practically impossible to have

availability of teaching staff, who has studied in English Medium from pre-primary stage. Even some schools do not have three Batches of 10th standard, as they are not old schools but still good quality education is provided in the said school. Mere number of batches of 10th standard cannot be a straight jacket formula to determine a standard of education of any particular school. Therefore, such standards itself depict irrationality and cannot be presumed to be standards to determine quality of education.

(H) The impugned Letter dated 17.11.2018, issued by respondent no.1 gives permission to Government Ashram Schools to start Classes of 1st standard of English Medium, however, such permission cannot ensure the quality of education and the facilities, which are expected to be provided to the students from Scheduled Tribe Category. Even otherwise such Ashram Schools are not having three batches of 10th standard from English Medium as they are given permission from this academic year. Therefore, they are not eligible to receive students under Namankit Schools Scheme. Eklavya Residential Schools are not having standard 1st to 6th Classes and those are to be commenced after issuance of impugned Letter, therefore, such schools also do not possess experienced teaching staff for standard 1st to 6th. The Eklavya Residential Schools and Government Ashram Schools are exclusively meant for students

belonging to Scheduled Tribe Category and they are not having students from other category or general category, therefore, the object to enable students from Scheduled Tribe Category to acquire education in English Medium from renowned schools with other students is frustrated. Such object was not only to ensure availability of quality education but to provide an opportunity to students to cope-up with changing circumstances due to globalization. Even an intention was to reduce the imbalance and provide more educational opportunities to backward Classes. Such object of State Government is sought to be nullified by issuance of impugned Letter dated 17.11.2018 as students if accommodated in Government Ashram Schools then they will not be able to secure education with other students in renowned schools. This amounts to taking away soul of the scheme and would frustrate the very purpose of the scheme. Letter dated 03.06.2019 is issued on the basis of decision taken on 15.03.2019 and 03.05.2019 but such decision is not having any reference to shift students to other Namankit Schools from existing schools and therefore, reliance on such decisions are misplaced. Even students are sought to be transferred from one district to another. Considering age of students, shifting them at such longer places would deprive their parents from approaching them. Even such decision is violative of agreement already executed by State. Agreement does not contemplate any such

change in standards. Therefore, such change in standards is impermissible. Assessment of such schools has to be done as per earlier standards and not as per new standards.

(I) No show cause notice, hearing is given to any Institute before taking decision on 15.03.2019 and 03.05.2019. Even no reasoned order is passed cancelling recognition as Namankit Schools and not order is communicated till date.

(J) The learned senior counsel relies on the judgment of the Apex Court in the case of **Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Ors.** reported in (1979) 2 SCC 409 to contend that doctrine of promissory estoppel would apply. The learned senior counsel also relies on the judgment of the Apex Court in the case of **Union of India (UOI) and Ors. Vs. Indo-Afghan Agencies Ltd.** reported in AIR 1968 SC 718 and in the case of **Union of India (UOI) and Ors. Vs. Godfrey Philips India Ltd.** reported in (1985) 4 SCC 369.

4. Mr. Venjane, learned counsel also adopts the arguments of Mr. Dixit, learned senior counsel and further submits that prescribed in the condition that three classes of 10th standard should have passed, for the institutions to be eligible to admit students under the scheme is arbitrary, irrational and in doing so the petitioner is deprived of admitting the tribal students.

5. Mr. Bajaj, learned counsel for respondent no.2 submits that:

(A) The Constitution of India under Part IV i.e. Directive Principles of State provides for certain obligations on the part of State for the welfare of its citizens. The respondent no.1 is under obligation to frame certain beneficial policies for the welfare of certain sections for the people under Article 46. Article 46 requires the State to take special care in promoting educational and economic interest of the weaker sections of the people and in particular the Scheduled Caste/Scheduled tribes. In furtherance of the said mandate the respondent no.1 for the purpose of welfare, development and advancement of the tribal population and more particularly of the children has taken various measures from time to time. The schools and residential schools are established to impart education.

(B) Considering the need of the time and the difficulties faced by the students belonging to tribals in getting education and the lack of English language prompted answering respondent to take a decision to make the facility of education in English Medium to the children of tribal population. In furtherance of such measure, Government has passed Resolution on 28.08.2009 taking a decision to provide the facility of English Medium to 2500 students in the State of

Maharashtra by identifying Namankit English Medium schools where such education can be imparted to the said students and for identifying such schools guidelines were laid down. The Government Resolution dated 28.08.2009 provided for identify the schools and prepare a list of such schools and criteria of selection is laid down in which, apart from the facilities provided, it is mentioned that past three years results and the progress made by the students and their opting for various professional courses after completion of the school education, etc recommendations were to be made by the committee. This pre-supposes that the school should have the classes up to the standard of school i.e. 10th class. The necessary expenses to be incurred over the aforesaid purpose was to be paid by the answering respondent.

(C) With the passage of time and the difficulties faced by such students, the respondents from time to time vide various resolutions imposed certain conditions for the betterment of the children and their education, all the facilities needed and the measures to be carried out by implementation agencies. The Government Resolution dated 27.06.2016, specified facilities to be available in the schools and hostels and also specified the process of evaluation and giving marks to the schools and allotting the students to the said schools and for determining the fees etc. to be paid for meeting

out the imparting of the education and for the residential facilities to be provided. With the passage of time again certain additional requirements were required to be made out to identify the schools for the effective implementation and achievement of the very basic purpose. They are more particularly specified in Government Resolution dated 18.08.2018.

(D) The very basis/object of providing such facilities to the tribal population flows from the Constitution of India and is part of the welfare policy of the State adopted and undertaken under the directive principles laid down and the obligation imposed upon under the Article 46 of the Constitution of India. All these policy decisions taken are only aimed at providing better education facilities to the tribal population and to make them capable to meet out the challenges necessary for getting good education in the professional courses and to make capable of surviving and competing with the system. In the Government Resolution of 2018 a need of qualified teachers imparting English Medium education was made compulsory as otherwise the purpose and the object for which the resolutions are passed adopting the policies of imparting education in English Medium would get frustrated. Those who have taken education in Marathi Medium and or other medium than in English could not be proficient for imparting education in English Medium, and as such,

it was required to make it mandatory to the schools to be identified should have teachers who have taken education in English Medium. In 2009 Government Resolution the last three years performance was to be considered and also the performance of the candidates after completing their school education etc. which pre-supposes having 10th class batches in the school. Even in the year 2016 such consideration of the resolutions of 10th class for last three years has been referred and also allotting of marks for such performance has been laid down. Making absolute for identifying the school having last three years 10th classes/batches is in tune with the said policy and is in the interest of the students. The schools with better performance and having record of imparting efficient education to the students are identified and selected for allotment of the students to such schools. Schools as such do not have any locus to challenge the policy laid down from time to time by the answering respondent in the interest and welfare of the students of tribal on any ground whatsoever.

(E) Marking system further specified is also in the interest of the students taking education in the better schools and as such cannot be faulted with. The policy adopted by the answering respondent identifying the schools and allotting the candidates/students to such schools is not for making the facility available for running of the

school, but solely aimed at better education and residential facilities to the tribal students. Putting restriction of number of students at 50% of the non-tribal population and 50% of tribal students is with an idea that the students get an opportunity so that the students of the Scheduled Tribe are not kept in isolation. The respondent is the master of framing its own policies in the interest of tribal population of the students and children belonging to Tribals, hence there cannot be any dictum laid down by the schools, or the management on the ground that it adversely affect their interest. To put for the challenge on the ground of assertion and legitimate expectations and or promissory estoppel are ill-conceived.

(F) The point raised in regard to 14 institutions now cannot be made subject matter of scrutiny as the same was for the period 2018-2019 and the said period is now over. Moreover none of the said 14 institutions challenged it. The grievance of the schools having already students allotted has been diluted by relaxing the conditions imposed vide communication dated 17.11.2018.

(G) Six institutions cannot be mixed up with present proceedings which is challenging the order passed on the basis of data and report in regard to deficiencies. The institutions were already given one year time to remove the shortcomings which they have not availed and rectified the things.

Moreover when the said deficiencies are not disputed and even if disputed then it will raise a question of disputed facts and as such also the said grievance cannot attract the jurisdiction under Article 226 of this Hon'ble Court. In the agreement executed with the schools to whom already candidates are allotted, such schools are bound to provide all necessary infrastructure and facilities. The schools if are not in a position to provide facilities then even the withdrawal of the candidates so allotted cannot be faulted.

(H) The judgments relied upon by the petitioners are in the cases where the Government to provide industrial development has promised certain benefits and concessions to the entrepreneurs and industrialist to avail the same on establishment of industries. There was an assurance made on such investments to make them available, financial benefit and get concessions available in regard to relaxation in the tax. At no point of time an assurance was given to the school authorities that if proper facilities are available and provided, the candidates shall be given to them.

(I) The learned counsel relies on the judgment of the Apex Court in the case of **Union of India and Others Vs. International Trading Company and Another** reported in (2003) 5 SCC 437 and submits that it is the policy decision of the Government in public interest, the same would not be open for

challenge. The policy is not arbitrary. The petitioner does not possess vested right. The doctrine of promissory estoppel and legitimate expectation cannot come in the way of public interest.

6. We have considered the submissions canvassed by the learned counsel for the respective parties.

7. The directive principles of the State policy enshrined in Chapter IV of the Constitution of India is a constitutional obligation of the State to be performed on its own. The object of directive principles is to embody the concept of welfare State. The directive principles have positive aspect. It supplements fundamental rights in achieving a welfare State.

8. Article 46 of the Constitution of India prescribes that the State shall promote with special care educational and economic interest of weaker section of people and in particular of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation. With a view to achieve the goal of promoting educational interest of the Scheduled Tribes, the State of Maharashtra formulated policy of providing education to the children of Scheduled Tribes in renowned schools imparting education in English medium alongwith other students so as to bring them in the main stream and had issued Government Resolution dated 28.08.2009.

9. Preface to the Government Resolution dated 28.08.2009 clarifies that population of the Scheduled Tribes in Maharashtra is 8.85%. In higher education English language is the medium of instructions and students from Scheduled Tribes are not in a position to compete for want of English education. They are not in a position to acclimatize themselves with the environment in higher education due to lack of basic education in English language. Importance of English is also growing because of globalization. It is not possible for students from Scheduled Tribes to take admission in renowned English medium schools with their scarce economic and financial resources. With aim and intention to facilitate tribal students and to give them opportunity to take education in renowned English medium schools, the Government formulated policy under Government Resolution dated 28.08.2009. The policy underwent modifications from time to time. Initially the policy was meant to benefit 2500 tribal students. Under Government Resolution dated 21.04.2015, the Government expanded said facility to 25,000 tribal students. The policy was again modified under Government Resolution dated 27.06.2017. The Government used to bear fees of renowned schools vis-a-vis tribal students and cap was fixed at Rs.50,000/- per year. The schools, where tribal students were admitted under the scheme, were paid Rs.50,000/- per student by the Government. Under

Government Resolution dated 21.04.2015, the Government had given different grades for schools in Taluka, Municipal Corporations, Hill Stations and fees was fixed accordingly, effective from Academic Year 2015-2016. The Government received demands from the renowned English medium schools for more fees per student than the maximum fixed by the Government. The Government decided to fix fees as per the facilities and amenities provided by the schools and by evaluating quality of school. The decision was implemented under the Government Resolution dated 27.06.2016. Marking system was introduced under Government Resolution dated 27.06.2016. Pursuant to gradation of the schools fees was fixed as under:

अ.क्र.	एकूण गुण	प्रति विद्यार्थी मंजूर शुल्क
१.	८० व त्यापेक्षा जास्त गुण	रु.७०,०००/- वार्षिक किंवा प्रत्यक्ष फी यापैकी जे कमी असेल त्याप्रमाणे.
२.	७०-७९ गुण	रु.६०,०००/- वार्षिक किंवा प्रत्यक्ष फी यापैकी जे कमी असेल त्याप्रमाणे.
३.	६०-६९ गुण	रु.५०,०००/- वार्षिक किंवा प्रत्यक्ष फी यापैकी जे कमी असेल त्याप्रमाणे.
४.	६० पेक्षा कमी गुण	६० पेक्षा कमी गुणांकन प्राप्त झालेल्या शाळांचे प्रस्ताव अपात्र ठरतील.

Schedule A and B to Government Resolution dated 27.06.2016 prescribes the marking system.

10. The Government noticed that though marking system was introduced, best of the schools were not selected. The Government revised evaluation system and passed the Government Resolution dated 18.05.2018. The petitioners are aggrieved by said

Government Resolution. The petitioners are basically aggrieved by Clause 2 and 3 of the Government Resolution dated 18.05.2018. Clause 2 stipulates that at least 90% teachers of renowned residential English medium schools (excluding language and sports teachers) shall be from English medium and all the teachers should possess necessary qualification. Clause 3 of said Government Resolution suggests that from the renowned English residential schools to be selected atleast 3 batches of the 10th standard should have been passed out.

11. It has been clarified by respondents that the schools to which students are already allotted condition no.2 is diluted as per Communication dated 17.11.2018. More over, when the school is an English medium residential one, it is necessary that teachers are qualified and competent to impart education in English medium. They are required to be proficient to teach in English medium. For example, if a teacher is teaching science subject, he should have done his graduation or post graduation in the science subject with English medium. Said requirement cannot be said to be erroneous.

12. Focal point of the scheme introduced under Government Resolution of 2009 is the student. The students are the cynosure of the scheme introduced by the Government with a view to achieve the object of Article 46 of the Constitution of India. The

schools do not have vested right of the students being allotted to them. The welfare of tribal students is of paramount importance. If the Government wants these tribal students to be admitted in the schools possessing the best of facilities, infrastructure and staff capable to impart education of the highest standard, the Institution not possessing such amenities and not in a position to impart education with high standards cannot be heard to complain. The schools do not have vested right to get the students allotted in their schools only because the Government is bearing the expenses of these students and the schools would be paid moiety for these students being admitted in their schools. The scheme of the Government under Resolution dated 28.08.2009 and modification thereto under subsequent Government Resolutions from time to time is to ameliorate the educational backwardness of tribal students and to open an avenue to them for better education in renowned English medium schools, so that in higher learning, which is normally in English language, these tribal students would not lag behind, they will be in a position to compete with other students and would get better opportunities and status in the society.

13. Benevolent and the beneficial policy of the Government cannot be scuttled down and the renowned schools which are not in a position to fulfill all the criteria laid down under the

Government Resolution dated 18.05.2018 cannot be said to be aggrieved. Marking system was also provided under the Government Resolution dated 27.06.2016. Some modifications are made in the marking system considering the experience of the State with then prevalent marking system. The Government would be within its powers and would have legitimate right to modify the scheme keeping in view the welfare of tribal students. If the schools are not in a position to upgrade themselves, then they do not have right to make grievance.

14. The Government policy may change/develop considering the change in circumstances and with the changing times. It is the interest of students that will outweigh the plea of the petitioners to allow them to admit students or to continue with the students who are already admitted with them. The policy decision of the State is in the interest of tribal students. The policy cannot be said to be arbitrary or unreasonable. The interest of tribal students is taken care of and will have primacy over the rights of the petitioner schools. Contention about legitimate expectation put forth by the petitioners cannot override the interest of tribal students.

15. The petitioners do not have vested right and cannot claim that students are required to be admitted in their schools or that the Government should not insist for upgrading scheme to provide

for quality education.

16. We do not find that the policy of the Government enshrined under impugned Government Resolution in any way infringes Article 14 of the Constitution of India. The formulation of policy is province of the decision maker. Judicial intervention/examination would only let the Court to find out if the change of policy, if digressing legitimate expectation is irrational or perverse or one which no reasonable person could have made. The petitioners' schools may upgrade themselves to the requirements. It is not the case that the State came out with evaluation and marking system overnight. One year time was given to all the Institutions.

17. The judgment relied on by Mr. Dixit, learned senior counsel in a case of **Union of India (UOI) and Ors. Vs. Indo-Afghan Agencies Ltd.** (supra) may not inure to the benefit of the petitioners. In said case the Government had given assurance that respondents therein would be entitled to obtain import licences for an amount equal to 100% of the F.O.B. value of their exports. The Government imposed cut in the import entitlement by the respondents. It was a case about commercial transaction hampering business of parties therein. In the case of **Union of India (UOI) and Ors. Vs. Godfrey Philips India Ltd.** (supra), the Apex Court observed that the

Government would be estopped, as letter was issued by the Government about exemption being granted and subsequently being withdrawn. The Apex Court in the case of **Union of India and Others Vs. International Trading Company and Another** (supra) observed that claim based on legitimate expectation without anything more cannot confer a right.

18. More over, education is not a business nor should be treated as one wherein the monetary gains of the petitioners-Institutions would be compared with the welfare and educational interest of the tribal students. Improvement and development is continual and with the changing times, the Government has power and right to take a policy decision that the English medium schools where the tribal students are admitted are capable to impart best of the education. The agreement which the petitioner wants to rely on is in fact an undertaking given by the petitioners that they are bound by the conditions in the letter pursuant to which admission is given to tribal students. It is an undertaking given by them that when such tribal students are admitted, it would be obligatory on the part of institutions to provide them all the facilities upto 12th standard. We do not find that the petitioners can have a legitimate right to make any grievance.

19. In writ petition no.6475 of 2019 the petitioner is a new school wherein students were

never admitted. The petitioner therein submitted proposal on 10.12.2018 which is subsequent to the Government Resolution under challenge. It is submitted by the respondents that the petitioner-Institution does not have qualified staff. All teachers are educated in Marathi language only. The petitioner does not possess any right.

20. As far as marks given to the petitioner-Institution by the respondents are concerned the same appears to have been given upon the subjective satisfaction of the authorities based on objective assessment. This Court would not sit in appeal over the marks given by the authorities to the Institutions nor the petitioners have assailed the same qua every Institutions.

21. In the light of above, we are not inclined to accede to the request of the petitioners. Writ Petitions as such are dismissed. No costs.

22. In view of dismissal of writ petitions, present civil application is disposed of.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

22. At this stage learned counsel for petitioners seeks stay of the present order. Interim order is not in force. In view of that,

the request made by the learned counsel for the petitioners cannot be accepted.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/August-19