

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 7173 OF 2014

Tryambakeshwar Shikshan Prasarak Mandal,
Latur, Tq. & Dist. Latur,
Through its Secretary,
Sanjay s/o Bhagwanrao Suryawanshi,
Age: 45 years, Occu. Service,
R/o. Narayan Nagar, Near Bunty Niwas,
Latur, Tq. & Dist. Latur.

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through it's Secretary,
Department of School Education
& Sports, Mantralaya, Mumbai-32.
2. The State of Maharashtra,
Finance & Planning Department,
Mantralaya, Mumbai,
Through it's Secretary.
3. The Director of Education (Primary),
Maharashtra State, Pune.
4. The Deputy Director of Education,
Latur Division, Latur, Tq. & Dist. Latur.
5. The Education Officer (Primary),
Zilla Parishad, Latur, Dist. Latur.

... RESPONDENTS

WITH**WRIT PETITION NO. 7176 OF 2014**

Lokseva Shikshan Prasarak Mandal,
Arvi, Tq. & Dist. Latur,
Through its Secretary,
Venkatrao S/o Narayanrao Yadav,
Age: 65 years, Occu. Secretary,
R/o. Shyam Nagar, Latur.
Tq. & Dist. Latur.

... PETITIONER**VERSUS**

1. The State of Maharashtra,
Through it's Secretary,
Department of School Education
& Sports, Mantralaya, Mumbai-32.
2. The State of Maharashtra,
Finance & Planning Department,
Mantralaya, Mumbai,
Through it's Secretary.
3. The Director of Education (Primary),
Maharashtra State, Pune.
4. The Deputy Director of Education,
Latur Division, Latur, Tq. & Dist. Latur.
5. The Education Officer (Primary),
Zilla Parishad, Latur, Dist. Latur.

... RESPONDENTS

...

Mr. Ganesh V. Mohekar, Advocate for Petitioner, in both petitions.

Mr. S. P. Tiwari, AGP for Respondent Nos.1 to 4, in both petitions.

Mr. P. R. Tandale, Advocate for Respondent No.5, in both petitions.

...

CORAM : **T. V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

DATE : 29th January, 2019.

ORAL JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 Both the petitions are filed for giving direction to the Respondents to see that grant in aid is released in favour of schools of Petitioners / institutions as per various Government Resolutions.

3 In the first proceeding, relief is claimed in respect of divisions of 5th to 7th standards and the second proceeding is in respect of 6th and 7th standards. It is the contention of the Petitioners from both the proceedings that permission to their schools on no grant basis was granted in the year 2006 and the schools were also started in that year and as per the Government policy, the aforesaid divisions were entitled to get Government grant in phase manner from June 2010. In the first year, they were entitled to get 20% of the grant and every year, the amount was to be increased by 20% and in June,

2014, they were entitled to get 100% grant. The submissions made and the contentions show that from June, 2014 for these schools Government started releasing 100% grant, but grant in phase manner for the years 2010, 2011, 2012 and 2013 was not released.

4 This Court has carefully gone through the Resolution of the State Government dated 20th November, 2012. In this Government Resolution, the Government had made it clear that as soon as it is confirmed that for some divisions grant needs to be paid the decision needs to be communicated to the school within 15 days of the date of decision by the authority and responsibility was fixed on the Education Officer. There is a correspondence of the Deputy Director of Education, Latur Division, Latur dated 22nd January, 2013 showing that as per this Government Resolution and the previous Government Resolutions, the institution from Writ Petition No.7176 of 2014 viz. Lokseva Shikshan Prasarak Mandal was entitled to get 20% grant for divisions 5th to 7th from June, 2010 and the posts in respect of which grants were payable were also mentioned in this correspondence. There is correspondence of Education Officer (Primary) Zilla Parishad, Latur dated 30th April, 2013 showing that

grant was payable for these divisions from the year 2010 in phase manner so for that year 20% grant was payable. There is similar correspondence in Writ Petition No.7173 of 2014, in respect of institution viz. Tryambakeshwar Shikshan Prasarak Mandal and the years are also similar though divisions are 6th and 7th divisions.

5 Attention of this Court was drawn to clause (3) showing that the Government had made it clear that it was upto the Government to decide as to whether the grant was to be paid to the institutions and the grant may not be made available with retrospective effect by the Government.

6 It was submitted that there are many cases, in which the grants in phase manner was released to many institutions. In the present matters also, after verification of the record and scrutiny, the concerned department took decision that grant was payable from June, 2010 in phase manner. When the grant was payable as per the previous Government Resolutions, after completion of first four years of the school, then there was right to such institutions to claim grant. If the Government had no resources or for other reason the

Government wanted not to release grant, then such decision can be applicable against all the institutions and no discrimination can be done by the Government. As apparently discrimination was done and to other institution grant was given during the aforesaid period in phase manner, this Court holds that the schools of the Petitioners / institutions are also entitled to get grant in phase manner. This Court has considered the reply filed by the Government, but it is only of the aforesaid nature, showing the power of the Government.

7 It appears that the school has prepared the calculation of entitlement. It will be open to the Education Officer to do the calculation and calculate the entitlement and release the grant, if other conditions in respect of grants are complied with and similar grant is given to others. In those terms, both the petitions are allowed and disposed of. Rule is made absolute in those terms.

[SUNIL K. KOTWAL, J.]

[T. V. NALAWADE, J.]

ndm