

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

9 WRIT PETITION NO.10135 OF 2013

SANT BHAGWAN BABA SHIKSHAN PRASARAK MANDAL, LIMBODI
VERSUS
THE STATE OF MAH AND ORS

...

Advocate for Petitioners : Mr.Chate Vitthal M. And
Mr. J R Patil

A.G.P. for Respondents: Mrs. A. V. Gondhalekar
Advocate for Respondent No.5 : Mr. B. T. Bodkhe

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

DATE : 25th February, 2019

PER COURT :

1. Mr.Chate, the learned counsel for the petitioner submits that the petitioner had given a proposal for starting new secondary school at Matawali Tq. Ashiti Dist. Beed from academic year 2008-09. The proposal of the petitioner was not being considered by the respondents. The petitioner earlier filed writ petition no.2174/2010. The same was decided under order dated 20.04.2010 alongwith connected writ petitions. Statement was made by the learned AGP that the proposal of the petitioners in all these petitions would be examined afresh by the respondents in accordance with law and in accordance with the directives issued by the Division Bench of this Court

in case of Asha Sevabhai Sanstha Vs. State of Maharashtra (Writ Petition No. 345/2010). The Court accepted the said statement as an undertaking to the Court and disposed of the petitions.

2. The learned counsel submits that under Circular dated 04.06.2010, all proposals for Marathi medium schools are turned down. According to the learned counsel, on one hand the respondents relied on the policy decision i.e. not to consider any proposal of Marathi medium secondary school and on the other hand, considered proposal of respondent no.5 for transfer of closed down school to Matawali. Not only that, the State had also filed an affidavit before the Full Bench of this Court in W.P. No. 6727/2010, decided on 16.03.2012, wherein, statement has been made that the State proposed to finalize the master plan within a period of three months and then take up the applications that may be made for establishment of the primary school and for evaluation and recognition of the primary school for for consideration. The Full Bench also decided that as far as establishment and recognition of the secondary school is concerned, it

will be governed by the Secondary School Code.

3. Learned counsel for the petitioner further submits that the respondents cannot be allowed to take dual stands. On one hand they are not considering the proposal of the petitioner on the ground of policy decision and on the other hand, transferred the school of respondent no.5 which was closed down. The action of the respondents is arbitrary and violative of Article 14 of the Constitution of India.

4. Mr. Bodkhe, learned Advocate for respondent No.5 submits that the application was made for transfer of the school to Matawali as the school at its original place was not getting students and was required to be closed down. Respondent no.5 has complied with all the terms and condition imposed by the State for transfer of the school.

5. The learned A.G.P. submits that the respondent authorities would consider the proposal of the petitioner on self finance basis as per the scheme.

6. It appears that the petitioner had applied,

seeking permission to start Marathi medium secondary school at Matawali Taluka Ashti Dist. Beed in the year 2008-2009. The proposal was not considered. This Court in Writ petition accepted the statement made by the respondents authorities that they will consider the proposal of the petitioner on its own merits. Thereafter policy decision appears to have been taken, not to grant permission to Marathi Medium secondary schools. Respondent No.5 did not seek permission to establish a new school, however the school that was closed down was sought to be transferred. While considering the application for transfer of the school, it does not appear that any of the provisions are violated, however, the said transfer was with conditions i.e to absorb all the members of the teaching and non teaching staff at the transferred place, the respondent school shall have the necessary infrastructure so also the consent of the parents and the Shikshan Samiti shall be obtained. If there is violation of any condition of transfer of school, the respondents are at liberty to take action as against Respondent no.5 transferred school.

7. Considering the fact that now the policy adopted by the respondents is to grant permission on self finance basis, it will not be possible for us to direct the respondent authorities to consider the application of the petitioner that was made for the year 2008-2009. The criteria have also undergone change. It will also not be equitable now to disturb the school that is being run for five years. However, the respondent authorities are required to consider the application of the petitioner on its own merits on self finance basis. The proposal of the petitioner submitted earlier shall be considered on self finance basis and the decision shall be taken within a period of three months.

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

(A. M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

JPC