

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2359 OF 2013

Janaseva Shikshan Prasarak Mandal	}	Petitioner
versus		
The State of Maharashtra and Ors.	}	Respondents

Mr.Balkrishna D. Joshi with Ms.Gauri Jadhav for the petitioner.

Ms. Shruti D. Vyas-'B' Panel Counsel for respondent nos. 1 to 3 (State).

Mr.Amit Borkar for respondent no. 4.

**CORAM :- S. C. DHARMADHIKARI &
M. S. KARNIK, JJ.**

DATE :- FEBRUARY 5, 2019

P.C. :-

1. We have heard both sides extensively. We have perused the writ petition.

2. The petitioner challenges the refusal by the authorities and which refusal results in the petitioner being unable to start a secondary school. Though the petitioner says that it is experienced in the field of education, it is a registered public charitable Trust and managed by public spirited citizens with public good at mind, still, its application was not favourably considered, but a permission to open a secondary school was granted to respondent no. 4.

3. Having perused this petition in its entirety together with its annexures and the affidavit in reply, we find that the fourth respondent's school has been made functional, if not fully, but from the year 2000-2001. This writ petition is brought to challenge the rejection of the petitioner's application by a communication, but it really puts in issue the permission granted to respondent no. 4. Merely because another communication of 28th January, 2011 is referred to does not mean that a permission granted to respondent no. 4 and dating back to at least 20 years can be called in question belatedly.

4. We inquired from the petitioner as to whether the petitioner is still interested in setting up a secondary school. On instructions, Ms.Jadhav states that the petitioner is interested in setting up a school and it will make an application in that behalf.

5. In the event such an application is made, let the authorities consider it afresh by applying the existing norms and standards evolved for setting up a secondary school and a decision should be taken thereon as expeditiously as possible and in any event, within a period of three months from the date of receipt of such application.

6. Needless to clarify that when the petitioner is seeking such permission, the authorities need not disturb the functioning of the existing school that is managed by respondent no. 4. Let that continue to function as well. The petitioner's application should be examined in the light of the current needs and requirement of additional secondary school. If there is any plan prepared for such purpose and if there is a scope for secondary school, then, the petitioner's application should be considered accordingly.

7. The writ petition is disposed of by clarifying that this court has not expressed any opinion on the merits and demerits of the policy.

(M.S.KARNIK, J.)

(S.C.DHARMADHIKARI, J.)