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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3697 OF 2002

1. “Symbiosis”, Pune
Through the Registrar
Senapati Bapat Road,
Pune – 411 004.
2. Head Mistress,
Symbiosis Secondary School,
Prabhat Road, 1st Lane,
Pune 411 004.

.. Petitioners

Vs.

1. Dy. Director of Education
Education Department
State of Maharashtra,
Pune
(Summons to be served on the Learned
Additional Government Pleader
appearing for State of Maharashtra
under order XXVII, Rule 4, of the Code of
Civil Procedure, 1908).
2. Joint Director of Education,
Education Department,
State of Maharashtra,
Pune.
(Summons to be served on the Learned
Additional Government Pleader

appearing for State of Maharashtra
under order XXVII, Rule 4, of the Code of
Civil Procedure, 1908).

3. Shri J. D. Katole
Joint Director of Education
Maharashtra State,
Pune 411 001.

.. Respondents

Mr. S. B. Deshmukh i/by Mr. A. V. Anturkar, Senior Advocate for
petitioners.

Ms. Nisha Mehra, AGP for respondent Nos.1 and 2.

CORAM: PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.

JUNE 06, 2019.

P.C.:

1. Heard learned counsel for the parties.
2. The petitioner No.1 is a registered Public Charitable Trust having established a Secondary School at Pune where medium of instructions is English. It has also established a Secondary School in Kolhapur District where medium of instructions is Marathi. School in Pune is recognized and unaided; school in Kolhapur is aided and recognized. Alleging four violations, a show cause notice was issued to the petitioners as to why recognition of the Pune schools be not withdrawn. The first

This order is corrected vide speaking to the minutes order dated 8 August 2019.

ground in the show cause notice was no approval being obtained while making appointments of teachers in the academic years 2001-2002 and 2002-2003; the second was reservation not being given effect to: third was fee rates not being submitted for approval and the fourth was a combined seniority list of the teaching staff in the two schools not being maintained.

3. Petitioners' response was that being recognized unaided schools, no approval for appointment from the Directorate of Education was required. Only requirement was to submit the names of the teachers with their qualifications. On reservation not being adhered to, it was pointed out that advertisements were issued inviting applications from reserved category candidates but either no application was received or duly qualified persons not being available. On the fee rates, the reply was wishy-washy. On combined seniority list not being maintained, the response was that teachers teaching in Marathi Medium school could not be posted in the English Medium school and vis-à-vis.

4. The impugned order dated 20 June 2002 reiterates the facts in the show cause notice and finding violation committed, the school has been de-recognized. On the issue of approval to be

obtained from the Directorate of Education, the Full Bench decision of this Court in the case of St.Ulai High School & Anr. vs. Devendraprasad Jagannath Singh & Anr. reported in **2007(1) Mh.L.J. 597** held that private unaided schools need not obtain any prior approval from the Directorate of Education before making appointment and the only requirement is to forward the names of the staff to the Directorate of Education. Thus, de-recognition of the English medium school at Pune on the first charge is not sustainable.

5. On the second charge of not adhering to reservation, we find that the impugned order does not deal with the stand of the petitioners that having advertised, they did not find suitable candidates for appointment and thus were compelled to appoint general category candidates. On the issue of fees charged, we find response to be wishy-washy. Under the directions issued by court, office orders have been passed constituting the Committee. Thus, whether the fee being charged as of today needs a re-look. On the issue of maintaining a common seniority list the stand of the petitioners is that one school is English Medium and the other Marathi Medium and the question of transfer of the teachers thus does not arise. The arguments of learned counsel for the respondents is that since teachers employed in different schools is by the same Management a common seniority list is required.

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We do not find any discussion on this aspect in the impugned order. Thus, on the issue of fee rates and common seniority list, for lack of any reason a fresh order needs to be passed. On the first two charges, we find the stand of the petitioners to be justified.

6. Disposing of the writ petition and quashing the impugned order dated 20 June 2002, we direct that pertaining to fee being charged, the Director of Education would be entitled to seek information concerning fee charged in the context of the fee sanctioned by the Parents School Committees. If the fee charged is as per the rate approved by the Parents School Committees that would be end of matter. On the issue of common seniority list, the Director of Education would look into the factual position and take a decision as per law. Needless to state that on both aspects the Director of Education will give reasons in the decision.

N. M. JAMDAR, J.

CHIEF JUSTICE