

pdp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7511 OF 2017

Tulinj Education Trust

.. Petitioner

Versus

The State of Maharashtra and Ors.

.. Respondents

Mr. Sachin Punde for Petitioner.

Mr. M. M. Pabale, AGP for Respondent Nos.1 to 4.

CORAM: PRADEEP NANDRAJOG, CJ. &
SMT. BHARATI DANGRE, J.

AUGUST 27, 2019.

P.C.

1. Heard learned Counsel for the parties.

2. The Petitioner is a Trust and has established a Secondary School at village Tulinj. As per Government Resolution dated 28.04.1989 policy was notified under which private recognized schools became eligible to receive grant-in-aid. The policy was amended when Government Resolution dated 11.10.2000 was issued.

3. The Petitioner sought grant-in-aid to be disbursed to it. On 27.07.2010, 100% grant-in-aid was sanctioned for two divisions in the 5th, 6th and 8th standards. Two days later i.e. on 29.07.2010, 100% grant-in-aid was sanctioned for two divisions in the 7th standard as well. Thus, for two divisions 100% grant-in-aid was sanctioned for standards 5th to 8th. Aid was disbursed. Suddenly the aid was stopped on 14.08.2013. The Petitioner was informed that the aid was stopped because the Petitioner was wrongly sanctioned the grant-in-aid.

4. No reasons have been recorded in the communication dated 14.08.2013 as to why it has been held that the school was wrongly sanctioned the grant-in-aid.

5. On 30.06.2014, the Education Department issued a list of 39 institutions eligible to be granted the aid. The name of the school established by the Petitioner was one of the 39 eligible institutions so recorded. In spite thereof grant-in-aid was not released and for the first time reason emerged in the communication dated 09.03.2017, by which time decision was taken to sanction 20% grant-in-aid to such institutions which were not receiving grant-in-aid.

6. The reason disclosed was that the school had not followed the reservation policy in as much as one teacher from Other Backward Category and two from the Open Category were found to be in excess.

7. In the counter filed, no justification has been pleaded as to why the school established by the Petitioner was suddenly held ineligible to be disbursed the grant-in-aid. Pleading is that as per Government Resolution dated 19.09.2016 20% grant-in-aid was not disbursed on account of the school not adhering to the reservation policy

8. Learned Counsel for the Petitioner states that the Petitioner desires to continue the Petition limited to the relief under the Government Resolution dated 19.09.2016 notwithstanding the said GR applicable to such schools which were not receiving grant-in-aid. Meaning thereby, the Petitioner is willing to be treated as an institution not entitled to grant-in-aid prior to 19.09.2016. In that view of the matter, we concentrate on the reason given by way of justification in the counter affidavit not to release even 20% grant-in-aid to the Petitioner.

9. As noted above, the reason is the Petitioner not adhering to the reservation policy while appointing teachers.

10. Suffice it to state the reservation policy would apply after the Petitioner starts receiving grant-in-aid. For employments effected prior to 19.09.2016 a vested right has accrued in the teaching and the non-teaching staff. They cannot be thrown out of the school or the employment.

11. Under the circumstances, we declare that since the private schools were not obliged to follow the reservation policy, denial of grant-in-aid under the Government Resolution dated 19.09.2016 cannot be premised on the reasoning that while functioning as unaided school they did not adhere to the reservation policy. The condition of adhering to the reservation policy have to be after the school was admitted to grant-in-aid.

12. The result of the aforesaid declaration would warrant a direction to be issued to the Respondents to sanction 20% grant-in-aid to the Petitioner in terms of the Government Resolution dated 19.09.2016 for the reason the only justification given to deny disbursement of 20% grant-in-aid is the school not following the reservation policy.

13. The Writ Petition is disposed of declaring and directing as above. Compliance would be made to the present decision within four months from today.

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE