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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 1302 OF 2013

Brihan Mumbai Mahanagarpalika
Shikshak Sabha

... Petitioner.

V/s.

Brihanmumbai Municipal Corporation & Ors. ... Respondents.

Ms. Priyanka Thakur for the Petitioner.

Mr. A.Y. Sakhare, Senior Advocate a/w. Joel Carlos a/w. Ms. Sheetal Metakari a/w. Rohan Mirpuny for Respondent 1 – MCGM.

Ms. Geeta Shastri, AGP for Respondent No.2 – State.

Mr. D.A. Dube a/w. Upendra Lokegaonkar for Respondent No.3 -
UOI

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 12 JUNE 2019.

P.C. :-

We have heard learned Counsel for the parties and record at the outset that the Writ Petition is without a proper research and no light is thrown in the Writ Petition as to how many

children studying in Municipal Schools established by the first Respondent – Corporation, after taking education till the 5th standard, do not join schools in the 6th standard.

2. The basis of the Writ Petition is the promulgation of the Right of the Children to Free and Compulsory Education Act, 2009. As per Section 2(f) of the Act, elementary education means the education from 1st class to 8th class. As per Section 8, a duty is cast upon the appropriate authority and the appropriate Government to provide free and compulsory education to every child till the elementary level i.e. class 8. Same is the duty of the local authority under Section 9. Under Section 6 it is the duty of the appropriate Government and the local authorities to establish schools within the limits of a neighborhood so that the children can study upto class 8. Prayer made in the Writ Petition effectively is to direct the First Respondent to upgrade all primary schools established by it where education has been imparted to class 5 to the elementary level i.e. class 8.

3. A perusal of the Act shows that the duty of the appropriate Government and the local authority is to establish neighborhood school to impart education up till 8th standard and this does not mean that existing schools have to, per force, be upgraded from 5th standard to 8th standard. However, the obligation of the appropriate Government and the local authority to ensure neighborhood schools where children can study upto the 8th standard is clearly discernible under the statute.

4. The Petition was filed in the year 2013 without disclosing how many children studying in the Municipal schools after passing out of 5th standard do not get admission in neighborhood schools. It has to be highlighted that apart from the Corporation establishing schools, private institutions after receiving aid from the Government as per policy all establish schools in the State of Maharashtra

5. Thus, the matter needs a proper research and because of lack of pleadings, we dispose of the Petition directing the first and

the second Respondents to carry out survey whether children who pass 5th standard in the primary schools established by the first Respondent are being admitted in the schools within the neighborhood area. The first and the second Respondents would ensure that either existing primary schools are upgraded or new schools are set up so that the object of the Right of Children to Free and Compulsory Education Act, 2009 fulfilled, if it is found that in the neighborhood schools are not available for children to be educated till 8th standard.

6. Necessary survey shall be carried out within next six months and further decision taken in terms of the directions issued within the current financial year so that budgets can be available in the next financial year.

N.M. JAMDAR, J.

CHIEF JUSTICE