

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

WRIT PETITION NO. 11358 OF 2019

Darshan Digambar Shinde through
Father Digambar Baliram Shinde .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Vikas G. Kodale, Advocate for the Petitioner.
Mrs. Rashmi P. Gaur, A.G.P. for the Respondent No. 1.
Shri Rajendra Chavan, Advocate h/f Shri Vishal A. Bagdiya,
Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATE : 14TH FEBRUARY, 2020.**

FINAL ORDER :

. The petitioner was given admission to the Ist standard for the academic year 2019-2020. The petitioner has paid the yearly fees as claimed by respondent Nos. 2 and 3 of Rs. 19,600/-. The petitioner was below six years of age. The petitioner could not have been admitted to the Ist standard as he was below six years of age as per Government Resolutions dated 21.01.2015, 23.01.2015 and 25.01.2017. As per G. R. dated 25th July, 2019 only 15 days relaxation can be given, but the petitioner was not entitled for such relaxation also. Thereafter, the petitioner is not allowed to continue the studies. The petitioner is also not allowed admission in the next year for the next standard.

2. The learned counsel for the respondent Nos. 2 and 3 submits that, the petitioner may repeat the Ist standard, however, will have to pay separate fees as the fees is for the purpose of payment of salary to the teachers and other activities.

3. It is expected that the school run by the society has the knowledge of the executive instructions, so also the rules and regulations governing the admission of students.

4. The petitioner was below six years of age, as such could not have been admitted by respondent Nos. 2 and 3 to the Ist standard. The respondent Nos. 2 and 3 were required to be diligent. Only because they are receiving the fees that does not mean that they can give admission to the student without verifying credentials and the eligibility of the student. We cannot fathom and appreciate the arguments made by respondent Nos. 2 and 3 that, they did not have knowledge of the executive instructions.

5. It was duty of respondent Nos. 2 and 3 to communicate the petitioner that the petitioner is ineligible to be admitted in the Ist standard as he does not qualify the age criteria. On the contrary the respondent Nos. 2 and 3 received the fees from the petitioner and now the petitioner is again required to undergo education in the Ist standard.

6. At least it was expected of respondent Nos. 2 and 3 that they on their own volition come forward and say that they would

admit the petitioner in Ist standard again for the academic year 2020-2021 on the same fees. The respondent Nos. 2 and 3 cannot take advantage of their own wrong.

7. We direct the respondent Nos. 2 and 3 to give admission to the petitioner to Ist standard again for the academic year 2020-2021 without demanding monthly fees, term fees that is total yearly fees of Rs. 19,600/-. If the fees is increased for all the students of the school, then respondent Nos. 2 and 3 may only take difference of increased fees by deducting the amount, which the petitioner has already paid for the academic year 2019-2020.

8. With the aforesaid observations and directions, the writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Feb. 20