

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

**921 WRIT PETITION NO.2324 OF 2018
WITH CA/11389/2019**

**BABASAHEB PARANJAPE PRATISTHAN AMBAJOGAI THROUGH
ITS SECRETARY SAMBHU TUKARAM LANDE AND ANOTHER
VERSUS
STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioners : Mr. Nimbalkar Aniruddha A
AGP for Respondents : Mrs. V.S. Choudhari
Advocate for Respondent No.3 : Mr. V.M. Chate
...

**CORAM : UJJAL BHUYAN &
M.G. SEWLIKAR, JJ.**

DATED : 19th MARCH, 2021

PER COURT:-

. Heard Mr. Nimbalkar, learned counsel for the petitioners;
Mrs. Choudhari, learned AGP for respondent-State; and Mr. Chate,
learned counsel for respondent no.3.

2. Petitioner no.1 is Babasaheb Paranjape Pratisthan, Ambajogai, Taluka Ambajogai, District Beed represented by its Secretary Sambhu Tukaram Lande. Petitioner no.2 is Kartavya Matimand Mulinche Niwasi Vidyalaya. Petitioner no.2 is a school run by petitioner no.1, which is a society as well as a public trust.

3. It is the case of the petitioners that petitioner no.1 established petitioner no.2 school in the year 2002 for imparting education to mentally retarded girl children. As a matter of fact, petitioner no.2 is a residential school exclusively meant for education of mentally retarded girl students. Petitioner no.2 school houses and provides residential education to 60 such girl students belonging to the entire Marathwada

region. In this connection, petitioner no.2 has received registration certificate under the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. However, respondent no.2 granted registration to petitioner no.2 for only 45 students as against 60 students.

4. Without entering into the litigation details preceding the present writ petition, suffice it to say that the writ petition has been filed seeking the following reliefs:

“A) By issuing a writ of mandamus or any other appropriate writ, order or directions in the like nature the respondents may kindly be directed to accord approval on grant-in-aid basis to the 60 mentally retarded girl students in the petitioner no.2 School viz. Kartavya Matimand Mulinche Niwasi Vidyalaya, Ambajogai, Tq. Ambajogai, Dist. Beed, run by the petitioner No.1 Institution.

B) By issuing a writ of mandamus or any other appropriate writ, order or directions in the like nature the respondents may kindly be directed to provide arrears of grants to the petitioner no.2 School for the period from 2007-2008 till 2017-2018 as per its entitlement according to the strength of the students.

C) Any other just and equitable relief to which the Petitioners are found entitled may kindly be granted in their favour.”

5. Thus from the above, we find that petitioners have sought for a direction to the respondents to accord approval for providing grants-in-aid to petitioner no.2 school imparting residential education to 60 mentally retarded girl students and also to provide arrears of grants-in-aid from the year 2007-2008 onwards.

6. Respondent nos.1, 2 and 3 have filed a common affidavit-in-

reply. Stand taken is that Government of Maharashtra has given sanction to providing of grants-in-aid vide Government Resolution dated 08.04.2015 to qualified 123 special schools which includes respondent no.2 school. Paragraph nos.4 and 5 of the said affidavit are relevant and are extracted hereunder:

“4. I say and submit that vide Government Resolution dated 08.04.2015, the Government has primarily accorded sanction on grant-in-aid to 123 special schools. I say and submit that vide Government Resolution dated 18.01.2018 the Government has sanctioned 100% arrears of non-salary grants w.e.f. 08.04.2015 to the petitioner school along with similarly situated institutions in the budgetary provisions for the financial year 2018-19. The said Government Resolution further directs to continue to pay 100% non-salary grants w.e.f. 01.01.2018. Hereto annexed a copy of the Government Resolution dated 18.01.2018 and marked as **Exhibit-1** say and submit that in view of the said Government Resolution, the Commissioner for Persons with Disabilities, Maharashtra State, Pune vide letter dated 23.01.2018, had directed to all district officers to disburse non-salary grants as payable. Hereto annexed a copy of said letter dated 23.01.2018 and marked as **Exhibit-2**.

5. I say and submit that as far as the 45 intake capacity of the petitioner school is concerned, said grievance is redressed vide Government Resolution dated 18.01.2018 and letter dated 23.01.2018. Presently, it is the duty of the Petitioner Institution to submit appropriate bills to the office of Respondent No.3 and on scrutiny of the same, Respondent No.3 to act upon towards its disbursement. As far as correction of 60 intake capacity of petitioner school in lieu of 45 is concerned, the petitioner is hereby invited to make fresh representation through concerned district officer i.e. Respondent No.3 to the office of Respondent No.2 and on receipt of it, the Respondent No.2, after scrutiny of it, will submit appropriate report to the Government, if the petitioner is entitled so far.”

7. From a perusal of the reply affidavit of the respondents particularly paragraph nos.4 and 5 as extracted above, we find that vide Government Resolution dated 08.04.2015, Government of Maharashtra has primarily accorded sanction to providing grants-in-aid to 123 special schools. By subsequent Government Resolution dated 18.01.2018, State Government has sanctioned 100% arrears of non-salary grant with effect from 08.04.2015 to the petitioner school (petitioner no.2) along with similarly situated institutions in the budgetary provisions for the financial year 2018-2019. The said government resolution also provides for continuance of 100% of non-salary grants effective from 01.01.2018. On the basis of the said government resolution, Commissioner for Persons with Disabilities, Maharashtra State, Pune had directed all district officers vide letter dated 23.01.2018 to disburse non-salary grants as payable. In so far petitioner no.2 is concerned, stand taken is that grievance of the petitioner to the extent of 45 students have been taken care of. If the petitioners seek enhanced grants-in-aid for 60 students, it has to submit appropriate bills to respondent no.3 and in addition to make fresh representation to respondent no.2 through respondent no.3. It is stated that respondent no.2 after scrutiny will submit appropriate report to the Government, if the petitioner is entitled.

8. When the writ petition came up for consideration on 04.10.2018, this Court took the view that the grievance as to disbursement of non-salary grants of the petitioners stood redressed. Regarding enhanced grants-in-aid for 60 students in place of 45 students, this Court observed that it would be open to the petitioner to tender a fresh representation to the concerned district officer. In so far entitlement

of the petitioner to receive arrears of grants-in-aid for the period from 2007-2008 till 2017-2018, the writ petition was admitted. Order dated 04.10.2018 reads as under:

“The State Government has presented affidavit in reply and it is recorded in paragraph no. 4 that, vide Government Resolution dated 08.04.2015, the Government has primarily accorded sanction on grant-in-aid to 123 special schools. It is also further stated that the Government has sanctioned 100% arrears of non-salary grant w.e.f. 08.04.2015 to the petitioner-school along with similarly situated schools by making the budgetary provisions during the financial year 2018-2019.

2. The aforesaid Government Resolution further directs to continuance of 100% non-salary grants w.e.f. 01.01.2018. The issue of disbursement of the non-salary grants thus stands redressed. The petitioner contends that in fact the intake capacity of the petitioner-school is of 60 students and the State has granted the monetary benefits considering the intake capacity of the students as 45. It is recorded in affidavit in reply that for redressal of the grievance of the petitioner-school in respect of correction of intake capacity as 60 in lieu of 45, the petitioner shall tender a fresh representation to the concerned District Officer i.e. respondent no.3 and to the office of respondent no.2 and on receipt of it and after further scrutiny appropriate report would be submitted to the Government.

3. It would be open for the petitioner to tender a fresh representation to the concerned District Officer for redressal of grievance as regards the correction of intake capacity of the students in the petitioner-school. The petitioner also raises an issue as regards the payment of arrears of grant for the period between 2007-2008 till 2017-2018 and contends that as per the entitlement and on consideration of strength of the students and in view of the relevant policy, the petitioner-school is entitled to receive the arrears of grant for the period between 2007-2008 till 2017-2018. The petitioner contends that as per applicable policy the school is entitled to receive arrears of grant. For

consideration of the aforesaid issue, Rule returnable early.

Respective parties waive service.”

9. Seeking a direction to the respondents to disburse arrears of non-salary grants from 08.04.2015 and for regular disbursement from 01.01.2018 to petitioner no.2 as well as for rectification of approved strength of students in petitioner no.2 school from 45 to 60, the related civil application has been filed.

10. During the hearing, learned counsel for the petitioners submits that after the reply affidavit filed by the respondents and thereafter after order dated 04.10.2018 passed by this Court, petitioners had filed a detailed representation before respondent no.3 on 29.09.2018, who has thereafter forwarded the same with a positive recommendation to respondent no.2, who in turn has forwarded the same to respondent no.1. Thus, as of now the matter is before respondent no.1.

11. Mrs. Choudhari, learned AGP submits that respondent no.1 had sought for a report from respondent no.2 regarding increase in intake strength of petitioner no.2 from 45 to 60. According to learned counsel for the petitioners, respondent no.2 has already submitted report to respondent no.1.

12. Having regard to the above, we are of the view that it would be in the interest of justice if respondent no.1 takes a decision on the aforesaid representation of the petitioner dated 29.09.2018 expeditiously. Moreover, in view of the categorical statement made by the respondents in their reply affidavit that government had sanctioned 100% arrears of non-salary grants with effect from 08.04.2015 to petitioner no.2 school

and thereafter to continue the same on regular basis with effect from 01.01.2018, there cannot be any impediment to release of such grants to petitioner no.2.

13. Accordingly and in the light of the above, we issue the following directions:

ORDER

I) Respondent no.1 shall take a decision on the representation of the petitioners dated 29.09.2018 on the basis of the report received from respondent nos.2 and 3 within a period of six weeks from the date of receipt of copy of this order.

II) Respondents shall release the grants-in-aid to petitioner no.2 school relating to non-salary component with effect from 08.04.2015 to 31.12.2017 and thereafter release regular grants-in-aid to petitioner no.2 school in respect of non-salary component from 01.01.2018 onwards within a period of 12 weeks from the date of receipt of a copy of this order.

III) In so far claim of the petitioners to grants-in-aid for non-salary component from the year 2007-2008 onwards is concerned, we keep that issue open which can be raised by the petitioners before the respondents by making fresh representation.

14. With the above directions, writ petition as well as civil application are disposed of.

[M.G. SEWLIKAR, J.]

[UJJAL BHUYAN, J.]