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

928 WRIT PETITION NO.1630 OF 2023

SHRI SARASWATI BHUVAN EDUCATION SOCIETY,
THROUGH ITS SECRETARY
VERSUS
THE STATE OF MAHARASHTRA, THROUGH ITS
ADDITIONAL CHIEF SECRETARY AND OTHERS

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Mr S. V. Adwant, Advocate for petitioner;
Mr S. G. Sangle, A.G.P. for respondent Nos.1, 2 & 4

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 10th February, 2023

PER COURT:

1. Circulation was sought in this matter under an extreme urgency cited by the petitioner on the plea that the Secretary of the petitioner/ Trust has been threatened by an anonymous person claiming to represent the Minorities cell/commission. We, therefore, granted urgent circulation.

2. The learned Advocate for the petitioner points out that, the Headmaster of the School received a phone call from an unknown number '9860786574', purportedly belonging to an officer from the Minorities Cell in Mumbai. He held out threats that, a police complaint would be filed for recovering the excess fees extracted

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by the petitioner/ School from the girl students belonging to the Backward Classes.

3. The learned Advocate for the petitioner informs us that, no police complaint on these threats has been lodged and no effort has been taken to investigate, as to who is the person in whose name the said Cell number has been registered.

4. In view of the above, we leave the petitioner at liberty to avail of the remedies as regards such a threatening call.

5. Besides the above, the petitioner is aggrieved by three communications received from the respondent/ Education Officer (Secondary), Zilla Parishad, dated 26/09/2022, 27/09/2022 and 19/01/2023. The last communication has the semblance of passing a recovery order. At the same time, the Education Officer has directed the petitioner to submit a written explanation to the office, with regard to excess amounts that have been recovered from the students belonging to the Backward Category pertaining to the Educational fees, Computer fees, etc. The contention of the petitioner is, that respondent No.2 does not have this authority and it is the Deputy Director of Education, who can look into this aspect in the light of Section 21 of the Maharashtra Educational

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Institutions (Regulation of Fees) Act, 2011 and the amendment thereto.

6. Since we find that, the impugned notice dated 19/01/2023 has the semblance of a prima facie view holding that excess amount has been extracted and at the same time, a show cause notice is issued calling upon the petitioner to submit a written explanation, that we deem it appropriate to direct the petitioner to file a written explanation before respondent No.2. All its contentions are kept open, including that the said authority does not have the jurisdiction to look into the aspect of excess fees extracted. If the Education Officer is convinced, he would relegate the proceedings to the office of the Deputy Director of Education, Aurangabad, who would, follow the due procedure laid down in law. If the Education Officer concludes that, he has jurisdiction, we expect a well reasoned order, in which case the petitioners would be at liberty to challenge the said order.

7. The Petitioner can tender its explanation before respondent No.2, on or before 21/02/2023. Thereafter, respondent No.2 would issue notice of hearing on its notice to all stakeholders and

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cause a hearing by following the due procedure as is prescribed in law.

8. In view of the above, this petition stands disposed off.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

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