

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11184 OF 2022

SAU NALINI SOMNATH KALASKAR PRATHAMIK
VIDYALAYA THROUGH ITS HEADMISTRESS AND
ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
PRINCIPAL SECRETARY AND OTHERS

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Advocate for the Petitioners : Shri Wagh Shirinivas S.
AGP for Respondents 1 and 2 : Shri S.G. Sangle

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CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.

DATE :- 06th February, 2023

Per Court :-

1. The learned AGP places reliance upon the order dated 20.09.2019 passed by this Court at Nagpur in Writ Petition No.170/2017 filed by *Swargiya Raghobaji Bachale Shikshan Prasarak Mandal, Wardha vs. State of Maharashtra and others*, and connected group of cases, wherein, this Court has concluded in paragraphs 4, 5 and 6 as under :-

“4) *It is the affidavit filed by the Principal Secretary, School Education and Sports Department, Mantralaya, Mumbai that as per Section 5(1) of the said Act, the permission has*

been granted subject to the condition mention in Section 12(2) of the Right of Children to Free and Compulsory Education Act, 2009, the expenditure incurred on account of establishment of a school. upgradation of school and maintenance of the school, is to be borne by the Management.

- 5) *The reliance is placed upon the decision of the Hon'ble Madras High Court in case of Maria Grace Rural Middle School, Venkatarayapuram Vs. Government of Tamil Nadu and Ors. reported in AIR 2007- Madras page -52 and it is urged that the institutions again insist for payment of grant-in-aid from the State Government.*
- 6) *We have gone through the said decision of Hon'ble Madras High Court, which held that Section 14-A of the Tamil Nadu Recognised Private Schools (Regulation) Act dealing with grants not payable to new private school, new classes and course of institutions. It is held that the grant-in-aid is neither a fundamental right, nor a statutory right and it depends upon the economic capacity of the State. This being a position, we are of the view that the petitioners are not entitled to receive grant-in-aid as a matter of right, and it is solely the discretion of the State Government.”*

2. The learned advocate for the petitioner submits, on instructions, that in view of the above, the representation dated 23.07.2019 filed by the petitioner and pending with the Deputy Secretary, School Education and Sports Department, Mantralaya, Mumbai, may be decided on its own merits and in the light of the policies of the State Government within a particular time frame.

He, therefore, prays that this petition can be disposed off.

3. In view of the above, this Writ Petition is disposed off.

4. Needless to state, the appropriate authority would consider the above stated representation of the petitioner, on it's own merits and in terms of the policies of the State Government, as expeditiously as possible and preferably on or before 31.03.2023. We make it clear that we have not expressed any opinion as regards the merits of the claim of the petitioner.

kps

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)