

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

**CIVIL APPLICATION NO.13509 OF 2023
IN WP/13310/2023 WITH WP/13310/2023**

**RAGHUWANSHI CHARITABLE TRUST THROUGH ITS SECRETARY ANAER
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

...

Advocate for Applicant : Mr. Barde Parag Vijay
AGP for Respondents/State: Mr. S. G. Sangle
Advocate for Respondent No.5: Mr. Nayana Patil h/f Ms. Surekha Mahajan

...

**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 09.11.2023

PER COURT :

- . Learned Advocate for respondent no.5 tenders across the bar affidavit-in-reply in the civil application.
2. Heard both the sides.
3. The learned Advocate for respondent no.5 who is a Divisional Board, Maharashtra State Secondary Higher Secondary Education. The petitioner - institute has filed this petition aggrieved by the communication dated 18/10/2023, whereby the respondent no.5 - board has demanded regular fees plus delayed fees for granting eligibility certificates to the 78 of its students under the provisions

of the Maharashtra Secondary and Higher Secondary Course Act, 1965 and Regulations of 1977.

4. It is being alleged that the decision of the State Board enhancing the fees by resorting to the powers under Section 18 are without any sanction / approval of the State Government as is required by Section 36.
5. Be that as it may, the petition is still to be admitted and decided on its own merits.
6. By way of present civil application, the petitioner – institute is now praying that since the students are awaiting eligibility certificates, they may not be able to appear for the 12th Standard examination to be conducted by the board in February/March -2024.
7. Considering the fact that the petition involves debatable issues, however, taking into consideration the exigency, inasmuch as, in the dispute between the petitioner on the one hand and the board on the other, the students are likely to suffer, it would be appropriate that the board is directed to issue eligibility certificates without insisting penalty for the delayed payment subject to the filing an undertaking before this Court that in case so ordered in future it would pay to the board the money demanded by it by the impugned communication.
8. The civil application is allowed. The respondent no.5 – board shall issue eligibility certificates of 78 students immediately so that they can apply for the 12th standard examination to be conducted,

however, the petitioner shall furnish an undertaking of its Secretary in this Court to the effect that in case so ordered the petitioner would deposit the necessary charges as directed by the Court.

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]

Sameer