

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8420 OF 2021

Hanamant Mohan More & Anr ...Petitioners
Versus
The State of Maharashtra through Secretary ...Respondents
School Education Department & Ors

Mr YB Lengare, for the Petitioner.
Mrs AA Purav, AGP, for the Respondent-State.
Mr Kush M Lahankar, i/b SR Ganbavale, for Respondent No. 6.

CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 25th July 2023

PC:-

1. This is an unfortunate state of affairs. The Petitioners have a claim against the 5th Respondent, the chairman of Shree Swami Vivekanand Educational Institution. It is or has been apparently running a school called the New English School in Virawade, Taluka Karad, Satara. But the 6th Respondent school is, going by the State Government's Affidavit at page 107, an unauthorised school with no recognition whatsoever. It was ordered to be shut down 13 years ago, on 27th October 2010. Then there were proceedings in which a hearing was afforded, but ultimately the Education Officer

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(Secondary), Zilla Parishad, Satara formally ordered the closure on 12th June 2019.

2. It is this order that is challenged by two individuals Petitioners claiming to be teachers in the present Writ Petition.

3. We do not see how these two teachers have locus to challenge an order of closure of an unauthorised school. They can hardly claim a legal, constitutional or enforceable right to have an unauthorised school continue, or to demand that a particular school be authorised or recognised only because they are working there. No such order appears to have been obtained by the 5th Respondent, the educational institution itself. The educational institution seems to have accepted the order of closure.

4. The Petition makes a significant monetary claim plus interest for each of the Petitioners. This is why we said the matter is truly unfortunate, because there is no doubt that the 5th Respondent somehow induced the two Petitioners to work in that entirely unrecognised and unauthorised school for a very long time.

5. The result is that the state authorities are now in no way concerned with the claims of the Petitioners. It is purely a claim against the 5th Respondent institution. We do not see how the Writ Petition is maintainable against the 5th Respondent institution. It is by no means an instrumentality of the State. The school is unauthorised and has been ordered to be shut down. The Petitioners must be left to pursue such alternative remedy as they have. The

best that we can do is to exclude the time spent in prosecuting this Writ Petition from the computation of limitation in any such proceeding.

6. It is also open to the Petitioners to apply to a jurisdictionally competent authority, tribunal or forum for urgent interim or ad-interim reliefs including providing sufficient security to cover the claim of the Petitioners.

7. The Petition is disposed of in these terms.

8. There will be no order as to costs.

(Neela Gokhale, J)

(G. S. Patel, J)