



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2619 OF 2024

Nizamia Urdu Primary School
Rahim Nagar, Parva Road, Parbhani
Through its President,
Syed Muzamil Hasmi s/o Syed
Ahemad Hasmi, Age: 44 years,
Occu.: Advocate, R/o. Inayat
Nagar, B.Ed. College,
Tq. And Dist. Parbhani.

.. PETITIONER

VERSUS

1. The Director of Education (Primary)
Directorate Office, Maharashtra State,
Pune-1.
2. Deputy Director Education Primary
Aurangabad, Deputy Director Office
at Aurangabad.
3. The Education Officer,
Zilla Parishad, Parbhani,
Dist. Parbhani.

.. RESPONDENTS

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Mr. V. P. Kadam, Advocate for the petitioner.
Mrs. R. P. Gour, AGP for respondent Nos.1 and 2 – State.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 23rd APRIL, 2024

ORDER [Per Smt. Vibha Kankanwadi, J.] :-

. Heard learned Advocate for the petitioner and learned AGP for
respondent Nos.1 and 2.

2. Present petition has been filed through President for issuance of writ of mandamus to direct respondent No.2 to forward the petitioner school's assessment report to respondent No.1 for further steps. The petitioner contended that the trust of the school runs the minority school on unaided permission since 03.01.2012. The staff sanction has been thereafter granted. In 2014, respondent No.3 issued letter to the petitioner school thereby natural growth to the petitioner school was allowed for Class-V to VII students. Now, the assessment of the school is required to be got done and, therefore, respondent No.3 prepared a report and submitted it to respondent No.2 on 29.03.2023. However, respondent No.2 is not forwarding the same to respondent No.1. Hence, this petition.

3. Learned AGP strongly objects the petition and submits that it is totally by suppressing the rejection of the earlier writ petition by the petitioner. She points out that the same Advocate was appearing for the petitioner at that time. She has submitted copy of the order dated 06.02.2023 passed in Writ Petition No.8320 of 2022, which was filed by the petitioner against the State. This Court had then taken note of the earlier order dated 29.08.2022, wherein reference was also taken of one more earlier writ petition by the petitioner bearing Writ Petition No.5937 2021 praying for direction that the application tendered by the petitioner to the Government for seeking natural growth and grants for starting 6th to 7th standard school pending since 2016 be

decided. This Court by order dated 07.04.2021 had directed the appropriate authorities to take a decision. Thereafter, this Court in Writ Petition No.8320 of 2022 on 06.02.2023 had taken a note of the inspection report tendered by Block Education Officer, Panchayat Samiti dated 28.01.2022. The same Advocate had then made a statement that the management has commenced construction of some more class rooms and prayed for permission of natural growth of school up to 8th standard and grants from the State. Learned AGP placed communication dated 03.02.2023 from the Director of Education (Primary), Education Directorate, Pune. Considering all these aspects, this Court was of the view that unless appropriate infrastructural facilities are available and unless students are imparted education in proper and good surroundings, with proper amenities, especially for the purposes of holding lectures, eating food, washrooms etc and such facilities that would make the students comfortable, the Government should not grant permission to any school, much less the permission for natural growth. With these observations, the said writ petition came to be dismissed. Further directions were also given. All these are suppressed here in this petition.

4. Learned Advocate for the petitioner when asked about as to why the said order dated 06.02.2023 in the earlier Writ Petition has been suppressed, he has tried to submit that the present President had no

knowledge. We are not convinced with the same. When the learned Advocate himself was appearing in the earlier writ petition, he ought to have made known the said fact to the present petitioner, if at all there was change in the management. Even then the change in the management will not be a ground for suppressing the earlier order. Hence, the writ petition deserves to be dismissed at the threshold by imposing cost. Hence, the following order :-

ORDER

. The Writ Petition stands dismissed the threshold with cost of Rs.10,000/- (Rs. Ten Thousand), to be deposited in this Court within a period of two months from today.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm