



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6010 OF 2024

- 1) Eklavya Magas Seva Samiti Mankhed,
Tq, Ahmedpur, Dist. Latur,
Through its President
Shivajirao s/o Vitthalrao Bhikane.
- 2) Ahilyabai Holkar Shikshan Prasarak
Mandal, Karepur, Tq. Renapur,
Dist. Latur,
Through its Secretary
Mukesh Balasaheb Rajmane.
- 3) Punyashlok Ahilyadevi Jeevan Vikas
Mahila Mandal, Ahmedpur,
Dist. Latur. Through its Secretary
Shobha Rajaram Gunthe.
- 4) Tirupati Shikshan Prasarak Mandal,
Hipparga (Kajal), Tq. Ahmedpur,
Dist. Latur,
Through its President
Sudhir Shivaji Gorate.
- 5) Shri. Yashwant Bhatke Magas Janseva
Mandal, Ahmedpur, Dist. Latur
Through its Secretary
Shobha Rajaram Gunthe.
- 6) Shri. Dnyaneshwar Bahuddeshiya Shikshan
Prasarak Mandal, Kumtha (Khu.)
Tq. Udgir, Dist. Latur
Through its Secretary,
Trimbak Madhavrao Kendre.

... **Petitioners**

VERSUS

- 1) The State of Maharashtra
and others

... **Respondents**

...

Advocate for Petitioners : Mr. N.P. Patil Jamalpurkar
A.G.P. for Respondents/State : Mr. P.S. Patil

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 24.06.2024

ORDER : (PER : MANGESH S. PATIL, J.)

We have heard learned advocate for the petitioners.

2. The petitioners are the public trusts and educational societies, duly registered under the relevant law and have been running primary, secondary and higher secondary Ashram Schools at various places in Latur district under the Ashram School Code and the government directives issued from time to time.

3. It is a classic example as to how vested interests drive the institutions like the petitioners in questioning every step seeking to regulate their functioning in spite of the fact that they have been receiving grants in aid.

4. We, therefore, expressly questioned the learned advocate for the petitioners, objecting to their conduct in questioning legality of a policy disclosed by the government resolution dated 08.02.2024 issued by the State Government through department of Other Backward Bahujan Welfare Department (Annexure 'B'), whereby the State has decided to allocate a fund of Rs. 1,50,00000/- as a test case earmarking 76 O.B.C. Ashram Schools from Latur district and 78 VJNT Ashram Schools from Yavatmal district for installation of '*Self Aadhaar Verified OKYC Face Recognition Biometric System*' (hereinafter 'biometric system').

5. Learned advocate Mr. Patil-Jamalpurkar would submit that petitioners have been for years together running the Ashram schools on grant in aid basis. There has been no complaints against their operation. The decision has been taken without any consultation with the managements. There is

no need to provide for such biometric machines. As it is there is lack of internet connectivity. The schools are located in remote hilly areas. There is lack of continuous supply of electricity. There are several other shortcomings. The decision is arbitrary. He would also submit that operation of the system would violate the right to privacy of the children and their parents, enshrined in the Constitution of India. There is likelihood of leakage of personal data. He would also refer to a copy of the article published by some group touching the aspect and titled '*Facial recognition technology in schools: critical questions and concerns*'.

6. Per contra, the learned A.G.P would submit that the petitioners have no sufficient ground to question the policy decision. There is no error in formulating the policy and the writ jurisdiction under Article 226 of the Constitution of India cannot be resorted to, to examine the appropriateness of the policy.

7. Obviously, this is a petition questioning the government decision taken on the administrative side and which is a policy matter. This Court can only examine the correctness of the decision making process and cannot indulge in examining the propriety or appropriateness in taking such policy decision.

8. One need not delve as far as the purpose and object of the government decision impugned in the petition. As can be gathered from the preface itself, this biometric system is sought to be introduced with the object of keeping a tab in respect of attendance of the students and the employees of the Ashram Schools, and as a test case it has to be made operational in respect of specified Ashram Schools from districts of Latur and Yavatmal. If such is the objective, the conduct of the petitioners in seeking to restrain it being made operational clearly smacks of an ulterior motive. If only attendance of the students and staff is to be monitored through the biometric system, we cannot countenance the stand of the

petitioners-trusts/societies, who are running the Ashram Schools. If they have been operating strictly in accordance with the rules and regulations, we fail to understand as to how merely seeking to ensure that attendance of the students and staff is monitored could be questioned, more so when the petitioners have been receiving grant in aid from the State Government. The petitioners cannot be allowed to agitate about operation of the biometric system.

9. The grounds being put forth in the petition and being argued by their learned advocate are clearly premature. No drastic action as of now for not implementing the biometric system has been proposed. If the government has been providing grant in aid, the petitioners cannot be allowed to obstruct its decision to ensure that the grants are being utilized in the expected manner and for the desired purpose.

10. We, therefore, are of the considered view that the petitioners have no right and locus to raise any grievance in respect of the decision to implement biometric system, particularly when it is being set up at the cost of the government and does not burden the petitioners in any manner.

11. Assuming for the sake of arguments that the proposed biometric system may not be of any use still that cannot be the ground to question the policy lest at the instance of the petitioners. That is why we have expressly put the learned advocate for the petitioners to notice at the inception, questioning the *locus standi* of the petitioners.

12. Even the article being referred to by Mr. Patil-Jamalpurkar supra is only an exercise undertaken by some group to consider the merits and demerits of use of facial recognition technology in schools. It cannot be resorted to, much less at the instance of the petitioners, to question the policy under dispute.

13. As far as the violation of right of privacy of the students and their

parents are concerned, it is for the individuals to take exception to the policy in question and that cannot happen at the instance of the petitioners, who in our considered view do not intend to be regulated and monitored by the State in spite of receiving the grants and the reason could be obvious.

14. We, therefore, conclude that the petition is clearly an abuse of the process of law and is liable to be dismissed *in limine* by imposing costs.

15. The Writ Petition is dismissed. Each of the petitioners shall deposit Rs. 5000/- (Rs. Five Thousand only) in this Court within four weeks, else appropriate steps would be taken to compel them to do so.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-