



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

Writ Petition No. 10798 / 2024

Sayyad Jayan Asif

Age : 6 years, Occu. Education,

Minor, u/g. Of his natural grandfather

Sayyed Mustafa Sayyed Moinuddin

Age : 56 yrs. Occu. Labour and Business,

R/o Near Podar International School,

Canal Road, Taroda (Bk),

Tq. and District Nanded.

..Petitioner

Versus

1. Union of India,
Ministry of School Education and Literacy
Development Department,
Through its Secretary,
127-C Shashtri Bhavan New Delhi
011/23386451
2. State of Maharashtra
Through Section Officer
Home Department (Special),
2nd Floor, Mantralaya, Mumbai.
3. The Commissioner (Education)
Maharashtra State Pune.
4. The Additional Chief Secretary,
School Education and Sports Department,
Mantralaya, Fort, Mumbai-32.
5. The Director for Education (Primary),
The office of Directorate of Education
Maharashtra State, Administrative Building,
Shivaji Nagar, Pune.
6. The Divisional Commissioner,
Near Delhi Gate, Chhatrapati Sambhaji Nagar.

7. The Collector Nanded,
Near Chhatrapati Shivaji Square Nanded.
8. The Chief Executive Officer,
Zilla Parishad, Building, Chhatrapati
Sambhaji Chowk, Nanded.
9. The Education Officer (Primary),
Zilla Parishad Nanded.
Zilla Parishad Building,
Chhatrapati Sambhaji Chowk, Nanded.
10. The Block Education Officer,
Zilla Parishad, Nanded and
President of The Committee constituted for
scrutiny online RTE of 25% reservation 2024-2025.
11. The oxford The Global School
At post Puyni, Near Tilshi Paint House
Nila Road, Tq. and Dist. Nanded.
Through its Principal.
12. Podar International School,
Opp. To Shubham Mangal Karyalaya,
Purna Road, Village Ward No.11,
Khum plot. Tq. Dist. Nanded
Through its Principal.

..Respondents

Advocate for the Petitioner : Mr. Ghatol Patil Shahaji B.

AGP for Respondent Nos. 2 to 7/State : Mr. S.K. Tambe

Advocate for Respondent Nos. 8 to 10 : Mr. S. B. Pulkundwar

Advocate for Respondent No.1 : Mr. Bhushan Kulkarni

Advocate for Respondent No.11 : Mr. Ameya N. Sabnis a/w
Mr. Pranav Dhakene

Advocate for Respondent No.12 : Ms. Priyanka Ashok Deshpande i/by
Mr. S.S. Deshpande

CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.

RESERVED ON : 13 DECEMBER 2024
PRONOUNCED ON : 19 DECEMBER 2024

FINAL ORDER [Per Shailesh P. Brahme, J.]:

- . Heard both the sides finally considering exigency in the matter.
2. The petitioner is approaching this Court through his father as no admission was given to him through 25% of the quota under Section 12 of Right of Children to Free and Compulsory Education Act, 2009 (for short 'Act') despite his eligibility. He seeks direction to respondent no.11 or 12 to admit him and to conduct an enquiry against the erring officers.
3. The petitioner participated in an online admission process for weaker and deprived sections of the society for the year 2024-25. His place of residence is within the permissible limits still he has been denied admission in respondent no.11 as well as respondent no.12/schools. He submits that ineligible students have been given admission through 25% of quota in flagrant abuse of Government Instructions dated 16.05.2024 by showing false and bogus addresses. The process of drawing lots and admission was non-transparent. Without conducting any scrutiny, the students were referred to the schools.
4. It is further submitted that the petitioner complained to the respondent no. 9 and 10 that the admissions were given in defiance of the policy and the officers were also liable for the action.

5. Respondent Nos. 8 to 10 have filed affidavit-in-reply. Mr. S.B. Pulkundwar appearing for them would submit that there is no vacancy in the respondent no.11 as well as respondent no.12/schools. He would submit that due procedure of law was followed while giving admissions to the students. The scrutiny of the applications and the allotment of the school was done through software and there was no human intervention. The petitioner was in wait list of the respondent no.11/school at serial no.39. He would submit that the Committee would be in place to verify the information supplied by the beneficiary students. On instructions, he submits that Education Extension Officer, Mukhed is undertaking enquiry into allegation of the petitioner.

6. Learned Counsel Mr. Ameya Sabnis makes submissions on the basis of affidavit-in-reply. He would submit that his school had no role to play in the allotment of seats. In his school, 40 seats are earmarked for 25% of quota. The petitioner was at serial no.39 in the wait list. No seat is vacant in his school.

7. Learned Counsel Ms. Priyanka Deshpande appearing for respondent no.12 tenders on record a list of the admitted students in her school. There were 53 seats earmarked and all are occupied. The name of the petitioner was not referred to her school. She would also adopt remaining submission of respondent no.11.

8. We have considered the rival submissions of the parties. Respondent no.11 and 12/schools informed that there is no vacancy in

their schools. Already they are referred the wait lists. Even if any vacancy is created, that would not enure to the benefit of the petitioner. Admittedly the academic year has commenced and the curriculum progressed substantially.

9. Learned Counsel Mr. Ghatol Patil tried to demonstrate from the documents tendered on record and from the online applications of the students which are at Exhibit-D that ineligible students are admitted. The addresses of few of the admitted students disclosed from the voter helpline and online applications are inconsistent with eligibility norms laid down in Government Instructions dated 16.05.2024.

10. It is not possible for the Writ Court to examine the factual aspect contended by the petitioner in respect of actual address, google address, locations and the distance from the school. These are disputed questions of facts. It is not possible for us to accept the submissions of the petitioner as a gospel truth. A fact finding inquiry needs to be conducted. It is informed by Mr. Pulkundwar that Education Extension Officer, Mukhed is conducting such inquiry. We, therefore, cannot inquire into these allegations of the petitioner.

11. As per the Government Instructions, there is a Committee of responsible members headed by Block Education Officer. As per Clause 9 of the Instructions, the Committee is empowered to consider factual details of the admitted students and as per Clause No.10, if it is noticed that a student is ineligible then his admission is liable to be cancelled.

In view of this safeguard provided by the policy, we do not propose to grant relief to the petitioner.

12. We have gone through affidavit-in-reply of the respondent nos. 8 to 10. The human intervention is not possible for allotting seat to the student. The schools concerned had no role to play in selecting the students. Apparently we do not find that there is any illegality or arbitrariness in selecting the students. The allegations of non-transparency or want of scrutiny of the details of the admitted students have not been corroborated by the petitioner.

13. After considering the submission of lawyers of both schools, it transpires that they were referred the admitted students. There is no vacancy in their schools. The petitioner's name is appearing at serial no.39 in the wait list of respondent no.11/school. We find that it is not possible to issue direction to accommodate the petitioner in either of the schools. The academic year has substantially progressed. We find that no case is made out to consider the claim of the petitioner for admission this year.

14. The petitioner has also prayed for direction to conduct inquiry. The inquiry is underway. It would be open for the Education Extension Officer to consider the allegations of the petitioner.

15. The writ petition is dismissed to the extent of prayer clause 'B' and 'C'. It stands partly allowed to the extent of prayer clause 'D'.

16. The Education Extension Officer, Mukhed shall consider the grievance of the petitioner by extending him opportunity to submit material in support of his complaint.

17. The writ petition is disposed of by the above directions.

SHAILESH P. BRAHME
JUDGE

S. G. MEHARE
JUDGE