



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONT. PETITION NO. 636 OF 2021
IN WP/3302/2015

WITH

CONT. PETITION NO. 67 OF 2023
IN WP/3303/2015

WITH

CONT. PETITION NO. 66 OF 2023
IN WP/3301/2015

TULJAI PRATISHTHAN BAHUUDDESHIYA SANSTHA THROUGH ITS
SECRETARY SHRI SHAHAJI NARAYAN CHAVAN

VERSUS

JAYSHREE MUKHARJEE THE PRINCIPAL SOCIAL JUSTICE AND SPECIAL
ASSISTNACE AND ANOTHER

...

Advocate for the Petitioner : Mr. Nimbalkar Aniruddha A.
AGP for Respondents: Mr. V.K. Kotecha

...

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

DATE : 11.01.2024

PER COURT:

Heard the learned advocate for the petitioners in all these
petitions as also the learned AGP. We have also perused the affidavit-in-
reply as also the rejoinder.

2. By the common order passed in the petitioner's Writ Petition

No.3301/2015 with connected matters the following directions were issued in paragraph No.26 :

26. In view of the aforesaid discussion, we are of the opinion that the learned Counsel for the petitioners-institutes has made out a case for causing indulgence. Resultantly, we allow the petitions partly with the following directions:-

(i) The petitioners-institutes to submit fresh proposals to the State Government for admitting the schools run by them to grants within a period of two weeks from the date of the order of this Court. The petitioners may also pray for personal hearing, if they wish.

(ii) The State Government to grant an opportunity of hearing to the petitioners, if so claimed, within a period of two weeks after receipt of the proposals.

(iii) The State Government to decide the proposals of the petitioners-institutes on its merits, within a period of ten weeks from the date of the order of this Court, without putting a rider, that as the petitioners-institutes had already submitted an undertaking to the State Government that they will not claim the benefit of grant-in-aid, the proposals of the petitioners-institutes can not be considered.

3. The stand being taken by the respondents in the affidavit-in-reply is to the effect that in the light of these directions a fresh decision has been taken which has been communicated to the Commissioner of Disabilities on 27.01.2022 (Exhibit-A) in C.P. No.636 of 2021. Learned advocate for the petitioners strenuously submits that the very stand which is now being resorted to about turning down the petitioners' proposal was a subject matter before this Court, wherein, by the order of which disobedience is being claimed was passed. He would advert our attention to paragraph Nos.21 to 24, wherein it has been *inter alia*

observed by this Court as to how the petitioners' institutes were being discriminated while granting proposal for grant in aid to increased strength of students.

4. He also adverts our attention to a similar communication that was placed on record in Contempt Petition No.66/2023 and Contempt Petition No.67/2023 dated 24.01.2023 (Exhibit R-1).

5. It does appear that the stand being taken by the respondent-State not only in the affidavit-in-reply but also that was being taken before this Court in the Writ Petitions is exactly the same and is to the effect that considering the financial burden it was decided that a comprehensive plan applicable to the entire State would be evolved before the grant-in-aid or permissions are provided/granted.

6. That may be so, however, considering the operative part in the common judgment and order passed in the Writ Petition (supra), the decision was to be taken by the State Government on the petitioners' proposal afresh on its own merits. The only direction was not to reject the proposals on the ground that the petitioners had submitted an undertaking to the State Government not to claim grant-in-aid. There was no specific direction to treat the petitioners equally with some other institutes to whom grant-in-aids were provided as was observed in paragraph Nos.21 to 24.

7. Taking into account the limitations on the powers of this Court while exercising the contempt jurisdiction, we do not see that there

is any wilful disobedience of which cognizance can be taken under Article 215 of the Constitution read with the provisions of Contempt of Courts Act.

8. The Contempt Petitions are disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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