



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12592 OF 2022

1. Mahatma Gandhi Shikshan Prasarak Mandal
Kalambu, Tq. Shahada, Dist. Nandurbar,
Through its President,
Vijay s/o Gulabrao Borse,
Age: 55 years, Occu.: Social Worker,
R/o. Deopur Dhule, Dist. Dhule.
2. Dadasaheb Gulabrao Borse Agri School
and Junior Science College,
Kalambu, Tq. Shahada, Dist. Nandurbar,
Through its Headmaster,
Shri. Ravindra s/o Madan Patil,
Age: 55 years, Occu.: Service,
R/o. Kalambu, Tq. Shahada,
Dist. Nandurbar

.. PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary,
Education Department,
Mantralaya, Mumbai-32.
2. The Director of Education,
Maharashtra State, Pune.
3. The Deputy Director of Education,
Nashik Division, Nashik.
4. The Education Officer (Secondary)
Zilla Parishad, Nandurbar.

.. RESPONDENTS

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Mr. V. S. Panpatte, Advocate for the petitioners.

Mr. V. M. Jaware, AGP for respondent Nos.1 to 4 – State.

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

DATE : 6th FEBRUARY, 2024.

JUDGMENT (Per Smt. Vibha Kankanwadi, J.) :-

. Rule. Rule made returnable forthwith. Heard learned Advocate for the appearing parties finally by consent.

2. The petitioners invoked the writ jurisdiction of this Court for directions to the respondent – authorities to modify the teaching staff and to decide the proposals filed by them for sanction of the appropriate teaching posts.

3. The factual matrix leading to the present petition are that petitioner No.1 is the Society, which runs petitioner No.2 School. The school has received recognition and also receiving 100% grant in aid from the State of Maharashtra. The school was opened by order dated 01.04.1969 on grant in aid basis. By increasing the strength of students and by natural growth, the school has also received additional divisions. The institution is now running a secondary school from 5th to 10th standard and it is under the orders of respondent – authorities. It is further stated that after coming into force of the Right of Children to Free and Compulsory Education Act, 2009 and Rules thereto (for short "RCE Act"), it is necessary to maintain the Pupil Teacher ratio. Respondent No.1 by circular dated 18.06.2010 had

decided to implement the Act. Further, Government Resolution dated 28.08.2015 gave the schedule and procedure to maintain the ratio. In spite of the enactment of the RCE Act, the staff approval for the academic year have not been revised. Several representations have been made by the petitioners, but there is no response. In fact, respondent No.2 by his letter dated 13.07.2020 addressed to the Secretary, Education Department, State of Maharashtra, recommended positively in favour of the petitioner for the modification of the staff approval, yet there is no response. Hence, this petition.

4. Affidavit-in-reply has been given on behalf of respondent Nos.3 to 4 by one Macchindra Valmik Kadam, Education Officer, Nandurbar. According to him, though the RCE Act has been adopted by the State of Maharashtra from the academic year 2010, yet the provisions of the RCE Act are not fully developed and implemented by the State. There are nearly one lakh primary and secondary aided schools in Maharashtra and, therefore, it is not easy for any Government machinery to accept the change in all respects in view of the provisions of the RCE Act. According to him, the petitioners have not submitted the details and documentary proofs. According to him there was ban on the recruitment in view of Government Resolution dated 02.05.2012 and thousands of remaining teachers are now become surplus. Implementation is therefore not possible.

5. Heard learned Advocate Mr. V. S. Panpatte for the petitioner and learned AGP Mr. V. M. Jaware for respondent Nos.1 to 4 – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

6. The fact which is not in dispute is that the petitioner No.2 school was allowed to run by order dated 01.04.1969. It is also receiving 100% grant-in-aid. It is stated that the strength of the students has increased and, therefore, there is need for proper staffing pattern in view of coming into force of RCE Act.

7. We are absolutely not convinced with the reason given in the affidavit-in-reply that the RCE Act, which was adopted by the State Government, has not been fully implemented by the State even now, i.e. even after 14 years have gone. State Government cannot put forth its difficulty in implementing the enactment promulgated by the State Government. The State Government is also not justified in saying that for a particular purpose only, they would insist the provisions under RCE Act and for other provisions, it will seek excuse. The communication that has been placed on record would show that even in 2022, the staffing pattern that was approved in 2012-2013, is accepted, though it appears that there was increase in the students and therefore the divisions. The Government should implement its resolutions, especially Government Resolution dated 28.08.2015.

8. Since the teaching staff pattern would depend upon the Pupil Teacher ratio, the same will have to be got verified and, therefore, the petition deserves to be partly allowed. Hence, the following order :-

ORDER

(I) The Writ Petition stands partly allowed.

(II) Respondent No.2 to modify the strength of the teaching staff sanctioned to the petitioner No.2 School from 2013-2014 till today, as per the provisions of Section 25(1) read with Schedule of the RCE Act and also the Government Resolution dated 28.08.2015 on grant in aid basis. Such order be issued within a period of six months from today, after making inquiry in respect of the strength of the students in particular years.

(III) Respondent No.2 to decide the proposals pending, if any, given by the petitioners within the aforesaid period along with grant of sanction.

(IV) Rule is made absolute in the above terms.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm