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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION (ST) NO.23037 OF 2024
WITH
INTERIM APPLICATION NO.11407 OF 2024
IN
WRIT PETITION NO.6201 OF 2015

Mahindra International School Academy
Formerly known as
Mercedes Benz Education Academy .. Applicant/Petitioner
Vs.
The Union of India & Ors. .. Respondents

...

Mr. Milind Sathe, Senior Advocate with Mr. Kiran Bapat, Senior Advocate, Mr. Pralhad Paranjape, Mr. Rupesh Geete, Ms. Shubra Swami & Ms. Priya Bapat i/by Satyaki Law Associates, Advocates for applicant/petitioner.
Ms. Leena Pati i/by Ms. Manisha Jagtap, Advocate for respondent no.1.
Mr. N. C. Walimbe, Addl. GP with Mrs. Reena A. Salunkhe, AGP for the respondent nos.2 to 4-State.
Mr. Ashwin R. Kapadnis with Mr. Vivek Rane, Advocates for respondent nos.5 and 6.

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CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ

DATE : 2ND SEPTEMBER, 2024.

P.C. :

1. By these interim applications, the applicant-Original Petitioner seeks a stay to the effect and operation of the communications dated 27/07/2024 and 06/08/2024 issued by the Education Officer (Primary) Zilla Parishad, Pune. By those communications, the petitioner has been called upon to admit two students in the 25% quota under provisions of the Right of

Children to Free and Compulsory Education Act, 2009 (for short, 'the Act of 2009').

2. In the writ petition, the petitioner has sought a declaration that the provisions of the Act of 2009 are not applicable to it. The petitioner is conducting an educational institution in accordance with the norms approved by the International Baccalaureate Organization-IBO. The Director of Education, Pune on 08/06/1998 has granted No Objection Certificate to run the said Institution on the basis of curriculum framed by IBO. It is further stated in the said communication that the said curriculum was not equivalent to any other curriculum taught in Indian Schools. It is during pendency of the writ petitions that the Education Officer (Primary) has issued the impugned communications to the petitioner calling upon it to admit students in the first standard.

3. We have heard the learned counsel for the parties at length and we have also perused the document on record. Before entering into a prima facie consideration of the respective submissions, we may note that the applicant has filed rejoinder affidavit dated 24/08/2024 and in paragraph 6 (q), it has been specifically stated that presently, there are no vacancies at its educational institution wherein the candidates sent by the Education Officer (Primary) can be accommodated. This is in view

of the fact that according to the applicant, its academic activities for the year 2024-2025 had commenced from May, 2024. The impugned communications are dated 20/07/2024 and 27/07/2024 respectively. Directing the applicant at this stage to accommodate the two candidates whose names have been forwarded by the Education Officer (Primary) would require two candidates who are already admitted to be shifted to another Institution or it would result in the educational institution admitting students beyond the permissible limits. Considering the fact that its academic activities commenced in May 2024 and the impugned communications have been issued only in July 2024, we are of the view that for this academic year, it would not be appropriate in the facts of the present case to issue any interim direction to the applicant to accommodate the said students at this point of time. The question as to whether the provisions of the Act of 2009 are applicable to the applicant and hence it can be directed to admit students under the 25% quota under the Act of 2009 can be considered prior to the next academic session 2025-2026.

4. For aforesaid reasons, we have not recorded the rival submissions as regards non-applicability/applicability of the provisions of the Act of 2009 to the educational institution of the

applicant. Hence without prejudice to the rights and contentions of either parties, it is directed that for this academic year 2024-2025, the communications dated 20/07/2024 and 27/07/2024 issued by the Education Officer (Primary) Zilla Parishad, Pune shall remain in abeyance and shall not be enforced. The Education Officer (Primary) shall take necessary steps to accommodate the candidates named in the impugned communications in some other educational institution in accordance with the Act of 2009.

5. By clarifying that this direction has been issued considering the fact that the current academic year has progressed and there are no vacant seats available at the applicant's institution, the interim applications are disposed of in aforesaid terms. Prior to the next academic year, it would be open for the Education Officer (Primary) to take appropriate steps and the rights of the applicant to contest such steps in accordance with law are kept open.

[RAJESH S. PATIL, J.] **[A.S. CHANDURKAR, J.]**