



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

P.I.L. NO.17 OF 2024

(Mr. Vaibhav Vyankatrao Kamble and others .vs The State of Maharashtra and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms. Jayna Kothari, Senior Advocate a/b Mr. Deepak Chatap,
Advocate Mr. R.S. Bhoyar, Advocate and Ms. Payal Gaikwad,
Advocate for the petitioners,
Ms. T.H. Khan, Assistant Government Pleader for respondent
nos.1 to 3.

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CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.
DATE : 24.04.2024.

1. Heard.

2. The challenge is to the legality of the amended rule wherein proviso is added after Sub-Rule (5) to Rule 4 of the Maharashtra Right of Children to Free and Compulsory Education Rules, 2011 wherein the rider is provided to the local authorities not to identify the private unaided school, for the purposes of 25 per cent admission of disadvantaged group and weaker section under the Maharashtra Right of Children to Free and Compulsory Education (Manner of admission of Minimum 25% children in Class I or Pre-school at the entry level for the children belonging to disadvantaged group and weaker section) Rules, 2013, where the Government Schools and aided schools are situated within the radius of one kilometer of that school.

3. According to counsel for the petitioner, the term '**School**' is defined under clause (n) of Section 2 of the Right of Children to Free and Compulsory Education Act, 2009, which includes under its sub-clause (iv), an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.

4. According to counsel for the petitioner, unless the unaided school are taken out of ambit of definition of School as defined under Clause (n) of Section 2 sub-clause (iv) of the Right of Children to Free and Compulsory Education Act, 2009, the proviso to Rule (4) ought not to given effect to as the proviso runs contrary to the very definition of word 'School' and also the proviso to Rule 4 which is sought to be incorporated vide amendment dated 9th of February, 2024, commits violative to the very object of the principal statute i.e. the Right of Children to Free and Compulsory Education Act, 2009.

5. There appears to be substance in the submissions particularly having regard to the definition of School provided under clause (n) of Section 2 of the Parent Act.

6. Issue notice to the respondents, returnable on **08th May, 2024.**

7. Ms. T.H. Khan, learned Assistant Government Pleader waives notice for respondent nos.1 to 3.

8. Since the counsel for the petitioner has insisted for grant of interim relief, we make it clear that the respondents must file their reply by 7th May, 2024 as this court intend to take up the matter on **8th May, 2024** for the consideration of grant of interim relief.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)