



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

WRIT PETITION NO. 5455 OF 2018

HAZRAT SHANOOR HAMVI RH EDUCATION AND
WELFARE SOCIETY AURANGABAD THRU SECRETARY

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. Kolhare S.R.

AGP for Respondents/State : Ms. Sai Swapnil Joshi

Advocate for Respondent No.2 : Mr. Dheple Shantaram R.

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

DATE : 13th JANUARY 2025

PER COURT :

. Heard the respective Counsels.

2. The petitioner is seeking direction to determine the staffing pattern as per the Government Resolution dated 28.08.2015. He is disputing that in the year 2015-2016, there were 113 students in 6th to 8th standard. However, the number of students were not correctly considered. Thereafter the illegal orders impugned before this Court dated 13.12.2021 have been passed, after few litigations before this Court. By this impugned order, the resolution dated 14.06.2021 had been applied and the verification of the students was done based upon the Aadhar registration.

3. Learned Counsel for the petitioner would submit that before

14.06.2021, Aadhar Card was not the pre-condition for accepting the number of students admitted. It was a manual process. The Education Officer by his letter dated 07.02.2018 admitted that in the year – 2015-2016, there were 113 students in the 6th to 8th standard and for the year 2016-2017 year, there were about 100 students in the 6th to 8th standard. Therefore the Government Resolution dated 14.06.2021 has been incorrectly applied. Counsel for the petitioner would submit that the decision ought to have been taken on the basis of the data supplied/submitted to the Respondent No.4 by a letter dated 07.02.2018. However it has been deliberately ignored. Prima-facie we find substance in the submission that the resolution dated 14.06.2021 is prospective. Therefore the Director of Education/ Respondent No.4 appears to have incorrectly rejected the staffing pattern. The biometric system is applied since 2021 to verify the number of students admitted under the Right to Children to free and Compulsory Education Act, 2009.

4. Learned Counsel for Respondent No.2 submits that his duty is only to verify the number of students admitted and submit the proposal to Respondent No.4. It is the Respondent No.4 to take the decision.

5. Learned AGP for Respondent No.4 would submit that since the Government Resolution was brought into force in 2021, as per observations in PIL, the Government Resolution dated 28.08.2015 was passed. It has been transpired that the same students were

admitted to many schools and this was done to extract the public fund. Therefore to have a transparent verification of presence of the students, the biometric system for verification of the students through Aadhar Card has been applied. He may be correct so far as the Rule of Aadhar registration, but it would not be applied retrospectively.

6. After having gone through the papers with the assistance of all respective Counsels, we find that the petitioner is disputing about the staffing pattern since 2015-2016 onwards, before that, petitioner had not any dispute. However as per the letter dated 07.02.2018, Respondent no.2 has submitted the data of the students admitted to the school only for two academic years that is from 2015-2016 and 2016-2017. Further data is not available on the record. In the circumstances holding that till the Government Resolution dated 14.06.2021 is not applied, the data supplied by the petitioner on the basis of the record available with him, an appropriate decision should have been taken by Respondent No.4.

7. To meet out the dispute, we are of the view that the petitioner should submit the data of the students available in those standards after 2017-2018 onwards, till the date, of the verification was based not upon the Aadhar registration. After submitting the data, the Education Officer (Primary) should consider the data for the students for the year 2015-2016 and 2016-2017 as per the letter dated 07.02.2018 and verify further data, thereafter till the date of

the application of the Government Resolution dated 14.06.2021. Petitioner shall submit the data to the respondent no.2 within two weeks from today. After verifying the record and the requisite requirements for the staffing pattern based upon the students, Respondent no.2 should forward the proposal to the Respondent no.4 within a month from the date of submitting the data. Thereafter Respondent no.4 should grant hearing to the petitioner and then take an appropriate decision within a month thereafter.

8. In view of the above terms, Writ Petition stands disposed of.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

Najeeb..