



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3775 OF 2023**

Sarvodaya Shikshan Sanstha ..Petitioner

vs.

The State of Maharashtra and ors. ..Respondents

Adv. D. G. Dhanure, for the Petitioner.

Mr. N. C. Walimbe, Addl.G.P. a/w Mr. S. P. Kamble, AGP, for
the Respondent-State.

Adv. Vijay Killedar, for Respondent No.5.

**CORAM : M. S. KARNIK &
N. R. BORKAR, JJ.**

DATE : 31st JULY, 2025

ORAL ORDER (PER M. S. KARNIK, J.):

1. Heard learned counsel for the parties.
2. This Petition under Article 226 of the Constitution of India seeks a direction to restrain the Zilla Parishad School from functioning of Vth Standard Zilla Parishad School, Umadi No.2, Taluka Jath, District Sangli on the basis of the impugned Resolution bearing No.177 dated 1st June 2019 issued by the Respondent No.7- The Education Officer (Primary)-cum-Secretary, School Education Committee,

Zilla Parishad, Sangli. The grievance raised by the Petitioner is that in breach of the provisions of the Right of Children to Free and Compulsory Education Act, 2009 ("the said Act", for short) in the matter of minimum distance to be maintained between two schools, Respondent No.6-Zilla Parishad, Sangli has passed a resolution on 1st June 2019 permitting starting of Vth class in the school run by the Zilla Parishad. Learned counsel for the Petitioner invited our attention to Section 6 of the said Act. It is submitted that in terms of Section 6 since the Petitioner has already established a school which was recognised as far back as in 1973, there cannot be a second school as the requirement of the said Act is to establish a school in the area is satisfied. It is then submitted that even as per the G.R. dated 19th September 2019, since the Petitioner already has a Vth class available, the Zilla Parishad was not justified in starting a school within the distance of 3 k.ms. from the Petitioner school. Learned counsel then relied upon Section 19 of the said Act to contend that the Petitioner having established a school and having fulfilled the norms and

standards specified in the Schedule, the Zilla Parishad is then not justified in starting the Vth Standard.

3. So far as the Vth Standard of the Zilla Parishad is concerned, the same was started pursuant to an order passed by the Education Officer (Primary)-cum-Secretary, School Education Committee, Zilla Parishad, Sangli on the basis of the resolution dated 1st June 2019. The G.R. on which the Petitioner seeks to place reliance is dated 19th September 2019. There is nothing to indicate that the said G.R. can have a retrospective operation as the school was started by the Zilla Parishad immediately after the resolution was passed on 1st June 2019. In any case, we do find merit in the submission of learned counsel for the Zilla Parishad that in respect of a division which was started in the year 2019, the Petition is belated and suffers from delay and laches as the present Petition is filed in the year 2023.

4. The submission of learned counsel for the Petitioner that Section 6 of the said Act prohibits starting a second school within a distance of 3 k.ms. when the Petitioner has already established a school, we do not find any merit in

this submission. Section 6 of the said Act reads thus :-

"6. Duty of appropriate Government and local authority to establish school. —

For carrying out the provisions of this Act, the appropriate Government and the local authority shall establish, within such area or limits of neighbourhood, as may be prescribed, a school, where it is not so established, within a period of three years from the commencement of this Act. "

5. What section 6 provides is that the appropriate Government and local authority shall establish school, but where it is not so established, the same shall be established within a period of three years from the commencement of the Act. Section 6 is a provision which provides for compulsory establishment of the school within a period of three years. The purport of Section 6 is not to prohibit the second school from being established. The purpose of Section 6 is that there should be minimum one school within such area.

6. Section 19 of the said Act on which learned counsel for the Petitioner placed reliance reads thus :-

"19. Norms and standards for school.—

(1) No school shall be established, or recognised under section 18, unless it fulfils the norms and standards specified in the Schedule.

(2) Where a school established before the commencement of this Act does not fulfil the norms and standards specified in the Schedule, it shall take steps to fulfil such norms and standards at its own expenses, within a period of three years from the date of such commencement.

(3) Where a school fails to fulfil the norms and standards within the period specified under sub-section (2), the authority prescribed under sub-section (1) of section 18 shall withdraw recognition granted to such school in the manner specified under sub-section (3) thereof.

(4) With effect from the date of withdrawal of recognition under sub-section (3), no school shall continue to function.

(5) Any person who continues to run a school after the recognition is withdrawn, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues."

7. It is the submission of learned counsel for the Petitioner that the Petitioner school fulfills all the norms and standards specified in the Schedule and therefore the Zilla Parishad cannot start the Vth class. This contention of the Petitioner is misplaced. As per the provisions, it is for the school established by the Zilla Parishad to fulfill the norms and standards specified in the Schedule and it has nothing to do with the Petitioner school fulfilling the norms and standards specified in the Schedule.

8. We therefore do not find any merit in this Writ Petition. The Writ Petition is dismissed.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)