

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12878 OF 2025

Saraswati English Medium School,]
Talandage, Taluka : Hatkanagale,]
District Kolhapur.]...**Petitioner.**

Versus

1. The State of Maharashtra]
Through its Principal Secretary,]
School Education & Sports]
Department,]
2. The Director of Primary Education]
Maharashtra State]
3. The Education Officer (Primary),]
Zilla Parishad, Kolhapur]...**Respondents.**

*Mr. Sumit Vanbhatte i/b Mr. Aditya Raktade for the Petitioner.
Mr. S. B. Kalel, AGP for the Respondent-State.*

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : December 19, 2025.

Oral Order (Per : Ajit B. Kadethankar, J.)

1. Writ Petition is filed by school management which, from time to time, admitted students as part of implementation of provisions of the Right of Children to Free and Compulsory Education Act, 2009 [hereinafter referred to as "**Act of 2009**" for the sake of convenience].

The grievance of Petitioner is that even after admitting adequate number of students under the Act of 2009 and having imparted education to them, Petitioner-school is deprived of the reimbursement of fees/expenses under Section 12(2) of the Act of 2009.

2. Learned Counsel for the Petitioner contends that the Petitioner-school has submitted proposal(s)/claim(s) on 13th October 2025 with the Education Officer and has even consistently reminded the said authority. That, despite of it, the Education Officer has not granted the reimbursement.

3. Learned Counsel for the Petitioner submits that if the authorities merely sit on claims, the very purpose of socially beneficial scheme endorsed in the Act of 2009 would stand frustrated.

4. In order to support the prayer made in the present Writ Petition, the Petitioner relies upon the Judgment and Order passed by this Court in Writ Petition (St.) No. 27849 of 2025 in the case of ***Progressive Convent School & Junior College Vs. the State*** decided by the Circuit Bench, Kolhapur on 6th November 2025.

5. In ***Progressive Convent School*** (supra), we have observed as follows:-

“10. As such its evident that despite the claims/proposals having submitted by the Petitioner institution for the benefit of Section 12(2) of the Act of 2009, those are neither cleared nor the Petitioner has been responded as to the result on those claims/proposals.

11. In view of the above we are of the view that if the respondent authorities merely sit

over the claims, the very purpose of the Act of 2009 would indeed stand frustrated. The respondent authorities must bear in mind that the provisions of 2009 Act are not meant to be profitable to the educational institute, but those are realistically meant to encourage the deserving educational institutions to run the school by accommodating financially weaker section students to impart free and compulsory education.

12. Prime object of the enactment is to bring the kids of such financially weaker section of society in the flow of regular education process by implementing free and compulsory education policy. The predominant object of entitling private unaided schools to run their schools by accommodating poor and financially weaker section @ 25% of the student strength, and granting them reimbursement of the expenses per such student is obviously with a view to achieve the goal of education to all.
13. The object of the Act is seen from the Section 3 of the 2009 Act which is reproduced as follows for the sake of convenience: -

“3. Right of child to free and compulsory education.

-(1) Every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.]

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.

[(3) A child with disability referred to in sub-clause (A) of clause (ee) of section 2 shall, without prejudice to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and a child referred to in sub-clauses (B) and (C) of clause (ee) of section 2, have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995:

Provided that a child with “multiple disabilities” referred to in clause (h) and a child with “severe disability” referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) may also have the right to opt for home-based education.]”

14. Section 12 (2) of the 2009 Act deals with the reimbursement of the expenses to the deserving educational institutions. For the sake of convenience, Section 12 (2) of the 2009 Act is reproduced as below:-

“12. Extent of Schools Responsibility for Free and Compulsory Education

(1)...

(2) The school specified in sub-clause (iv) of clause (n) of section 2 providing free and compulsory elementary education as specified in clause (c) of sub-

section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed:

Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (n) of section 2:

Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation.

(3)...”

15. We are cautious of the fact that merely admitting certain percent students ipso facto doesn't entitle the Schools to receive the reimbursement from the respondent authorities. The Authorities are certainly supposed to examine legitimacy of each reimbursement proposal in the light of the government policy and the statutory requirements as are described in the 2009 Act.
16. However the approach of the concerned respondent authorities of merely sitting tight over such proposals is certainly disapproved by us. If the R.No.6 or any respondent authorities noticed any deficiency in the proposals, it was for such authority(ies) to call upon the Petitioner to inquire into, or to clear off the deficiency, as the case may be. But this exercise doesn't seem to have been done by present R.No.6; and as also by such authorities in a number of cases as could be seen from the cited orders, which is a worrying factor.
17. We feel that the Act of 2009 is obviously a piece of 'Social Beneficial Legislation'. Unless the implementing authorities give true effect to the provisions therein by operating those, such a benevolent legislation and the object of the Parliament would not reach to its logical end. This tempts us to issue certain directions to the R.Nos. 2 to 4 to see positive and effective implementation of the Act of 2009.”

6. We find that case in hand is not different from the ***Progressive Convent School case*** (supra). In the cited case, we have directed the State Authorities to formulate some mechanism to ensure effective implementation of Section 12(2) of the Act of 2009.

7. Learned counsel for the responding parties would fairly agree that Education Officer must deal with the proposal(s) filed by the Petitioner expeditiously, and there should be no hindrance nor any

delay in processing the proposal(s) on its own merit.

8. In the above fact-situation, without going into merits of Petitioner's case, we dispose of this petition in tune with the directions given in the case of ***Progressive Convent School (supra.)***. Let the Education Officer scrutinize the claim proposal(s) submitted by the Petitioner and reimburse the fees/expenses accordingly within a time-frame set out hereinbelow.

9. Accordingly, we dispose of this petition with following directions.

- (i) The Petitioner shall approach the Education Officer together with a copy of this order within a period of Two weeks from today. If needed, the Petitioner can file additional documents in support of its claim(s), and can even file a comprehensive claim attached with such documents those are necessary in support of the claim.
- (ii) Within a period of six weeks from the date of receipt of copy of this order, the Education Officer shall decide Petitioner's claim proposal(s) on its own merit, to reimburse the grant / fees and expenses under Section 12(2) of the Act of 2009 for the period as mentioned in the claim proposal(s).
- (iii) If the Education Officer has any reasonable query, such query would be brought to the notice of the Petitioner immediately which, the Petitioner would answer/satisfy accordingly.

- (iv) If the Education Officer is not competent to decide the claim of the Petitioner, he shall immediately transmit such claim to the concerned competent authority and intiamte the Petitioner accordingly. Such concerned authority to whom the proposal is transmitted by the Education Officer shall within six weeks from the date of receipt of proposal from the Education Officer, decide the claim proposal on its own merits.
- (v) In no case, any authority including the Education Officer or the Deputy Director of Education or any such authority shall keep the proposal pending or shall reject such proposal citing the reason that the power to grant reimbursement rests with some other authority.
- (vi) We make it clear that we have not made any observations on the entitlement of Petitioners-school to receive the reimbursement nor we have made any observations as to the amount of reimbursement, if any, receivable by the Petitioner.
- (vii) Keeping all contentions open, Writ Petition is disposed of with no order as to costs.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]