



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

WRIT PETITION NO. 6790 OF 2018

Jati Jamati Bahuddeshiya Shikshan Sansthan, Amravati and another Vs. 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

Mr. R.S. Kalangiwale, Advocate for petitioners.
Mr. N.R. Patil, AGP for respondent Nos. 1 and 2/State.
Mrs. B.P. Maldhure, Advocate for respondent No. 3.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATED : 31-01-2025

Heard Mr. Kalangiwale, learned Counsel for petitioners,
Mrs. Maldhure, learned Counsel for respondent No. 3 and the
learned AGP for respondent Nos. 1 and 2.

2. The petition questions the communication 13.5.2016
(page 33) insofar as it relates to the petitioner and grants
approval to the starting of Standard 5th classes on no grant
basis on account of natural growth, to the extent as indicated
by the note appended below, which states that there would be
no natural growth permissible consequent thereto.

3. Perusal of the chart in paragraph 6 of the petition,
would indicate that the petitioner was granted permission to
start the 1st standard by the respondent No.1 for the session
2009-2010. The petitioner was thereafter permitted by the
respondent No. 2, for starting the 2nd, 3rd and 4th standards for
the sessions 2010-2011, 2011-2012 and 2012-2013. The
petitioner had applied for starting 5th standard on account of
natural growth, which came to be permitted by the impugned

communication dated 13.5.16, however, with the note as indicated thereto. Mr. Kalangiware, the learned Counsel for the petitioners submits that the restriction put in terms of the note, is unreasonable and arbitrary as the Government Resolution (GR) 8.7.2005 (page 25) vide clause 3 permits natural growth by permitting grant of opening 6 and 7th Standards consequent to the grant of permission to open the 5th std by the respondent No.1. He therefore, submits that the restrictions imposed by the note in impugned communication dated 13.5.2016 is unwarranted and is liable to be quashed and set aside.

4. The learned AGP as well as Mrs. Maldhure appearing for respondents, invites our attention to clause 2 of the GR dated 8.7.2005, and contend that the question of opening 6th and 7th Standards would only be considered after the permission is granted by the respondent No. 1, for opening the 5th Standard and not otherwise. They also rely upon the GR dated 28.8.2015 specifically on clause 2.9.2 (page 42) which says that in future, there would be no consideration of natural growth for the purpose of grant of permission for subsequent classes. Reliance is also placed upon GR dated 10.3.2016 clause 5, of which is in reference to the earlier GR dated 28.8.2015 and reiterates that the permission for grant of opening classes on account of natural growth, has been discontinued after 5th and 8th Standards.

5. There is no dispute, that the petitioner was granted permission to open the 1st Standard for the 2009-2010 academic session by the State and subsequent permission has

been granted by the respondent No. 2 for opening the 2nd to 4th Standards, which were on account of the natural growth in terms of the GR dated 8.7.2005 as was prevailing at that time. What is necessary to note is, that any permission to open a new standard of a higher category could only be granted, if the authorities were satisfied that the education being imparted by the institute was in terms of the policy and up to the mark and it satisfies all the parameters in this regard. It is also necessary to note that any such application for grant of permission ought to be made, well before the commencement of the academic session and considered and granted by the respondent Nos. 1 and 2, at least, one month before the commencement of the academic session. In the instant matter, what we find is that the 5th Standard, was commenced by the petitioners for the academic session 2013-2014 whereas the permission for this was granted only by the GR dated 10.3.2016 (page 69-73) for starting the 5th Standard on no grant basis, in pursuance to which communication dated 13.5.2016 came to be issued, with the note as indicated above. What is also necessary to note is, that the petitioner had also started the 6th Standard for the academic session 2014-15 and 7th Standard for the academic session 2015-16, without applying for the permission for same to respondent No. 2 which in any case, could not have been done by the petitioners without receiving permission to open the 5th Standard from respondent No. 1 and demonstrate to the satisfaction of the respondent No. 2 that it was being successfully implemented.

6. The note appended below the communication dated

13.5.2016 is in consonance with the policy of the State as is indicated by the GR dated 28.8.2015 (page 37), and the permission granted by the State by the GR dated 10.3.2016. A perusal of the reliefs claimed in the petition, would indicate that both these GRs have not been challenged on account of which, the efficacy of the note appended in the communication dated 13.5.2016 cannot be gone into. The communication dated 4.7.2016, is reiterating the policy of the Government of making natural growth unavailable, and therefore, would be in tune with the GR dated 28.8.2015 and the permission granted by the GR dated 10.3.2016 to open the 5th Standard and therefore, would suffer the same fate as the note in the communication dated 13.5.16. The challenge therefore, to this communication too is rejected.

7. We however find, that since in the instant matter, the petitioner had already enrolled students for the 6th Standard for academic session 2014-15 and for the 7th Standard for the academic session 2015-16, and on account of the status quo granted by this court on 17.9.2018 has continued to admit students, and has filed an affidavit on 30.1.2025 stating that if the petitioners are permitted to continue in imparting education to the students for 6 and 7 Standards the petitioners would not claim any benefit in respect of grant or any other monetary benefit from the State for these standards, in order to secure the interest of the students direct the respondent Nos. 1 and 2, to consider the proposal, of the petitioners for continuation of these standards by the petitioners under the provisions of the Maharashtra Self-Financed Schools (Establishment and Regulation) Act, 2012,

in case, the same is submitted within a period of 15 days from today. Any such proposal received within the aforesaid time, shall be considered and decided by the respondent No.1, within a period of four weeks from the date of receipt of such proposal.

8. We however also find, that the petition indicates a very sorry state of affairs inasmuch as, any proposal for grant of opening a particular standard, in a continuing school, ought to be made by the management well within time, so as to afford a reasonable period to the State or the other authorities concerned with grant of the same, to decide it well before the commencement of the academic session, failure to do this, results, in institutions, admitting students, without such permission, in the anticipation of such permission being granted which in case of being refused, would put the academic career of the students so admitted in jeopardy. We therefore, deem it fit and proper, to issue the following directions to all the institutions as well as to the respondent Nos. 1 and 2;

a. Wherever a proposal to open a new standard is intended to be filed by the institution/management, the same shall be filed before the end of January of the year in which the new Standard is intended to be commenced from the academic session, which normally commences from June of that year.

b. Any such proposal submitted to the State or the Education Department shall be processed, considered

and decided by it by the 30th April of that year, which would give a reasonable time to the institution in case permission is granted, to issue advertisement for admission and enrollment of students.

c. This would ensure, that there would be no illegal admissions, of the students, in the academic year, without the permission being in hand, which is a necessary requirement, for all institutions, before they start the process of enrollment of the students for that standard.

d. We make it clear, that it would be open for respondent No. 1 / State, to prepone, and not postpone the dates of the above schedule, in case, they deem it necessary.

9. We therefore, direct the respondent No. 1, to scrupulously follow these directions and so also to intimate all its departments, in this regard, at the pain of contempt, in case, they are not followed.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)