



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

WRIT PETITION NO. 6423 OF 2024

(The Blind Relief Association Nagpur, through it Secretary, Nagpur and another vs. The State of Maharashtra through its Secretary, Deptt. Of School Education and Sports (Primary) Mumbai and others)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of the directions
and Registrar's orders.*

Court's or Judge's order

Mr. Adwait Manohar, Advocate for petitioners.
Mr. A.A.Madiwale, AGP for respondent No.1.
Mrs.B.P.Maldhure, Advocate for respondent Nos.3 and 4.

CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

DATE : APRIL 17, 2025

1) Heard Mr. Adwait Manohar, learned counsel for the petitioners, Mr.Madiwale, learned Assistant Government Pleader for respondent Nos.1 and 2, and Mrs. Maldhure, learned counsel for respondent No.3.

2) The petition seeks a direction to the respondents to reimburse an amount of Rs.2,85,94,104/- along with interest towards the expenditure incurred in implementation of the provision of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) for the academic year 2012-13 to 2024-25 and continue to reimburse the requisite sum towards the expenditure, henceforth and also challenges two communications dated 11/03/2020 and 31/12/2020 as bad in law.

3) It is contended by Mr.Manohar, learned counsel for the petitioners that in terms of mandate of Section 12(1)(c) of the RTE Act, 2009 the petitioner's school is required to grant free

and compulsory elementary education to the extent of 25% of the strength of the class to children belonging to the weaker section and disadvantaged group in the neighbourhood and for doing so, the petitioner is entitled for reimbursement in terms of Section 12(2) of the aforesaid Act. It is his contention that in spite of having complied with aforesaid obligation, no reimbursement has been made to the petitioners, from 2019 onwards, the reimbursement having been done in part, for which he relied upon chart at page 37.

4) Mrs.Maldhure, learned counsel for respondent Nos.3 and 4 does not dispute the entitlement of the petitioner for reimbursement in terms of Section 12(2) of the aforesaid Act and submits that till the academic year 2018-19 part reimbursement has already been done.

5) Mr.Madiwale, learned Assistant Government Pleader, however, raises a plea based upon the second proviso to Section 12(2), to contend that since the petitioner No.1 has received land as a grant, free of cost, on which the petitioner No.2 school is being run, the petitioner would not be entitled to any reimbursement.

6) The second proviso to Section 12(2) reads as under :-

Section 12(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) section 2;

Provided further that where such school is already under obligation to provide free education to 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.

7) A perusal of the language of the second proviso to Section 12(2) would indicate that where a school is under an obligation to provide free education to a specified number of students, and has received either free of cost, land, building, equipment or other facilities either free of cost or at a concessional rate, such school shall not be entitled to the extent of such obligation. The petitioner No.1 is a Society, has received the land, free of grant and so declared from the Sanad executed on 13/07/1977 (page 38), which recognises the earlier grant to petitioner No.1. The position therefore, that the petitioner No.1 has received land, free of grant is not a disputed one, however, what is necessary to consider and is an admitted position by Mr.Madiwale, learned Assistant Government Pleader that there is no determination of any parameters, regarding the reimbursement to the extent of the obligation as indicated in the second proviso to Section 12(2) of the RTE Act, 2009. If that be so, the second proviso to Section 12(2) cannot be pressed into service by the respondents to deny the reimbursement to the petitioner as the duty and obligation to frame the parameters are with respondent Nos.1 and 2. Even otherwise, it is an undisputed position that till 2018-19, the entitlement of the petitioner for such reimbursement has been recognized and part

payment has been made, in view of which, we do not see any reason why the said position cannot continue and the reimbursement made to the petitioner. We therefore, allow the petition by directing the respondents to consider the claim of the petitioners, and after processing it, release the payment within a period of eight weeks from today.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

KOLHE