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916-pil-102-2021

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
PUBLIC INTEREST LITIGATION NO.102 OF 2021**

Brijmohan Dhirajprasad Mishra ..Petitioner

Versus

The State of Maharashtra and Others ..Respondents

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Mr. Sachin S. Deshmukh, Advocate for the
Petitioner.

Mr. A. R. Kale, AGP for Respondent Nos.1 to 6.

Mr. S. S. Dambe, Advocate for Respondent No.7.

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**WITH CONTEMPT PETITION NO.374 OF 2019
IN
PUBLIC INTEREST LITIGATION NO.18 OF 2012**

**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATED : 07th APRIL, 2022.

PER COURT:-

1. By this Public Interest Litigation filed under Article 226 of the Constitution of India, the petitioner seeks order and direction against the State of Maharashtra to initiate Administrative action, including recovering the salary paid to those appointed as against inadmissible posts vis-a-vis criminal action on the strength of the report of the Deputy Director of Education, against the fraudulent wing of officers of the Education Department, the private management and its Head Teachers directly responsible for creating forged and fraudulent student database and fix the responsibility and to submit the periodical and progress report in the matter of initiating the administrative vis-a-vis criminal prosecution against the fraudulent wing of officers of

Education Department and the private management and its Head Teachers.

2. The petitioner has vehemently urged in this petition that, on the record of the State Government large number of students are alleged to have been admitted in various schools granted aid by the State Government and in the ratio prescribed, large number of teachers and other staff are appointed by such schools granted aid by the State Government. It is the case of the petitioner that, numbers of students alleged to have been admitted by various schools are inflated by large number of such schools in connivance with some of the officers of the State Government who are empowered to grant sanction for grant-in-aid and other facilities to these schools for imparting education to these students. He submits that, since the number of students are fraudulently inflated, crores of rupees of public money is diverted by such fraudulent means by the State Government under the guise of providing grant-in-aid and for providing various other facilities on such students who are in fact not admitted in those schools.

3. The petitioner has made various suggestions in the Public Interest Litigation and also across the Bar.

4. We have also perused the affidavit-in-reply filed by the State Government. A perusal of

affidavit-in-reply filed by the State Government indicates that, on the basis of the report from the Revenue Department a drive has been carried out by the School Education Department. It is the case of the State Government that, from 2012 onwards these enquiries were going on and after grant of proper and requisite opportunities to the managements/schools finally the Education Department concluded that, the huge amount of Rs.4,10,39,604/- had been required to be spent by the State Government for primary section and Rs.2,24,88,277/- to be spent for secondary section. It is further stated that, the exercise of this enquiry had taken time upto August-2019. The Education Department has started taking steps to get the amount recovered from those managements and schools found guilty of malpractices. The State Government has annexed the chart at Exhibit-R-1 collectively in this regard. It is stated that, the enquiry is in progress and the same is not finalized.

5. In paragraph no.10 of the affidavit-in-reply it is stated that, the School Education Department, State of Maharashtra has already taken conscious decision and set out a policy vide circular dated 29.09.2020 to get the data and Adhar linking of all pupils studying either with school i.e. private, aided schools, unaided schools, the schools under Zilla Parishad and Municipal Administration. The School Education Department

has revealed several invalid Adhar counts and on the basis of which the respondents have started taking corrective measures. In paragraph no.15 it is stated that, it is required that, all the students shall have to enroll over SARAL Pranali and the work of same is going on. The School Education Department has also provided requisite aid and machinery to the subordinate office of the respondents to enable them to enroll the students over SARAL Pranali easily.

6. It is further stated in the affidavit that, approximately 22 lakhs students takes admission in 1st standard every academic year and it is therefore necessary to do consistent work of updating the work of Aadhar Card. In paragraph nos.13 and 14 of the affidavit dated 17.03.2022 it is stated that, it is an on going process and the School Education Department has decided to grant final approval to the staffing pattern only after completion of the Adhar enrollment of SARAL Pranali. After enrollment of all the students, the ratio of pupil-teacher can be easily maintained and managed. It is suggested in the affidavit that, all the students shall have to enroll over SARAL Pranali and the work of the same is going on.

7. Mr. Deshmukh, learned counsel for the petitioner took pains to demonstrate that, if this exercise would have been started 20 years back, such type of malpractices going on in the Education Department would have been controlled and

substantial amount of public money could have been saved.

8. A perusal of the affidavit minutely by us indicates that, the State Government has not disputed some of the malpractices brought on record by the petitioner in Public Interest Litigation and have initiated certain action already to control the malpractices going on in the Education Department. In our view, these steps, though belatedly taken by the Education Department to control such malpractices are not sufficient. This Court has to go to the root of the matter and to find out as to why such malpractices were allowed to be practiced in the last two decades in the Education Department. The culprits who are benefited of said malpractice by diverting the public money by inflating the number of students in various aided schools should be penalized by an appropriate action. Though the affidavits filed by the State Government indicates that, amount is recovered by the Education Department from some of the schools, the action taken by the State Government is not even to the extent of 5%.

9. During the course of the argument, we suggested whether a committee can be constituted to look into the serious allegations of the malpractices pointed out by the petitioner in the petition and to suggest the remedial measures to overcome the problems of malpractices in the

Education Department and to prevent such malpractice in future, the learned counsel for both the parties fairly suggested few names without recording their consent.

10. We accordingly appoint a Committee of Shri. Justice P. V. Hardas (Retired), High Court Judge Bombay, Smt. Aditi, Ekbote, Scientist NIC Pune and Mr. A. B. Girase, a Counsel of this Court as members of the Committee. It is made clear that, Committee shall be headed by Shri. Justice P. V. Hardas (Retired), High Court Judge Bombay.

11. The Committee is requested to call for the suggestions from the stakeholders including the managements running various schools, parents and teachers, social workers, some of the officers of the Education Department and representatives of the NGOs and submit a report recommending the remedial measures to be taken in the future to curb such alleged malpractices pointed out by the petitioner in the Education Department, so as to stop avoid any further diversion of public money by such alleged fraudulent activities. The Committee shall consider in its report whether any of the stakeholders can be found accountable for such alleged malpractices.

12. The Registrar (Administration), High Court Bench at Aurangabad to provide all the facilities to the Committee including providing premises in

this Court and also the secretarial assistance. In so far as, the honorarium and reimbursement of expenses, if any, to the Committee is concerned, the same would be considered at the later stage.

13. We request the Committee to submit its report on or before 31.07.2022 in a sealed envelope.

14. Place the matter on board for direction on 01.08.2022.

15. It is made clear that, this order appointing the Committee to look into the serious allegations made by the petitioner does not preclude the Government from continuing its efforts to recover the amount from the responsible persons indulging in such malpractices. The State Government shall file affidavit to place on record the further steps taken by it in this regard before this Court on or before the next date.

16. The Registrar (Administration), High Court Bench at Aurangabad to communicate this order to the members of the Committee within one week from today. The learned A.G.P. to furnish the address and contact number of Smt. Aditi Ekbote and Shri. A. B. Girase to the office within three days from today.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE