



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3839 OF 2004

1. Nageshwar Shikshan Sanstha,
Hasegaon (Kaij),
Tq. Kallamb, Dist Osmanabad,
through its President
Vishwambhar s/o Janardan Shinde
age 60 yrs. occ. Agri r/o as above.
2. Padmashri Shankar Bapu Madhyamik
Vidyalaya Hasegaon (Kaij)
Tq. Kallamb, Dist. Osmanabad.

..Petitioners

Versus

1. The State of Maharashtra
through its Secretary
Education Department,
Mantralaya Mumbai
2. The Education Officer (Secondary)
Zilla Parishad, Osmanabad
Dist. Osmanabad.
3. The Deputy Director of Education
Aurangabad Division, Aurangabad.

... Respondents

AND
WRIT PETITION NO.427 OF 2003

Janjagruti Yuvak Mandal
Holi, Tq. Omerga,
Dist. Osmanabad
through it's Joint Secretary,
Shri Sudhakar s/o Bhanudas Gaikwad

Age: 42 years, Occ: Service
R/o: Holi, Tq. Lohara,
Dist. Osmanabad.

... Petitioner

Versus

1. The State of Maharashtra.
2. The Deputy Director of Education.
3. Education Officer, (Secondary)
Zilla Parishad, Osmanabad.

... Respondents

AND

WRIT PETITION NO.6408 OF 2005

Jai Kapileshwar Krida Va
Shaikshanik Mandal,
Aklad, Taluka and
District Dhule,
through its President
Shri Ajay s/o Govindrao Suryawanshi,
Age: 34 years, Occu. Agriculture.
R/o Aklad, Taluka and District Dhule.

...PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
School Education Department,
Mantralaya, Mumbai 400032.
2. The Director of Education (Secondary),
Maharashtra State, Pune.
3. The Deputy Director of Education,
Nasik Division, Nasik.

4. The Education Officer (Secondary),
Zilla Parishad, Dhule.

... RESPONDENTS

...
Shri V.D. Salunke, advocate for the petitioners in Writ Petition Nos.3839/2004 and 427/2003.

Shri Kalyan V. Patil h/f Shri S.R. Barlinge, Advocate for the petitioners in WP/6408/2005.

Smt. Uma S. Bhosale and Shri S.S. Dande, AGP for the respondents/ State.

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**CORAM : KISHORE C. SANT
&
SUSHIL M. GHODESWAR, JJ.**

Reserved on : 27 April 2026

Pronounced on : 06 May 2026

JUDGMENT (Per Sushil M. Ghodeswar, J.) :-

1. Since in these three petitions common challenge is to the grant of permission on 'permanent non grant basis' to educational institutions and the directions are sought to release grants, they are being decided by this common judgment.

2. For the sake of brevity and for proper appreciation of facts and submissions of the parties in this judgment, the facts in Writ Petition No.3839/2004 are taken for consideration.

3. The petitioners are praying for issuance of directions to set aside the impugned orders dated 29.06.2002 and 25.07.2002 only to the extent of granting permission on 'permanent non grant basis' and further to issue directions to the respondents to release grants in aid in accordance with law.

4. According to the petitioners, petitioner No.1 is a registered public trust running petitioner No.2 school since 1990. The petitioners have filed several proposals for grants before the State Government. However, the State Government did not decide the said proposals, therefore, the petitioners had filed Writ Petition No.1290/1996 and vide order dated 22.06.1998, this Court directed the respondents to consider the proposal of the petitioners within three months. In the meantime, the petitioners also submitted the proposal on 05.03.1997. However, despite the directions of this Court in Writ Petition No.1290/1996, the respondent authorities rejected the proposal of the petitioners vide letter dated 16.11.1998. The petitioners again filed another proposal on 09.05.2000, which proposal was also rejected by the respondent authorities. Therefore, the petitioners filed Writ Petition No.2718/2001, which was disposed of vide order dated

29.10.2001 on the basis of the statement made by the learned AGP that the respondents would consider the proposal and decide it before 31.12.2001.

5. It is the case of the petitioners that after several efforts by the petitioners, the respondent authorities granted permission to the petitioners, however, said permission came to be granted on 'permanent non grant basis' vide order dated 29.06.2002 by the Section Officer, Education Department, Mantralaya, Mumbai. The petitioners, therefore, filed the instant petition seeking directions to the extent of modifying the permission from 'permanent non grant basis' to 'non grant basis' and further prayed for releasing grants in aid.

6. According to the petitioners, during the pendency of the petition, the Government has changed its policy vide Government Resolution dated 20.07.2009 and taken a decision to bring the schools from 'permanent non grant basis' to 'non grant in aid basis', meaning thereby, the word 'permanent' came to be deleted. In view of this subsequent Government Resolution dated 20.07.2009, the petitioners amended the petition and sought directions to give grants with retrospective effect.

7. The learned advocates for the petitioners submitted that since the petitioners were pursuing their grievance with the Government as regards sanction of grants right from beginning i.e. even prior to change in policy vide Government Resolutions dated 11.10.2000 and 20.07.2009, therefore, the schools run by the petitioners be held entitled for grants right from their first permissions. According to the learned advocates, after completion of five years after starting school, they are entitled to receive grants and in case of the petitioners in Writ Petition No.3839/2004, they are entitled to receive grants from 2007. Though subsequently, the State Government again changed its policy and the petitioners started receiving grants from 2016, however, the petitioners are claiming grants with retrospective effect i.e. from 2007 to 2016. The petitioners, therefore, assailed the Government policy whereby, it is prescribed that grants are not permitted to be granted with retrospective effect and it would be granted only prospectively and as per availability of funds. The learned advocates, therefore, vehemently prayed for allowing the petitions.

8. On the contrary, the learned AGP strongly opposed

the petitions. According to the learned AGP, sanctioning grants to schools is the policy decision of the Government and as the Government has taken the decision to grant sanction with prospective effect from 2016, therefore, the petitioners are not entitled to claim grants with retrospective effect. It is submitted that no fault can be found with the Government policy contained in Government Resolutions dated 20.07.2009 and 01.03.2014. This policy decision has been taken by the Government in order to provide grants to schools. Grants cannot be claimed as a matter of right. Since the Government has taken a policy decision not to give grants with retrospective effect, therefore, this Court under its jurisdiction under Article 226 of the Constitution of India, is not empowered to interfere in the policy decision of the Government. The learned AGP, therefore, prayed for dismissal of the petitions.

9. After considering rival submissions of the contesting parties, it is found that the Government has taken a policy decision regarding grant in aid to schools. Earlier, vide Government Resolution dated 11.10.2000, the State Government laid down criteria for providing grants to schools on 'non grant'

basis. Thereafter, again the State Government has taken a policy decision on 24.11.2001 to grant permission to schools on 'permanent non grant' basis. The State Government claims that this decision was taken in larger public interest considering financial constraints on the State exchequer. After taking aforesaid decision of granting permission on 'permanent non grant' basis, the Government started receiving numerous complaints from all over the State of Maharashtra requesting to extend grants to the schools. Therefore, the Government, after due deliberation, issued Government Resolution dated 20.07.2009 whereby, comprehensive policy for grant in aid to schools came to be prescribed. This resolution prescribed that the State Government would scrutinize eligibility of schools for grant in aid on the basis of specified criteria. However, certain conditions came to be stipulated like even if such schools is found to be eligible for grant in aid, it cannot claim such grant as a matter of right and secondly, grant in aid is the sole decision of the State which is subject to availability of funds. It is also prescribed that the schools are not entitled to receive grant in aid with retrospective effect, meaning thereby, grants are to be provided only from the date from which funds are made

available. In order to further clarify the position, another Government Resolution dated 01.03.2014 came to be issued whereby, the Government reiterated the policy of not sanctioning grants with retrospective effect. Thus, the policy consistently indicates that grant-in-aid is conditional, discretionary, and dependent upon financial capacity of the State. Unless such policy is shown to be arbitrary, discriminatory, or in violation of constitutional or statutory provisions, the Court would not interfere in exercise of its powers of judicial review.

10. In the above peculiar facts, we find that since the Government has taken a policy decision not to sanction grants with retrospective effect, we are unable to accede to the request of the petitioners in these petitions for the simple reason that same would amount to cause interference in the policy decision of the Government. We also find that the policy decision is taken by the Government in larger public interest and its implementation is also not found to be arbitrary or discriminatory. Moreover, the policy decision does not show any violation of fundamental rights or settled position of law. Even otherwise, the claim for retrospective grant-in-aid cannot be

countenanced. Grant-in-aid, by its very nature, involves financial implications on the State exchequer and is governed by budgetary allocations and policy priorities. The petitioners have not demonstrated any vested or accrued right to receive such grants from a prior date.

11. It is settled law that grant in aid is neither fundamental right nor statutory right of educational institutions. The Division Bench of this Court, in case of *Keraleeya Samajam and others vs. State of Maharashtra and others*, reported in *2004(2) Mh.L.J. 171*, has held that grant-in-aid cannot be claimed as of right. There is no legal or constitutional right insofar as grant-in-aid is concerned.

12. In view of the above discussion, these Writ Petitions are dismissed. Rule is discharged.

kps

(SUSHIL M. GHODESWAR, J.)

(KISHORE C. SANT, J.)