

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 15596 of 2015**

SHAKTIMA KELAVANI TRUST

Versus

COMMISSIONER OF SCHOOLS & 2 other(s)

Appearance:

MR RR VAKIL(964) for the Petitioner(s) No. 1

MR DHAWAN JAYSWAL, AGP for the Respondent(s) No. 3

CORAM:HONOURABLE MR. JUSTICE BHARGAV D. KARIA

**Date : 29/04/2022
ORAL ORDER**

1. Heard learned advocate Mr.R.R. Vakil for the petitioner and learned Assistant Government Pleader Mr.Dhawan Jayswal for the respondent No.3.

2. By this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

"(A) B pleased to admit this Special Civil Application.

(B) Be pleased to issue a writ of mandamus or any other appropriate writ, order or direction by quashing and setting asides the order dated 20.02.2015 and further be pleased to direct the respondent to give 100% salary and maintenance grant to the petitioner-Trust

as per the old policy from June 2001 till May, 2008.

(B) Pending admission, hearing and final disposal of this petition, be pleased to direct the respondents to allow the case of the petitioner-trust for giving 100% salary and maintenance grant from June 2001 to May 2008 as per the old policy when Harshadi Vidhyalay was registered in June 1984.

(C) be pleased to pass such other and further orders as may be deemed just and proper looking to the facts and circumstances of the case and in the interest of justice."

3. Brief facts of the case are that the petitioner-trust made an application to the Gujarat Secondary Education Board for restoring the registration of the school i.e. 'Harshadi Vidyalay' which was run by one Vikas Mandal, Jaliya till the year 1996. The Registration of the school run by the said trust was cancelled because of irregularities and not maintaining the average number of students.

4. The State Government by order dated 2/3.08.2000 restored the registration of the school with the change of place at Velvad post Padhiyar, Taluka Godhra to be managed by the petitioner-trust on condition of payment of grant as per the new grant policy i.e. the policy published by the Government Resolution dated 30.06.1999. The Gujarat Secondary Education Board by order dated 13th October, 2000 has also permitted the 'Harshadi Vidhyalay' to continue to impart education with the old index number. The petitioner started the said school at new place from June 2000.

5. It is the case of the petitioner that the petitioner thereafter, made various representations to recall the old teachers who were declared surplus so as again to accommodate in the school. However, the old teachers refused to come back to the school. The petitioner also made a representation before the State Government as per Rule 9.3 of the Grant-in-Aid Code (for

short, "Code") for payment of grant as per old policy prior to 30th June, 1999 as the recognition of the school which was restored by the State Government vide order dated 2/3.08.2000 was running since 1984.

6. It is the case of the petitioner that District Education Officer as well as Commissioner of School recommended the case of the petitioner to the State Government to pay the grant as per the old policy because as per the new policy, the grant is not paid to the school except for maintenance purpose from the 3rd year.

7. The respondent-State Government thereafter passed the impugned order dated 20th February, 2015 rejecting the representation of the petitioner-trust to pay the grant as per the old policy.

8. Learned advocate Mr.Vakil for the petitioner submitted that in spite of the recommendation

being made by the District Education Officer and Commissioner of Education, the State Government without assigning any reason in the impugned order has rejected the representation made by the petitioner.

9. It was submitted that the petitioner has received grant as per the new grant policy from June, 2001 till May, 2008 and thereafter, the petitioner has started getting the grant as per the Government Resolution dated 10.10.2007.

10. It was pointed out by learned advocate Mr. Vakil that as the registration of the old school which was functioning from June, 1984 to 1996 is restored in the year 2000, the petitioner was entitled to pay the grant as per the old grant policy.

11. Reliance was also placed on the Rule 9.1, 9.2 and 9.3 of the Grant-in-Code to submit that when the change is effected with the permission of the

department, the school shall be deemed an old one for the purpose of grant. It was therefore, submitted that the respondent State Government could not have rejected the representation of the petitioner contrary to the Rule 9.3 of the Code.

12. On the other hand, Learned AGP Mr. Jayswal submitted that the order dated 2/3.08.2000 is conditional order to restore the registration/recognition of the old school on condition that the grant would be paid to such school as per new grant policy.

13. It was pointed out that the order passed in the year 2000 has achieved finality as the same was not challenged by the petitioner at any point of time except making representation. It was, therefore, submitted that in view of the conditional order to restore the recognition, the petitioner is not entitled to get the grant as per the old policy.

14. Considering the submissions made on behalf of the petitioner as well as the respondent, it is not in dispute that recognition of the school was restored by the order passed by the State government in the year 2000, which has not been challenged by the petitioner at any point of time. The order dated 2/3.08.2000 is a conditional order with the condition that the petitioner would receive the grant as per the new grant policy. The recognition was restored on such condition only.

15. In view of the order dated 2/3.08.2000 passed by the State Government, the petitioner cannot be said to be entitled to get the grant as per old grant policy as per the Rule 9.3 of the Code. The petitioner for the reasons best known to it did not challenge the condition imposed in the order dated 2/3.08.2000 to restore the recognition on payment of grant as per the new grant policy.

16. In such circumstances, the respondent

authority has rightly rejected the representation of the petitioner to pay the grant as per the old grant policy from the year 2000 to 2008 by calculating the arrears of difference between the grant payable under the old policy and the new policy.

17. Therefore, without entering into the effect of the application of the old grant policy for payment of grant in view of the order passed by the State Government in the month of August, 2000, it is held that the petitioner is not entitled to get the grant as per the old grant policy.

18. The petition is therefore, devoid of any merit and is accordingly dismissed. Rule is discharged.

(BHARGAV D. KARIA, J)

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