

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

LD-VC-PIL No. 389 OF 2020

(Imran Israel Sheikh Vrs. Union of India, Ministry of Human Resource Development,
through its Principal Secretary, New Delhi and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri S.P. Bodalkar, Advocate for the Petitioner.
Shri Ulhas Aurangabadkar, A.S.G.I. for the respondent no.1.

CORAM : SUNIL B. SHUKRE & S.M.MODAK, JJ.
DATE : 6th JULY, 2020.

1. Heard learned counsel for the petitioner.

In the present form of petition with the kind of prayers that the petition makes, we are of the *prima-facie* impression that the petition represents only a regressive step in the field of education. The petition does not point out any inherent contradictions, defects and lacunae in the Standard Operating Procedure dated 15th June, 2020 so as to term it arbitrary, irrational or unreasonable and hence amenable to interference by this Court on the ground of violation of any fundamental right to education. All the issues attempted to be raised in this petition

basically relate to implementation of the Standard Operating Procedure. If there are any difficulties in implementation of Standard Operating Procedure, they could be sorted out by the State Government and if required also by the Union Government provided they are appropriately pointed out. It is, however, noticed that the petitioner has not approached the appropriate Governments for removal of the lacunae. Today, we are in 21st century where the world is being governed digitally in a greater way and therefore, the Standard Operating Procedure which prescribes e-learning and promotes digital and virtual methods of learning cannot but be hailed as a big progressive measure taken by the Government in making digital position of India stronger and firmer in the Comity of Nations. If the Standard Operating Procedure encourages e-learning, any citizen of India questioning its intentions and purposes would only be acting against interest and well being of his own country. A citizen of India, however, may come across

some issues in effective implementation of the Standard Operating Procedure but for that matter his duty would be to point out the same to the concerned authority, so that necessary corrective measures are taken by the authority.

2. Difficulties as pointed out by learned counsel for the petitioner are the factors external to the policy.

When these factors can be corrected, the policy cannot be termed as defective or unconstitutional. It is only when there are inherent defects or lacunae in the policy or the external factors are of nature which are irremovable or which are beyond repairs, then only the policy could be blamed as the one inherently defective and hence, adversely affecting the fundamental right to education.

3. In this view of the matter, we would only say that it would be better for the petitioner to first approach the concerned authorities for what he sees as defects or lacunae in the implementation of the Standard Operating Procedure, ofcourse with

necessary facts and proofs, and not just surmises or imaginary facts, and if the petitioner does not get any appropriate response from the authorities, inspite of submission of legally acceptable proof, the petitioner would be at liberty to knock at the doors of this Court.

4. Accordingly, granting such liberty to the petitioner, we dispose of this petition. No costs.

5. The order be uploaded on High Court Website and also be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

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