



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1726 OF 2001

- 1 St. Xavier's College
through its Principal,
Fr. J.M. Dias,
Mahapalika Marg,
Mumbai 400 001.
- 2 Maharashtra Association of Minority
Educational Institutions
a Society registered under the
Societies Registration Act, 1860
through its President and having
its office at Kashimira Road,
Thane – 401 104.Petitioners

V/S

- 1 University of Mumbai
Through its Vice Chancellor,
Fort, Mumbai 400 023.
- 2 The Registrar,
University of Mumbai
Fort, Mumbai – 400 023.
- 3 State of Maharashtra
through Government Pleader
Annexue Building, High Court,
Bombay.Respondents

Dr.Birenda Saraf with Mr.Jai Chhabria, Mr. Vishesh Malviya and
Ms.Ayushi Anandpara i/by Federal & Rashmikant for Petitioners.
Mr.Rui Rodrigues for Respondent Nos.1 & 2.
Mr.Abhay Patki, Addl.Govt.Pleader for Respondent No.3.

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17 To sum up, upon insertion of Article 15(5) to the Constitution, the 'minority' educational institutions (both aided and unaided) are exempted from enforcement of the reservation policy of the State in respect of backward class of citizens as interpreted by the judgments of the Constitution Benches of the Apex Court in **Ashoka Kumar Thakur vs. Union of India** (supra) and **Pramati Educational and Cultural Trust vs. Union of India** (supra), whilst upholding the validity of Article 15(5) of the Constitution.

18. The upshot of the above discussion is that the impugned Circular to the extent it provides for reservation of seats for students of backward class for admission in minority colleges, cannot be sustained. The impugned Circular is violative of Article 30(1) read with Article 15 (5) of the Constitution of India. Hence, the following order:

ORDER

- i) The Writ Petition is allowed.
- ii) The impugned Circular dated 30/05/2001 to the extent it provides 50% reservation of seats for backward class

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students for admission to all courses as mentioned in the impugned Circular in minority colleges is quashed and set aside.

- iii) Rule is made absolute accordingly. There shall be no order as to costs.
- (iv) It is clarified that we have not gone into the issue whether the members of the Petitioners' Association, list whereof is annexed to the Petition, are in fact minority institutions and the verification in that regard is left to the Respondents.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)



A. A. Sayed

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