
(1989) 12 BOM CK 0003
In the Bombay High Court
Case No : Writ Petition No. 16 of 1989

Harmal Panchakroshi Shikshan Mandal	APPELLANT
Vs	
State of Goa	RESPONDENT

Date of Decision : 21-12-1989

Acts Referred:

Constitution of India, 1950 — Article 19, 226, 30

Citation : (1990) 92 BOMLR 114

Hon'ble Judges : T.D. Sugla, J;G.F. Couto, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

T.D. Sugla, J.—By this petition under Article 226 of the Constitution of India, the petitioners have challenged the recognition/permission granted by the respondent Nos. 1 to 3 in favour of the respondent No. 4 for starting a middle school in the year 1985 and classes VIII and IX in the years 1988 and 1989. The challenge is mainly on the ground that the recognition/permission granted to respondent No. 4 has been in violation of Rule 3(i) of the Grant-in-aid Code (hereinafter referred to as "Old Rules"), second and third clauses of the Third Proviso to Rule 31(3) and Rules 37(ii) and 37(xx) of the Goa, Oman and Diu School Education Rules, 1986 (hereinafter referred to as "New Rules"). The Goa, Daman and Diu school Education Act, 1984 under which the New Rules were framed will hereinafter be referred to as the "New Act". Both the New Act and Rules came into force with effect from 22nd November, 1986.

2. In its affidavit-in-reply, the respondent No. 4 (hereinafter referred to as "the respondent society") stated that representing a religious minority, it opened a school and as such it was entitled to the protection granted under Article 30(1) of the constitution of India. It was stated that the management and control over the school is under the Archbishop of Goa and other priests. The School is to cater the needs of the Roman Catholic population of the town. The education was to be in the background of Catholic Religion. 84% of the students were from

Roman Catholic Community. The Roman Catholic Christian population in the territory of Goa, Daman and Diu was 33%. Permission to open the school was obtained under the Old Rules in the year 1981. At that time the permission was for a primary school only. Permission to open up standard V was granted in the year 1985 which was again under the Old Rules as the New Rules had come into force with effect from November 1986. It was further stated that most of the students in the middle and secondary school were from their own school and that until then the school had not admitted any student from the petitioner school.

3. A detailed affidavit was filed by the respondent society which is dated March, 13, 1989. In this affidavit, besides reiterating what was stated in its earlier affidavit, it was stated that the recognition/permission granted for opening the middle school and classes VIII and IX of the secondary school did not in any way violate the provisions of Rule 3(i) of the Old Rules and Rules 31(3) Third Proviso second and third clauses and 37(ii) and 37(xx) of the New Rules.

4. The petitioner No. 1 filed affidavit-in-re-joinder dated March 20, 1989 questioning almost all averments made by the respondent society in its aforesaid two affidavits and in particular disputing its minority status.

5. The respondent society filed a sur-rejoinder dated March 27, 1989 alongwith the constitution, objects and/or rules and regulations of sociedade De Instrucao Da Arquidiocese De Goa E Damao (Diocesan society of Education) and the letter dated May 29, 1985 from the Government granting it permission to open standard V from the year 1985-86 were also enclosed.

6. Thereafter, an affidavit dated March 28, 1989 was filed by the petitioner no.2 practically reiterating what was stated in the petition and in the affidavit by the petitioner No. 1.

7. It is pertinent to mention that respondent Nos. 1, 2 and 3, the State of Goa, the Director of Education, Government of Goa and the Deputy Education Officer, North Education Zone, Goa respectively (hereinafter referred to as "the Government"), did not file appearance until November 20, 1989 when an affidavit of the same date was filed. The stand taken by the Government is that permission to the respondent society to start middle school as well as classes VIII and IX were granted accepting their claim that the school was run by and for the benefit of minority religious community. It was, however, stated (in paragraph 5) that on reconsideration of the position and the memorandum of association of the respondent society, it was not conclusively established that the school was established and run by minority community. It is pertinent to note that at the time of hearing, Shri Bhole, the learned Counsel for the Government, was not able to enlighten us as to the circumstances in which the matter was reconsidered by the government, whether while reconsidering the position an opportunity was given to the respondent society and whether, if this decision was final, any steps were taken by the Government in pursuance of the said decision against the society. It may not be out of place to mention that the respondent

society had, alongwith its affidavit dated March 27, 1989, furnished the memorandum and objects of association and the decision to permit the respondent society to start standard IX class was taken on August 9, 1989.

8. In reply to the affidavit by the Government, the respondent society filed an affidavit dated November 27, 1989 in rejoinder. To this petitioner No. 2 has also filed an affidavit-in-reply which was presented on December 6, 1989.

9. The first question that requires consideration is whether the school run by the respondent society is entitled to protection under Article 30(1) of the Constitution of India. In this context it is desirable to mention that the respondent society sought permission to open standard V vide its letter dated December 13, 1984. It was clearly mentioned in that letter that it was a minority institution protected under Article 30 of the Constitution of India. It is true that permission was refused in the first instance by letter dated March 2, 1985 by the Government on the ground that there was already an English medium school quite near to the respondent society's school and that opening of another high school would have adverse effect on the existing school for want of children and teachers might have to be rendered surplus. Permission was, however, eventually granted by letter dated May 29, 1985 accepting the claim that the society was entitled to protection under Article 30(1) of the Constitution. Permission to open class VI and class VII from the years 1986-87 and 1987-88 respectively appears to have been granted in due course except that in the letter dated May 8, 1986, the Government made it clear that the school run by the respondent society was to limit itself upto standard VII as it might not be possible for the Government to allow secondary education from standard VIII onwards. Permission to start classes V and VI was evidently granted under the Old Rules as the New Rules came into force in November 1986 only. It, however, appears that permission to start standard VIII was granted by letter dated August 24, 1988 in due course but permission to start standard IX was in the first instance rejected vide letter dated April 27, 1989 which was communicated to the respondent society sometime in May 1989 in pursuance of the orders of this Court, though finally permission to start standard IX was also granted by letter dated August 9, 1989.

10. So far as the Government's stand as regards minority status of the institution run by the respondent society is concerned, we must observe that we have not been very happy about the manner in which the Government has behaved in this case. The Government accepted the minority status of institution in May 1985 when it granted the respondent society permission to start standard V. Despite its taking a contrary stand by filing an affidavit dated March 2, 1989 in Writ Petition No. 79 of 1987, it reconsidered the status of the institution and accorded sanction to the school for starting standard IX from 1989-90 onwards. About three months thereafter, the Government has again come up with a stand that the school run by the respondent society does not deserve the minority status. Apart from the fact that the Government has not taken, assuming it is entitled to consider and/or reconsider this question as and when it wishes, a

categorical stand even in the affidavit filed before this Court on November 20, 1989, the Government, it appears to us, is still vacillating whether or not to grant the school a minority status. This is evident from the averment made in paragraph 5 of its affidavit the relevant part of which reads as under;

I say that on consideration of the petition it is now seen that the 4th respondent which seems to have been claiming minority rights under Article 30(1) are not entitled to the same. It is submitted that on consideration of the position and the memorandum of association of the 4th respondent it does not conclusively establish that the 4th respondent's Institution is established by Minority Community.

11. In our judgement, the stand of the Government deserves to be rejected for more than one reason, viz,-

(i) the memorandum of association was available to the Government atleast on and after March 27, 1989 when the respondent society had filed an affidavit and had enclosed the memorandum and objects of association along therewith. When the Government permitted the school to start standard IX on August 9, 1989, it must have considered all relevant aspects including the memorandum and objects of the respondent society. It has not been stated in the affidavit nor was it clarified by the learned Counsel for the Government during the course of arguments as to what was the occasion for the Government to reconsider this question in November 1989. Apart from what was stated in paragraph 5 of the affidavit, the counsel was not able to explain the reasons for the Government's considering that the minority status of the school was not conclusively established.

(ii) Moreover, the averment is vague. Mere statement in the affidavit that on consideration of the position and the memorandum of association did not establish conclusively that the school was established by a minority community docs not mean anything. No opportunity was admittedly given to the respondent society at the stage of reconsideration. The Government was bound to take steps to de-recognise the school if it was found that the school run by the respondent society was not a school established by a minority religious community. In the circumstances, so far as the Government is concerned, the Government had granted permission to the respondent society to start the classes upto IX standard on the basis that it was entitled to the protection under Article 30 of the Constitution and this position has not and could not be changed unilaterally.

12. Coming to the affidavit filed on behalf of the petitioners wherein the minority status of the school is disputed, it is seen that the affidavit docs not furnish any material on the basis of which it can be held that the school run by the respondent society is not entitled to protection under Article 30(1) of the Constitution. No doubt Shri Kakodkar, the learned Counsel for the petitioners, had, in the course of his argument, urged that it was for the school claiming protection under Article 30(1) to establish that it was established by the minority

community for minority community. Placing reliance on a Supreme Court decision in the case of *A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another*, he argued that it was open to this Court to pierce the veil and find the exact character of the school rather than going by its nomenclature. However, no particulars were given by him in support of this contention even at the time of hearing. The respondent society, on the other hand, stated that the population of Roman Catholic community in Goa on the basis of 1981 census was about 30% and that the school was run by the respondent society of which chairman was Archbishop and other members of the committee were priests. The objects of the society, inter alia, were to impart secular education in the background of Roman Catholic religion. 84% of the students, it was pointed out, were from Roman Catholic community.

13. In the circumstances, it is only fair to proceed on the basis that the school is entitled to protection under Article 30(1) of the Constitution. We would, however, like to make it dear that if the Government considers that the school run by the respondent society was not entitled to protection under Article 30(1), it may, after giving the respondent society an opportunity of being heard, reconsider the claim and take an appropriate decision in accordance with law in which case the respondent society will be entitled to challenge the decision in case the decision happened to be against it.

14. We have next to consider whether the protection to a minority institution under Article 30(1) of the Constitution is absolute or amenable to regulatory provisions in the Old Rules, New Act and New Rules. A number of decisions were cited by Shri Kakodkar on behalf of the petitioners and Shri Pereira on behalf of the respondent society in this regard, namely, *In re The Kerala Education Bill*, A.I.R.[1958] S.C. 956, *D.A.V. College, Jullundur etc. v. State of Punjab* AIR [1971] S.C. 1773, *Rt. Rev. Msgr. Mark Netto Vs. State of Kerala and Others*, , *Rev. Sidhraibhai Sabbaj v. State of Gujarat* A.I.R.[1963] S.C. 540, *Frank Anthony Public School Employees' Association Vs. Union of India (UOI) and Others*, , *Socio Literati Advancement Society, Bangalore Vs. State of Karnataka and Others*, , *Fr. Mathew Munthiri Chinthyil Vicar, St. Mary's Church Anikkampoil and Another Vs. State of Kerala and Others*, , and *Krishna Chandra Gangopadhyaya and Others Vs. The Union of India and Others*, .

15. Strongly relying on the Kerala High Court's Full Bench decision on (*supra*), it was contended by Shri Kakodkar for the petitioners that the protection under Article 30(1) was not absolute and was subject to regulatory provisions. He stated that the Supreme Court decisions relied upon by Shri Pereira for the respondent society are with regard to the administration of the institutions and not as regards establishment of institutions and Kerala High Court being the only decision nearest to the point at issue, we should follow the said decision. On the other hand, Shri Pereira stated that Article 30(1) of the Constitution uses the word "and" between the words "establish" and "administer". Therefore, what was applicable to the administering part of it was equally applicable to the

establishing part of it. His contention, thus, was that this Court was bound to and ought to follow the Supreme Court decisions.

16. In *Rev. Sidhuraibhai Sabbaj v. State of Gujarat* AIR [1963] S.C. 540, the Supreme Court summed up the position under Article 30 as under at p. 547 para 15 of AIR [1963] S.C. 540:

The right established by Article 30(1) is a fundamental right declared in terms absolute. Unlike the fundamental freedoms guaranteed by Article 19, it is not subject to reasonable restrictions. It is intended to be a real right for the protection of the minorities in the matter of setting up of educational institutions of their own choice. The right is intended to be effective and is not to be whittled down by so-called regulative measures conceived in the interest not of the minority educational institution, but of the public or the nation as a whole. If every order which while maintaining the formal character of a minority institution destroys the power of administration is held justifiable because it is in the public or national interest, though not in its interest as an educational institution, the right guaranteed by Article 30(1) will be but a "teasing illusion", a promise of unreality. Regulations which may lawfully be imposed either by legislative or executive action as a condition of receiving grant or of recognition must be directed to making the institution while retaining its character as a minority institution effective as an educational institution. Such regulation must satisfy a dual test—the test of reasonableness and the test that it is regulative of the educational character of the institution and is conducive to making the institution an effective vehicle of education for the minority community or other persons who resort to it". The Supreme Court, it is common ground, has consistently taken this view in all subsequent decisions including the decision in *Krishna Chandra Gangopadhyaya and Others Vs. The Union of India and Others*, , by a Bench consisting of nine Judges. It may be true that all these cases were rendered in the context of administration of institutions run by the minorities. However, we see no good reason why the same principle should not apply in the matter of establishment of the institutions. The decision in favour of the proposition that regulatory provisions are applicable even to an institution entitled to protection under Article 30(1) is stated to be that of Full Bench of Kerala High Court (*Supra*). The relevant observations are found at page 230 paragraph 6. The relevant portion reads as under *Fr. Mathew Munthiri Chinthyl Vicar, St. Mary's Church Anikkampoil and Another Vs. State of Kerala and Others*, :

In the course of the argument, we had asked the petitioner's counsel whether the minorities would claim a right to establish educational institutions whenever and wherever demanded. Although with hesitation, petitioner's counsel was obliged to admit that this extreme right cannot be maintained. We think too, that such an extreme position entitling the minority to ask, and to be given, the educational institutions, wherever it wants to establish, at any moment when the cry is raised, is not the scope and the content of Article 30. Regulation of the

right in time as well as in space, must, it appears, be permissible. Rule 2 seems to provide for nothing more than such a regulation. It provides for the assessment of the educational needs of the locality by a competent authority after taking into account the relevant considerations. In weighing the educational needs of the locality, the authority, we have no doubt, is bound to consider, and will indeed consider, the requirements of the minority communities in establishing educational institutions of their choice. Before finalising the list of schools to be opened in any locality, applications are to be invited, objections are to be received, and only after consideration of these, is the list to be finalised. The minority community therefore gets abundant opportunity of urging and putting forward its needs for serving the cause of education in a locality. Quite apart from the opportunity that it gets, the authorities are themselves bound to consider on their own the educational needs of the locality from the point of view of the interests of the minority community. We cannot, therefore, in the nature of things, regard Rule 2 as passing beyond the pale of permissible regulations and trenched on the offending sphere of restrictions on the fundamental right." Thus, even this decision recognises the position that authorities are themselves bound to consider on their own the educational needs of the locality from the point of view of the interest of the minority community. It is in this background that certain rules of Kerala Educational Rules were upheld by the Court. Therefore, we are inclined to take the view that general regulatory provisions do not apply to institutions entitled to protection under Article 30(1) of the Constitution. In any event, assuming some regulatory provisions apply, the consideration of the application has to be from the point of view of the minority community and not from the point of view of the society or locality as a whole.

17. Next question to be considered is whether the third proviso to Rule 31(3) of the New Rules applies to the school run by the respondent society. For this purpose, it will have to be first examined whether the school run by the respondent society is an "existing school" within the meaning of Section 2(i) of the New Act. There is no dispute that if the school run by the respondent society is an "existing school", the provisions of Rule 31 of the New Rules will not apply as Rule 31 evidently applies only to cases where the intention is to open a new school. Shri Kakodkar, in this context, invited our attention to the definition of "school" in Section 2(u) of the New Act to show that under the definition of "school", a school could be a pre-primary school, primary school, middle secondary school, secondary school and so on and so forth. A primary school was stated to be different school from a middle school, and a middle school different from a secondary school and, therefore, permission to start a standard falling in another stage would tantamount to an intention to open a new school. In support, he referred to Rule 4 of the New Rules and Rules 4 and 5 of the Old Rules. It was urged that the condition laid down in Rule 31(3), third proviso, third limb was clearly violated when permission was granted to the school for opening standard VIII and standard IX, the school run by the respondent society being admittedly within 200 metres of the petitioner school. As regards

permission granted for standard V and standard VI also, it was the case of Shri Kakodkar that the permission was wrongly granted in as much as the question whether Rule 3(i) of the Old Rules was complied with by the respondent society or not was not considered on a wrong assumption of law, namely, that protection to the minorities under Article 30(1) of the Constitution was absolute. He reiterated that the school run by the petitioners was an existing school; the opening of another English medium secondary school within 200 metres of the petitioners' school was to result in unhealthy competition and adversely affect the running of the existing school.

18. Shri Pereira, on the other hand, contended that permission to start V and VI was granted to the respondent society before the New Act or New Rules came into force. Under the Old Rules there was no condition that a new school within 5 Kms. of an existing school could not be started unless the Government was satisfied that the existing school was overcrowded and there was no scope for further expansion or that there was no easy access to the existing school. It was stated that under the Old Rule 3(i), which is alleged to have been violated by the petitioners in this case, the only requirement was that the school was actually needed in the locality and it did not involve any unhealthy competition with an existing institution of the same category in the neighbourhood. Similar rule, it was admitted, is now found in two sub-rules of Rules 37(ii) and 37(xx) of the New Rules. According to Shri Pereira, though it was not clear from the letters granting permission/recognition to the school run by the respondent society for starting standards V to IX whether the Government had considered these aspects, the facts placed by the petitioners before this Court do not at all show that the starting of the school by the respondent society has resulted in any unhealthy competition or that the strength of the students in the existing school has dwindled down or that the petitioners had to retrench some of the teachers on account of shortage of students. On the other hand, the statement at Annexure "p6" to the petition (page 41) clearly shows that the existing school has not at all been adversely affected by the opening of the school run by the respondent society.

19. In our judgement, the school run by the respondent society falls within the ambit of "existing school" as defined in Section 2(1) of the New Act. Our reasons for this conclusion are that under the Old Rules which, as the preamble shows, were applicable to secondary schools, colleges and other educational institutions, barring the primary ones for which other rules obtained, made no distinction between middle schools and secondary schools as such. Technically, therefore, when the school run by the respondent society was permitted to start standard V, it was a permission for starting a secondary school. This is evident from the fact that heading of Chapter II of the Old Rules is "secondary schools"; Rules 3, 5 and 6 are applicable to all secondary schools; and Rule 6 in particular contemplated standards V to VII and standards VIII to XI as different standards of the secondary school. Section 2(u) of the New Act which defines "school" also refers to the two divisions of the secondary schools as middle secondary and

higher secondary schools and not as middle school and secondary school. As regards New Rules, the rules define higher secondary stage, middle stage, primary stage, secondary stage etc. They do not refer to different stages as distinct schools. In fact both Section 2(u) of the New Act and Rule 2(j) of the New Rules define the word "school" as including all types of schools, i.e., pre-primary, primary, middle etc. whereas Rule 2(i) defines secondary stage as meaning stage of school education having VIII to X classes or V to X classes, as the case may be (both inclusive). All this, according to us, shows that under the Old Rules there was no marked distinction between middle school and secondary school and they were treated as two different stages of the secondary school.

20. It is no doubt true that the Government in its letter dated April 17, 1985 had asked the respondent society whether the management was willing to run the middle school as an unaided school on permanent basis and in its letter dated May 8, 1986 granting permission to the school to start standard VI, it was made clear that the school was to limit itself upto standard VII. It is equally true that in another letter dated June 25, 1986 the respondent society had stated that the condition that the school should not go beyond standard VII was not acceptable to it because its acceptance would not meet the purpose for which the school was started i.e., to serve the needs of the minority community of the place. It was hoped in the letter that the directorate will allow expansion of the school into a full fledged one. In any event, this is not very germane to the point at issue. Under Rule 2 of the Old Rules application for starting a secondary school was to be made to the Director of Education atleast six months before the commencement of the academic year. Application for recognition of school was to be made within one month of the opening of the school. Conditions of recognition are found in Rule 3. Rule 4 provides that for a period of five years the recognition to a school would be given from year to year. Rule 6 provided that "no recognised school should teach a standard or standards higher than those for which it had been recognized, without the previous permission of the Director of Education." The Old Rules, thus, clearly envisaged opening of a secondary school with permission to teach standards upto the middle stage or even upto a particular standard. All the same, the school will have to be treated as a secondary school. Rule 36 of the New Rules, which provides for the form and manner of application for recognition, clearly provided that that rule was not to apply to the existing schools. The relevant extract from the rule reads as under:

However, all existing recognised schools, subject to the provisions of these rules, shall be deemed to have been recognised under these rules.

21. Looked at from any point of view, therefore, it has to be held that the school run by the respondent society is an existing school with permission to start standards V and VI from the New Act and the New Rules came into force.

22. An argument was advanced as to whether the permission granted to the respondent society to start standards V and VI for the years 1985-86 onwards and 1986-87 onwards respectively was not illegal in view of the fact that the

authorities wrongly assumed that because the school was entitled to protection under Article 30(1), Rule 3 of the Old Rules, in particular sub Rule 1 thereof, was not to apply. It was argued that if permission to start standards V and VI was found to be illegal, it would have to be held that the school run by the respondent society was not an existing secondary school when the New Act and Rules came into force. In order to appreciate the submission made on behalf of the petitioners, we went through the correspondence between the respondent society and the Government. It is seen that while emphasising the fact that the school to be run by the society was entitled to protection under Article 30(1), facts were placed to indicate that there was a need for such a school in the locality and that the opening of a school was not to adversely affect the existing institution. It is also seen that though the Government in its affidavit dated November 20, 1989 raised some doubts about the minority status of the school, it did not make a specific averment that if the school was not entitled to the protection under Article 30(1), the conditions of recognition, particularly the condition envisaged in Rule 3(i), would be violated. Having then regard to the chart placed before us by the petitioners themselves at page 41 of the paper-book, in the absence of any other material placed by the petitioners to show that the opening of the school resulted in unhealthy competition with their school, we find it difficult to accept Shri Kakodkar's submission that the permission to start Vth and VIth classes by the Government violated Rule 3(i) and was, therefore, illegal. In the circumstances, it has to be held that the permission to start a secondary school with classes upto VI standard granted to the school run by the respondent society was valid in law.

23. The facts that the school started standard V in the year 1985-86, that it is within 200 metres of the petitioners' school and that permission to start standard V tantamounted to permission for a school atleast upto the middle level, if not upto the secondary level, it cannot disputed, must have been within the knowledge of the petitioners. Yet, for reasons best known to them, the petitioners chose to file this writ petition in January 1989, that is, four years after the permission to start standard V was granted and about a year after the permission to start standard VIII was granted. As stated by us in the earlier paragraphs, it has not been established by the petitioners that their school has, as a matter of fact, suffered as a result of the opening of the school run by the respondent society in the manner contemplated in Rule 37(ii) and Rule 37(xx) of the New Rules. The Government has not taken a stand that Rules 37(ii) and 37(xx) are violated. In the circumstances, it will be too much to accept the petitioners' contention at this late stage that permission granted to the respondent society to start classes V to VIII in the school violated any of the provisions of these rules.

24. It is true that classes VIII and IX were started after the coming into force of the New Act and Rules. The school run by the petitioner society was, we have already held, an "existing school" with permission to open classes upto VII standard. Further question that arises for consideration is whether for the

purpose of opening standards VIII and IX the school was intending to open a new school or it was only a case of an existing school opening new classes. In our judgment, mere fact that Section 2(u) of the New Act and Rule 2(j) of the New Rules inclusively define the word "school" as meaning pre-primary, primary, middle, secondary, higher secondary schools etc. does not lead to a necessary inference that each stage of the school amounts to opening of a new school. On the other hand, it only means that if there is a school even having middle classes, it is a school so long as it is a recognised school. In this view of the matter, we are afraid that Rule 31 is not applicable in this case at all. As regards Rules 37(ii) and 37(xx) of the New Rules, assuming they apply to schools entitled to protection under Article 30(1) of the Constitution of India, their application will have to be examined from the point of view of the minority religious community. Moreover, it has not been established by the petitioners that their school was in any way affected adversely by the opening of the school run by respondent society. The Government in its affidavit has not even made an averment that the rules are violated.

25. At this stage, it may also be desirable to consider contentions raised on behalf of the petitioners and the respondent society respectively which were of technical nature not touching upon the merits of the case. Shri Pereira for the respondent society contended that the petitioners had no locus to file this petition. Shri Kakodkar for the petitioners, on the other hand, pointed out that Writ Petition No. 79 of 1987 filed by the respondent society in which the minority status of the institutions run by it was reiterated and the validity of certain provisions in the Old Rules, New Act and New Rules was challenged and also another writ petition filed in the year 1989 against the Government's letter dated April 27, 1989 refusing the school permission to start IX standard classes were withdrawn. In our judgment, there is no merit in either of the contentions. The concept of locus standi has undergone sea change after public interest litigation has been recognised as providing a good locus. That apart, in this case the petitioners are running an English medium high school in the same locality. To say that opening of another English medium high school in the same locality would not at all affect the petitioners adversely is too good a proposition to be accepted. There is also no merit in Shri Kakodkar's submission inasmuch as the two writ petitions were withdrawn by the respondent society primarily for the reason that they had become infructuous after the Government had granted the school permission to start IX standard class by letter dated August 9, 1980. In any event, Writ Petition No. 79 of 1987 was withdrawn with liberty. We are told that the respondent society runs a number of educational institutions a few of which were started in the first instance by the then Portuguese Government in Goa and handed over to the society for running them. Since, in view of the Supreme Court decisions such institutions were not entitled to protection under Article 30(1) of the Constitution, it was considered desirable to file a fresh writ petition as and when necessary. Therefore, nothing turns on the respondent society's withdrawing the said two writ petitions.

26. In the result, the petition fails and is hereby dismissed. The rule stands discharged. No order as to costs.