IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 408 OF 2026
IN
WRIT PETITION NO. 3834 OF 2026

Om Education Society and Ors. … **Petitioners**

V/s.

State of Maharashtra and Ors. … **Respondents**

Mr. Gaurav Sinha for the Petitioners.
Smt. Kavita N. Solunke, Additional GP a/w Mr. V. G. Badgujar, AGP for the Respondent – State.
Mr. Anirudha Kulkarni, under Secretary School Education & Sports Department, Mantralaya Mumbai is present.

CORAM : R. I. CHAGLA AND
FARHAN P. DUBASH, JJ.

RESERVED ON : 6th AUGUST 2026
PRONOUNCED ON : 7th AUGUST 2026

ORDER (Per Farhan P. Dubash, J):

1. The present Contempt Petition has been instituted by the Petitioners - Schools alleging willful and deliberate breach of the order dated 26th March 2026 passed by this Court in Civil Writ Petition No. 3824 of 2026 and seeking appropriate action against the Respondents under the Contempt of Courts Act, 1971.

2. By the said order dated 26th March 2026, this Court accepted the statement made by the learned Additional Government Pleader, on instructions, that the Respondent - State would reimburse to Petitioner Nos. 3 to 5 Schools, their pending dues, to the extent found due and payable, within a period of eight weeks from 1st April 2026, i.e. on or before 27th May 2026. The said Writ Petition had been filed by the Petitioners seeking release of reimbursement aggregating to Rs. 3,65,75,530/- claimed to be due under the provisions of the Right of Children to Free and Compulsory Education Act, 2009 **("RTE Act")**.

3. Today, Ms. Kavita Solunke, learned Additional Government Pleader appearing for the Respondent - State, on instructions of Mr. Anirudha Kulkarni, Under Secretary, School Education and Sports Department, Mantralaya, Mumbai, who is personally present before the Court, states that the Respondent - State shall comply with the aforesaid order dated 26th March 2026 and release the admissible amount payable to the Petitioners - Schools within a period of four weeks from today and, in any event, not later than 4th September 2026. The statement is accepted as an undertaking to this Court.

4. Stand over to **7th September 2026** for reporting compliance.

5. Although the present Contempt Petition stands substantially resolved in view of the statement now made on behalf of the Respondent - State, the matter has once again brought to the fore, a recurring issue concerning reimbursement under Section 12(2) of the RTE Act. Since the issue repeatedly engages the attention of this Court and is the genesis of a large

number of writ petitions as well as subsequent contempt proceedings, we consider it appropriate to make the following observations.

6. The controversy which formed the subject matter of the Writ Petition concerns the failure of the Respondent - State to reimburse amounts claimed by the Petitioners - Schools under Section 12(2) of the RTE Act. The RTE Act is a beneficial social welfare legislation enacted to give effect to the fundamental right to education by ensuring that every child between the ages of six and fourteen years, receives free and compulsory elementary education. Under Section 12(1)(c), schools falling within Section 2(n)(iii) and (iv) are required to admit, to the extent of at least twenty-five per cent of the strength of Class I, children belonging to the weaker sections and disadvantaged groups and to provide them free elementary education till its completion. Correspondingly, Section 12(2) creates a statutory obligation upon the State to reimburse eligible unaided schools expenditure so incurred by them to the extent of the per-child-expenditure incurred by the State or the actual amount charged from the child, whichever is lower, in the prescribed manner.

7. In exercise of the rule making power under the RTE Act, the State Government has framed the Right of Children to Free and Compulsory Education Rules, 2010 **("said Rules")** and has also issued Government Notifications dated 24th May 2012 and 15th March 2013 prescribing the procedure governing such reimbursement. Clause 12 of the 2013 Notification requires schools to submit reimbursement claims in two instalments and obliges the concerned Education Officer, upon verification of the claim and satisfaction regarding compliance with the Act and the Rules, to forward the

eligible claim to the Director of Education (Primary) within one month. Significantly, however, neither the Rules nor the said Notification prescribe any timeline thereafter, within which, the Director of Education or the concerned Department is required to process the proposal and release the reimbursement amount.

8. The absence of any prescribed timeline at the subsequent stages has resulted in a recurring administrative difficulty. Schools are required to continue admitting students under the statutory quota and incur expenditure towards their education in compliance with the mandate of the RTE Act. However, reimbursement proposals often remain pending for years together, thereby placing substantial financial burden upon such institutions. While the State is undoubtedly entitled to scrutinize every proposal and ensure strict compliance with the statutory requirements before releasing public funds, such scrutiny must necessarily be undertaken within a reasonable period. Administrative verification cannot become a justification for indefinite inaction.

9. The consequences of such delay are evident from the repeated litigation reaching this Court. The Registry has informed us that between 1st January 2026 and 6th August 2026 alone, no fewer than 133 Writ Petitions have been instituted seeking directions for release of reimbursement under Section 12(2) of the RTE Act. A substantial number of those petitions have already been disposed of by directing the State Authorities to process and release the admissible amounts within stipulated timelines. The present Contempt Petition is itself a consequence of the failure to comply with one such order. Such recurring litigation not only imposes avoidable hardship upon

educational institutions but also results in unnecessary consumption of judicial time in matters which ought ordinarily to be resolved administratively.

10. We are of the considered view that unless the reimbursement mechanism is made time-bound, the legislative object underlying Section 12 of the RTE Act is liable to be seriously undermined. The statutory obligation cast upon private unaided schools to provide free education to children belonging to weaker sections and disadvantaged groups is inseparably linked with the corresponding statutory obligation of the State to reimburse the eligible expenditure. The efficacy of one cannot be divorced from the other. Delayed reimbursement over prolonged periods inevitably affects the financial viability of institutions which continue to discharge their statutory obligations in the meantime. The object of the RTE Act is to facilitate, and not discourage, participation of private educational institutions in the implementation of this important social welfare measure.

11. We are therefore of the opinion that the State Government should undertake a comprehensive review of the existing reimbursement mechanism. Such review should, inter alia, examine (i) the prescription of definite timelines at every stage of processing reimbursement proposals from the Education Officer up to the final release of funds, (ii) the establishment of an appropriate monitoring mechanism for ensuring compliance with such timelines and (iii) the adequacy of the existing reimbursement amount, which we are informed has continued at Rs. 17,670/- per child, since the academic year 2016-17, notwithstanding substantial escalation in educational expenditure during the intervening period.

12. We expect the State Government to constitute an appropriate Committee comprising senior officers of the Finance Department and the School Education and Sports Department, along with such other officers as it may consider necessary, to examine these issues. The Committee may also invite representations from recognised associations representing unaided schools and other stakeholders before making its recommendations. We hope and trust that the necessary exercise shall be undertaken expeditiously and, preferably, before the end of the calendar year 2026.

(FARHAN P. DUBASH J.) **(R. I. CHAGLA J.)**

Shubham Gadhavepatil

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Digitally signed by SHUBHAM SHESHRAO GADHAVEPATIL
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