

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 1921 OF 2002
WITH
CIVIL APPLICATION NO. 11604 OF 2014**

1. Sau. Kamalbai w/o. Panditrao Thakare.. Petitioners
Age.36 years, Occ. Labour,
R/o. Nagaon, Taluka and
District Dhule.
2. Vedu Pandu Gaikwad
Age. 40 years, Occ. Labour,
R/o. Shridhane Pr. Ner,
Taluka & District Dhule.
3. Jaysing s/o. Onkar Bhill
Age. 42 years, occ. Labour,
R/o. Nave Kolde,
Taluka Sindkheda, Dist. Dhule.
4. Budha Dhavlu Sable
Age. 41 years, Occ. Labour,
R/o. Bodgaon, Taluka Sakri,
District Dhule.

Versus

1. The State of Maharashtra .. Respondents
2. Zilla Parishad, Dhule,
District Dhule,
Through its Chief Executive Officer.

Mr. V.D. Hon, Advocate for the petitioners.
Mr. S.B. Pulkundwar, AGP for respondent/State.
Mr. S.P. Shah, Advocate for respondent No.2.

**CORAM : A.V. NIRGUDE &
V.K. JADHAV, JJ.
DATED : 08.01.2015**

ORAL JUDGMENT [PER : A.V. NIRGUDE, J.] :-

1. The petitioners are residents of Dhule district. They belong to Aadiwasi community. Since 1975, Zilla Parishad, Dhule, was running at their own cost a residential school for tribal students at Nagaon, Tq. & Dist. Dhule. In 1998 District Dhule was bifurcated into two districts. Predominantly populated area by tribal was district Nandurbar and was separated from Dhule district. In view of this change, Zilla Parishad, Dhule, thought it fit to close down the school. They resolved that they would close down the school mainly because in district Nandurbar, there are number of such schools either run by the Government or by grant-in-aid societies. This decision is challenged in this petition.

2. It is case of the petitioners that this decision was taken for extraneous consideration, such as political rivalry etc. We are not concerned with such aspect of the case. The Zilla Parishad, Dhule did not submit any reply. Till today, there is no statement on record to suggest as to whether Zilla Parishad has reconsidered its decision. Fortunately, for the petitioners and the school, which was in existence for 25 years, respondent Zilla Parishad was prevented from closing it down and the school is still running. We are told that the school has strength of 150

students at the moment.

3. The question is - whether the decision of the Zilla Parishad to close down the school was correct? The answer is in the NEGATIVE. The reasons mentioned in the resolution are not at all convincing. We are aware that district Dhule since it is separated from the area which is now Nandurbar district, might not have many tribal people residing there, but once a school is established, the tribal students from all over the Maharashtra were able to come and take education there. The school, which is established in 1977-78, is quite established institute and so for the flimsy reason, such an established school cannot be closed down. The decision of closing down the school was thus incorrect.

4. Learned Counsel for the Zilla Parishad suggested that the petition which is filed in 2002 is no more relevant because the petitioners' children have already passed out from the school. Learned Counsel for Zilla Parishad also suggested that the Court cannot sit in judgment over the decision to close down the school. It is a purely administrative decision. He further contended that his client despite the orders of the Court would still be able to take independent decision as to whether to continue the school or close it down for any other reason. We have recorded all these submissions.

5. But we have already expressed above our view, where

we held that closing down of the school for the reasons mentioned in the resolution does not appear to be correct. Besides, right to education is now embodied in the Right of Children to Free and Compulsory Education Act, in which the Government and local bodies are under obligation to provide primary education free of cost to all the students residing in their area. In view of the larger interest of the students as well as right to education, the decision of Dhule Zilla Parishad was held to be improper and deserves to be set aside.

6. The writ petition stands allowed in terms of prayer clause (B). Rule made absolute accordingly.

7. In view of disposal of the writ petition, connected Civil Application does not survive and stands disposed of.

[V.K. JADHAV,J.]

[A.V. NIRGUDE,J.]