

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

WRIT PETITION NO. 5937 OF 2014

Kai. Hiranman Sonu Jat Shikshan and
Samaj Prasarak Mandal, Kulthe
through its Director .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Nitin B. Suryawanshi, Advocate for the Petitioner.
Shri K. G. Patil, Addl.G.P. for Respondent Nos. 1 to 3.
Shri R. S. Pawar, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 16TH JULY, 2015.

PER COURT :

. Mr. Suryawanshi, the learned counsel for the petitioner states that, all the authorities had recommended for inclusion of village Kulthe in the master plan. The same is rejected by the State. According to the learned counsel village Kulthe is a remote tribal village having population of 3138 persons as per 2011 census. Today even that population has increased. The learned counsel submits that, while rejecting the said proposal the Government failed to consider that village Kulthe is a basin village. It is tribal one and zilla parishad has clearly stated that, it is not in a position to start higher primary and secondary

school at the said village. The learned counsel submits that, when the petitioner had started the school before receiving the order, the petitioner had 270 students from Vth to Xth standard. On receiving notice, immediately it was stopped. The learned counsel submits that, the petitioner has vast infrastructure. It has two storied building consisting of ten rooms. In addition to it the petitioner owns twelve acres of land and sufficient bank balance to conduct the said school. According to the learned counsel, all these aspects have not been considered. The said village is also situated at the distance of more than six and half kilometer from the school in the nearest village. The learned counsel submits that, all norms required are satisfied.

2. The learned Additional Government Pleader submits that, as per the Government Resolution dated 11.07.2011, the 2001 census is taken into consideration for the purpose of considering population of particular village and for considering secondary school the population as per 2001 census has to be more than 2000 persons. The village Kulthe has population only 1159 persons, as such it is rightly rejected.

3. We have considered the submissions canvassed by the learned counsel for respective parties. It appears that, while passing the impugned order dated 12.05.2014 the State has not considered the peculiar facts existing in the present matter.

There is no school at the distance of six and half kilometer. The village is situated under the deep valley i. e. it is village in basin. The same is tribal one. The petitioner already had about 270 students from Vth to Xth standards and considering location of the village in case there is excessive rain and water flows over the bridge, the students of the said village cannot go to nearby village. As it appears from the record the infrastructure is writ large. Over and above all these, the zilla parishad has also stated its inability to conduct Vth to Xth standard classes. All these aspects have not been considered while passing the impugned order. It would be appropriate for the Government to reconsider the said proposal, which is submitted by the authorities for inclusion of village and to consider the case of the petitioner.

4. In the result, the impugned order is quashed and set aside. The respondent/State shall reconsider the proposal submitted by the petitioner and referred to it for inclusion of village Kulthe, considering the aforesaid aspects on its own merits within a period of six (6) months from today. The writ petition is disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]