

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

**WRIT PETITION NO.2026 OF 2014**

- 1] Dr.Zakir Hussain Shikshan Prasarak  
Mandal, at New Nanded, Dist. Nanded,  
through its Secretary -  
Smt. Khaja Begum d/o. Mohammedsaab,  
Age: 60 Years, Occu. : Household,  
Workshop road, Nanded  
Dist. Nanded
  - 2] Noorhanha Urdu High School,  
Naigaon [Bazar], Tq. Naigaon [Kh]  
Dist. Nanded, through its Headmaster  
Yusufkhan s/o Chandkhan Pathan,  
Age : 36 Years, Occu. Service,  
R/o : Naigaon [Bazar], Tq.Naigaon [Kh],  
Dist. Nanded
- PETITIONERS**

**VERSUS**

- 1] The State of Maharashtra,  
Through its Secretary,  
School Education & Sports Department,  
Mantralaya, Extension Building,  
Mumbai-32.
  - 2] The Director of Education,  
Maharashtra State, Pune
  - 3] The Deputy Director of Education,  
Latur Region,  
Latur.
  - 4] The Education Officer [Secondary],  
Zilla Parishad, Nanded  
Dist. Nanded.
- RESPONDENTS**

...  
Mr.V.D.Gunale, Advocate for the petitioner  
Mr.S.D.Kaldate, AGP for Respondent Nos.1 to  
4.

...  
**CORAM: S.S.SHINDE &  
SANGITRAO S.PATIL, JJ.**

Reserved on : 16.06.2016  
Pronounced on : 24.06.2016

**JUDGMENT:** [Per S.S.Shinde, J.]:

This Petition is filed with the  
following prayers:

C) By writ of Certiorari or any other  
appropriate, writ order or  
directions in the nature of writ of  
Certiorari, the impugned order dated  
15.12.2013 passed by the respondent  
No.1, thereby rejecting the proposal  
of the petitioner for transfer of  
petitioner No.2 school from Naigaon  
[Bazar] Dist. Nanded to Taroda [Bk],  
at Nanded be quashed and set aside  
and for that purpose, necessary  
orders be passed.

D) By writ of mandamus or any other  
appropriate, writ order or

directions in the nature of writ of mandamus, the respondent No.1 be directed to allow the petitioners to shift / transfer the petitioner No.2 school from Naigaon [Bazar] Dist. Nanded to Taroda [Bk], at Nanded as per the proposal submitted by the petitioners and for that purpose necessary orders be passed.

2] The learned counsel appearing for the petitioners submits that the proposal of shifting of petitioner No.2 school was complete in all respects, even the said proposal was supported with the documents including the 'no objection' certificates from Grampanchayat, Taroda [Bk] and also the no objection certificate issued by the other Schools located in Taroda [Bk], having their no objection for shifting the said school from Naigaon [Bazar] to Taroda [Bk.]. The said proposal of shifting of the school was recommended by the Block Education Officer, Panchayat Samiti, Naigaon [Kh] as well as

the Block Education Officer, vide order dated 12<sup>th</sup> June, 2006 as also by the Education Officer [Secondary] and the Deputy Director of Education, Latur to the Director of Education. It is submitted that since the Competent Authority has not considered the prayer of the petitioners for shifting the School, Writ Petition No.8704/2011 was filed before the High Court. The High Court disposed of the said Writ Petition on 19<sup>th</sup> December, 2011, with the directions to respondent no.1 to consider and decide the proposal of the petitioners for shifting of petitioner no.2 school from Naigaon [Bazar] to Taroda [Bk] as expeditiously as possible, however, within a period of three months from the date of order. It is submitted that the respondent authorities did not take decision within three months as ordered by this Court, therefore, the petitioners were required to file Contempt Petition. It is

submitted that for unsustainable reasons, the permission to shift the school has been rejected by the respondent authorities. It is submitted that the provisions of Right of Children to Free and Compulsory Education Act, 2009, enables such transfer from one place to another. Therefore, relying upon the pleadings in the Petition, grounds taken therein and the documents placed on record, the learned counsel appearing for the petitioners submits that the Petition deserves to be allowed.

3] On the other hand, the learned AGP appearing for the respondent – State, relying upon the reasons assigned in the impugned order submits that, sufficient and cogent reasons are assigned in the impugned order. The impugned order is passed after hearing the petitioner and considering all the documents, and therefore, the Writ Petition may be rejected.

4] We have given careful consideration to the submissions of the learned counsel appearing for the petitioners and the learned AGP appearing for the respondent – State. With their able assistance, perused the pleadings in the Petition, annexures thereto and the reasons assigned by respondent no.1 in the impugned order. Upon perusal of the impugned order, it appears that after hearing the petitioners and the local Officers, the impugned decision is taken by respondent no.1. One of the reasons assigned is that once the School is closed, the transfer of such closed school would not arise. It is also observed that the place where the school was granted, there are no sufficient students; there are no facilities, no teachers and therefore, the Deputy Director of Education recommended closure of the school. It is further observed that it was

responsibility of the Institution to provide infrastructure, appoint necessary staff and run the school. It is also observed that there are no convincing reasons for accepting the request of transfer of the school.

5] Upon careful perusal of the reasons assigned in the impugned order, in our opinion, the reasons assigned are in consonance with the material, which was available before the Authority. Even if the petitioners' contention is considered, there is need of school at Taroda [Bk.], the State Government will have to follow the procedure while granting permission for transfer of school or opening new school at that place. It appears from the reasons recorded by respondent no.1 in the impugned order that the petitioners were responsible for not running the school properly at Naigaon [Bazar], where the same was granted. It appears that there was no sufficient

infrastructure, strength of the teachers etc., and as a result, the Deputy Director of Education recommended closure of the school. Therefore, the petitioners have no right to seek transfer of the said school, which was closed due to inability of the petitioners to run it.

6] Therefore, we are unable to persuade ourselves to issue any mandatory directions to the respondents to allow the transfer of the school as prayed by the petitioners. For the reasons aforesaid, the Writ Petition stands rejected. No costs.

Sd/-  
[SANGITRAO S.PATIL]  
JUDGE

Sd/-  
[S.S.SHINDE]  
JUDGE