

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) No. 2227 OF 2017
WITH
CHAMBER SUMMONS (L) No. 332 OF 2017

Tushar Shah & Anr. ... Petitioners
Vs.
The State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION (L) No. 2636 OF 2017

Avani M. Shah & Ors. ... Petitioners
Vs.
The State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION (L) No. 2843 OF 2017

Pragnesh Gopani ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION (L) No. 3103 OF 2017

Ila Swapnil Vardgama & Ors. ... Petitioners
Vs.
The State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION (L) No. 3191 OF 2017

Matushri Kashiben Vrajlal
Valia & Anr. ... Petitioners
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. Pravin Samdani, Sr. Counsel a/w Viraj Maniar, Harsh Behany, Hiral Vora i/b M/s. Maniar Srivastava & Associates, for the Petitioner in WPL. 3191/2017, for Respondent No. 2 in WPL. 2227/17 and WPL. 2843/2017, for Respondent No. 6 in WPL. 2636/2017, and for Respondent No. 4 in WPL. 3103/2017.

Mr. Nimay Dave a/w Ms. Priya Rombade, Ms. Perna Shewani i/b M/s. Deven Dwarkadas & Partners, for the Petitioners in WPL. 2227/2017, WPL. 2843/2017.

Mr. Abhishek Patil a/w Ms. Rima Oke, for the Petitioner in WPL. 2636/2017 & Applicant in CHSWL 332/2017.

Mr. S. B. Talekar a/w Ms. Madhavi Ayyapan i/b M/s. Talekar & Associates, for the Petitioner in WPL. 3103/2017.

Mr. Vishal Phal a/w Ms. Sunita Sonawane, for Respondent No. 5 in WPL. 2227/2017, for Respondent No. 2 in WPL. 2636/2017, WPL. 3103/2017.

Mr. Sagar Patil, for Respondent No. 5 MCGM in WPL. 227/2017, for Respondent NO. 4 in WPL. 2636/2017, for Respondent No. 3 in WPL. 2843/2017.

Mr. Himanshu Takke, AGP for Respondent No. 1 – State in WPL. 227/2017, for Respondent No.1 & 7 in WPL. 2636/2017, for Respondent Nos. 1, 5 to 7, 10 in WP:. 2843/2017.

Mr. Kedar Dighe, AGP for the Respondent – State Nos. 1, 3, 6 & 7 in WPL. 3103/2017.

CORAM : B. R. GAVAI, &
MANISH PITALE, JJ.

DATE : DECEMBER 4, 2017

PC :

1. All these petitions (except Writ Petition (L) No. 3191 of 2017) are filed by the Petitioners who are parents of the students of Matushri Kashiben Vrajlal Valia International Vidyalaya (hereinafter referred to as the “MKIV School), basically opposing redevelopment of the buildings of the School and temporary shifting of the School to another premises in the same area i.e. Borivali.

2. The Borivali Education Society, a registered Trust (Respondent No. 2 in Writ Petition (L) No. 2227 of 2017), runs various educational institutions including MKIV School at Borivali (West). The Trust owns Final Plot No. 129, TPS-III, admeasuring 10,796 sq. mts. (on record area of the plot is shown 11,107 sq. mts.). The Trust has two buildings existing on the said plot. Building No. 1 has (i) R. G. Bajaria Primary English medium school; (ii) Matushri Velbbai Velji Gala Gujarati Medium Primary school; (iii) RC Patel Secondary school; (iv) M. K. High Gujarati Medium Secondary

School; and (v) Poornima Valia English Medium KG class; whereas Building No. 2 has in its premises (i) MKIV School; (ii) Geetben Mehta K.G. Class; (iii) Peridot International Academy; (iv) Matushri Pushpaben Vinubhai College of Commerce (B. Com & M. Com, including BAF, BBI, BMS); (v) Shri Vrajlal Durlabhdas Valia Junior College of Commerce; (vi) Vinubhai Valia Study Center (BCA).

3. It appears that the said Trust has submitted plans to the Municipal Corporation of Greater Mumbai for demolition of the existing buildings in a phased manner and for construction of the new buildings for its various institutions, including MKIV School. It further appears that there was correspondence between the said Borivali Trust on one hand and the Central Board of Secondary Education, on the other hand, with respect to the building of the said MKIV School not being safe to continue the school. Apprehending that the Respondent – Trust was basically interested in commercial exploitation of the said plot and under the guise of redevelopment, it would discontinue the school and construct a commercial club, the Petitioners had approached this Court. Various orders have been passed by this Court from time to time. It appears that during

pendency of the petition, Central Board of Secondary Education also passed an order of 9th September, 2017 withdrawing the affiliation granted to MKIV School.

4. We may place on record that since beginning the Court has been making an attempt to ensure that interest of the students is not compromised and that even if redevelopment of the School building takes place, the school is temporarily accommodated in another premises wherein all the facilities are available. We may also place on record that the attitude of the Respondent Management from the beginning has been responsive. From day one, the Management has been reiterating that it has no intention of commercial exploitation of the said plot. Its intention is only to provide modern facilities by demolishing old building and construct new building. Not only that, it was submitted on behalf of the Management that until a new building is constructed, the Management would continue to run the School in other premises, owned by the Management, which is situated in Borivili (East). It has been contended on behalf of the Management that the Management would temporarily shift the School only after it receives occupation certificate of the entire building wherein it

proposes to shift the School. Not only that, but the Respondent Management has also received a permission from the State Government for shifting the School temporarily in another building, owned by the Respondent Management.

5. To take care of the apprehension of the Petitioners, the Court had directed the Respondent Management to file an undertaking, specifically stating therein that it does not intend to exploit the said plot for commercial purpose and that it will rehouse the School on the same plot in the new building that would be constructed. Not only that, the Court had also directed the Management to file an undertaking that it will also maintain the same play ground area, as it exists today.

6. However, we are at pains to state that the attitude of the Petitioners from the beginning has been of opposing and obstructing the development of the project. Not only that, but one of the petitions, being Writ Petition (L) No. 2653 of 2017 had sought very wild reliefs, including directions to take over Management of the Trust, etc. Having found that the said petition, being Writ Petition (L) No. 2653 of 2017, was not a bona fide petition, we had dismissed the said

petition with costs, quantified at Rs.1,00,000/- by an order dated 27th November, 2017. We had found that pendency of the said petition was not necessary inasmuch as other petitions are already pending wherein the Court can pass orders to safeguard the interest of students.

7. As directed by this Court, the undertaking was filed on behalf of the Management. However, the Petitioners found fault in the said undertaking, therefore, we had directed a fresh undertaking to be filed by the Management.

8. Since the Respondent CBSE had already passed an order, thereby withdrawing affiliation to the said MKIV School, we had issued following directions to the Respondent by an order dated 27th November, 2017:

“Stand over to 4th December, 2017. In the meantime, the respondents, CBSE is directed to inspect the premises where the respondent, Management desires to shift the school temporarily. The said inspection shall be carried out on 29th November, 2017 after giving notice to the respondent, Management. The inspection would be limited to verify and ascertain, as to whether on receipt of the Occupancy Certificate for the entire building, there would be sufficient number of classrooms to house the CBSE school and other infrastructure. Needless to state that, in as much as, the availability of the infrastructure is concerned, once the school is shifted, the respondent, Management can

always be directed to provide the necessary infrastructure.”

We had issued those directions so as to find out as to whether sufficient infrastructure is available in the building where the Respondent Management desires to temporarily shift the School.

9. Accordingly, a report is submitted by the CBSE dated 30th November, 2017. Though it has been sought to be urged by Mr. Samdani, learned senior counsel that some of the Petitioners did not permit inspection to be carried out peacefully and caused inconvenience, we do not propose to go into the said issue. At the cost of making the order bulky, we would reproduce the entire report of the CBSE, based upon the inspection carried out by it.

- “1. The committee consisting of Mr. R. K. Sinha Principal Kendriya Vidyalaya ONGC Panvel, Dist. Raigad, Maharashtra and Mrs. Seema Maindiratta, Principal DAV International School, Kharghar, Navi Mumbai vide letter No. CBSE / Dis-Aff. / 1130062 / 2017 was constituted by CBSE New Delhi for assessment for suitability of the School at the new site of “Matoshree Kashiben Vrajlal Valia International Vidyalaya, Sheth M. K. High School Complex, Factory Lane, Borivali (West), Mumbai, Maharashtra- 400 092”.
2. The committee visited the new site of “Matoshree Kashiben Vrajlal Valia International Vidyalaya, i.e. Sheth Gopalji Hemraj High School & Jr. College,

Borivali (East) (Sheth G. H. High School) on 29th November, 2017.

3. The new site i.e. Sheth G. H. High School is located at the distance of about 1.5 kms from the existing school building (Matoshree Kashiben Vrajlal Valia International Vidyalaya) in Borivali (East) which is in the heart of city and well connected by pitch road. Both Borivali Railway Station and S. T. Bus Depot are situated nearby within the periphery of about 01 km. Public and Private transports are available.
4. The new site i.e. Sheth Gopalji Hemraj High School & Jr. College is having total area of 14468.2 sq. meter, which includes 6 storyed pucca building, having stilt area of 2472.80 sq. meter and an open space of 8566.03 sq. meter area covered with interlocking tiles. (Measurements as stated by School Management).
5. The front open space can be used for limited no. of sports like Basketball, Badminton, Kho-Kho, Volley ball etc. and stilt area can also be utilized for various activities for the school children.
6. (a) The front side of the school building has approximately 7 ft. high pucca boundary wall fitted with barbed wire, along with two no. of large sized steel gates at two extreme ends.

(b) The right hand side of the school plot has housing complex well partitioned by temporary G. I. Steel sheets of approx. 12 feet height.

(c) The left hand side of the school plot has a vacant

plot which belongs to the trust as reported by the school Management / Principal and well partitioned by temporary G. I. Steel Sheets of approx. 12 feet height.

(d) The backside of the school plot has slum houses, having common pucca wall with barbed wires on the top.

7. The six storied building (Sheth Gopalji Hemraj High School) has three nos. of staircases which are wide enough and 3 nos. of working lifts.

8. (a) Each floor has 18 no. of classrooms of appropriate size, having facilities of electricity, light and ceiling fans, with sufficient no. of dual desks. Classrooms are well ventilated. All the windows are fitted with grills and pigeon nets.

(b) In addition to the classrooms, the building has separate Physics, Chemistry, Biology and Computer Labs. It also has a provision for separate Maths Lab, Music Room, Dance Room, Language Labs and Library on different floors.

(c) The building has a good no. of additional rooms which can be converted into Principals Room, Office and Staff rooms.

(d) Each floor has a sufficient no. of separate toilets for boys and girls. It also has a filtered water facility on each side of every floor.

9. Fire extinguishers are installed on each floor. The complete Fire fighting system work is under process.
10. The School Management / Trust has provided Part Occupancy Certificate of the stilt and upto three floors of the building of Sheth Gopalji Hemraj High School, Borivali (East) (Photocopy attached).
11. Currently the existing premises has the Maharashtra State Board School, running in two shifts under the name Sheth Gopalji Hemraj High School & Jr. College.

Under Sheth Gopalji Hemraj High School; Class I to IV is run by Bombay Municipal Corporation (BMC aided) having both Gujarati and English medium, whereas Class V and XII is under Maharashtra State Board.

Now, the Matoshree Kashiben Vrajlal Valia International Vidyalaya Borivali (West) has proposed that they shall be utilizing the entire premises using all the six floors of the school building along with all Science Labs (Physics / Chemistry / Biology / Computer) and Library, which will be exclusively used by the students of Matoshree Kashiben Vrajlal Valia International Vidyalaya and will not be shared by the students of currently running Sheth Gopalji Hemraj High School Borivali (East) in one shift, having school timings from 6:50 am. to 12:40 pm.

12. The Management / Trust and Principal of Sheth Gopalji Hemraj High School Borivali (East) have also proposed to run their school in the second shift having timings from 1:10 pm. to 6:15 pm. They will also have separate

Principal's room, Office, Staff rooms, Labs and Library.

However the Management / Principal of Matoshree Kashiben Vrajlal Valia International Vidyalaya may be advised to follow the under mentioned points at the new site subject to the approval by CBSE for shifting the school:-

1. Maintenance and proper cleanliness and sanitation at the school premises and building.
2. Permanent posting of Security Guards at the entrance and at 02 or 03 points at the backside of the school building round the clock.
3. Equipping the Physics, Chemistry and Biology Laboratories with Apparatus and chemicals as per CBSE norms.
4. Equipping the Library with sufficient no. of text and reference books as per CBSE norms.
5. Equipping the proposed open space / playground with play materials for Primary and Secondary / Sr class students.
6. Adequate furniture etc. for the Principal Room, Office, Staff Rooms, etc.
7. Occupancy Certificate from the competent authority for rest of the three floors (4/5/6) of the school building to be obtained.

Conclusion:

Based on the facts mentioned above and the proposal / assurance given by the Management / Trust about using the entire premises i.e. all six floors of Sheth Gopalji Hemraj High School, Borivali (East) building with all related necessary facilities, the new site of Sheth

Gopalji Hemraj High School seems to be suitable on temporary basis for the use of students of Matoshree Kashiben Vrajlal Valia International Vidyalaya provided adequate security arrangements are made in the school premises especially at the backside of the building.

The School Management / Principal of Matoshree Kashiben Vrajlal Valia International Vidyalaya on the date of inspection (29.11.2017) could not provide sufficient supporting documents related to land and building which will be sent to the CBSE New Delhi as and when received from them.”

10. Perusal of the report would reveal that the new site i.e. G. H. High School is located at a distance of 1.5 kms from the existing school building. The said building is in the heart of city and well connected by pitch road. It further reveals that Borivali Railway Station and S. T. Bus Depot are situated nearby within the periphery of about 1 km. The report would further show that the new site is having area of 14468.2 sq. mts, which includes 6 storey pucca building, having stilt area of 2472.80 sq. mts. and an open space of 8566.03 sq. mts. covered with interlocking tiles. The report would also show that front open space can be used for limited number of sports like Basketball, Badminton, Kho-Kho, Volley ball, etc. and the stilt area admeasuring 2472.80 sq. mts. can be utilised for various activities for

the school children. The front side of the school premises is having approximately 7 ft. high pucca boundary wall fitted with barbed wire. The building is having three staircases which are wide enough and three working lifts. The report would further show that each floor is having 18 number of classrooms of appropriate size, having facilities of light, ceiling fans, with sufficient number of dual desks. The classrooms are well ventilated. Apart from the classrooms, the building has separate Physics, Chemistry and Biology and Computer Labs. It also has a provision for separate Maths Lab, Music Room, Dance Room, Language Labs and Library on different floors. The building has good number of additional rooms which can be converted into Principals Room, Office and Staff rooms. Each floor has sufficient number of separate toilets for boys and girls, and has filtered water facility on each side of every floor. Perusal of the said report would reveal that the Management has proposed to run the school in the second shift between 1.10 p.m. to 6.15 p.m.

11. The CBSE has imposed certain conditions, which it finds necessary for shifting the School to the new premises. It could thus, be seen that principally the report of the CBSE would show that in the

building, where the Respondent Management proposes to shift School, sufficient facilities are available. In any case, it is to be noted that this is a transit arrangement and not a permanent arrangement. Once the building at the present site is demolished and new building is constructed the problems, whatever may be, in the temporary building, would be taken care of. No doubt, the redevelopment project may cause some inconvenience to the students, which are taking education at present, however, it is to be noted that not only the interest of the present students, but also interest of the students who will be taking admission in future, is required to be taken into consideration.

12. It will be relevant to refer the communication addressed by the CBSE to the Respondent School, dated 5.7.2017 which reads as under:

“This is with reference to your request letter dated 15/10/2015 and subsequent inspection of the school on the subject cited above.

After perusal of the inspection report, it has been observed that the school building is unstable to run the school and not fit for further use which is confirmed by the Structural Engineer Report submitted by the the school and attested by the principal vide his letter dated 05/02/2016 as well as inspection committee constituted to verify the factual position on the request of the school.

In this connection, I am directed to inform you that the Competent Authority of the Board has instructed you to close the school building at present address immediately as the building is unsafe for further use and shift the present students to nearby schools. The school is also required to submit declaration with regard to closure of the school at the present address on affidavit duly attested by 1st Class Magistrate.”

It could, thus, be seen from the aforesaid communication that the CBSE has found that the present building is unsafe for use of the school and not fit for further use. Perusal of the above communication would reveal that the Board itself has instructed the School to close the school building at the present address and the School was directed to shift the students to the nearby school. By the said communication, the School is directed to submit declaration with regard to closure of the School at the present address. It could, thus, be seen that the CBSE itself has found present building to be unsafe. Though the counsel for the Petitioners argued that the building is safe, and there is no necessity to shift the premises, we do not wish to go into the said question, inasmuch as the said issue is entirely in the domain of technical experts. The communication of the CBSE is based on its inspection as well as report of the experts. It has been time and again

said that this Court while exercising its extraordinary jurisdiction under Article 227 of the Constitution of India cannot enter in the field of experts. When the expert's opinion has found that the building is unsafe for continuation of School, we do not find any reason to disbelieve the same.

13. In any case, in order to take care of the apprehension expressed by the Petitioners that the present premises would be utilised for commercial exploitation and that the Respondent Management will construct club etc., we had directed the Respondent Management to file an undertaking. Accordingly, an undertaking has been filed by one Dharmendra Damodardas Ghelani, the authorised signatory of Respondent No. 2 – Trust. It will be relevant to refer paragraph 5, 6 and 7 of the said undertaking dated 1st December, 2017.

“5. The Trust intends to reconstruct the two old buildings and redevelop the said Plot in a phase-wise manner. In the first phase, the Trust intends to demolish Building No. 2 and construct a new building, temporarily shift CBSE School to Sheth G. H. High School, M. G. Road, Borivali (East), Mumbai 400 066 and shift the Junior KG Section into RC Patel Building temporarily. The said Sheth G. H. High School Building in Borivali (East) has requisite number of classrooms, necessary infrastructure and facilities which are better and more than what is currently available in the existing Building No. 2 referred to in paragraph 4 above. In

Phase 2, RC Patel Building will be demolished and new building will be constituted with permissible structures as permitted / development of the reservations in terms of the Development Control Regulation.

6. The Trust hereby gives an undertaking to this Hon'ble Court that:-

- (a) the Trust will submit building plans of Phase 1 within a period of 30 days from the date hereof to the MCGM for approval.
- (b) the Trust on receipt of the IOD will demolish Building No. 2 and immediately apply for commencement certificate for Phase 1.
- (c) the Trust will commence construction and complete construction of Phase 1 Building. The completion will be achieved within a period of 3 years from the date of issuance of commencement certificate and re-shift the CBSE School into Phase 1 Building. The said building shall have requisite infrastructure and classrooms as are required under the CBSE Guidelines for continuation of affiliation with facilities not less than presently available.
- (d) in Phase 2, the Trust will reconstruct the second building to accommodate the other educational institutions run by the Trust and other permissible activities in terms of the Development Control Regulation.
- (e) The Respondent Trust will carry out phase-wise development of the entire project as per the guidance and advice of competent and qualified architects, surveyors and structural engineers and as per the norms / directions as

prescribed by the MCGM and / or any other statutory authorities.

- (f) The Trust undertakes to keep the reservation area under PG 1 and PG 2 at 4,103.47 sq. mtrs. as reflected in the Letter of Intent at one location and shall not reduce the area of R.G.
- (g) That in PG-1 and PG-2 referred in clause (e) above, no recreation club for any commercial purpose would be constructed.

7. I say that the Trust has obtained a partial Occupation Certificate (“OC”) from the MCGM permitting occupation of Ground and three upper floors of the Sheth G.H. High School building at Borivali (East). The Building of the said Sheth G.H. High School at Borivali (East) is a currently comprising of Ground plus six upper floors. The Trust has also applied for the OC in respect of the balance constructed portion i.e. upto the sixth floor. I say that the Trust shall not intend to temporarily shift the CBSE School to Sheth G.H. High School building until the OC in respect of the said balance constructed area i.e. upto the sixth floor is obtained.”

The undertaking would reveal that the Trust intends to reconstruct two old buildings and redevelop the Plot in a phase-wise manner. In the first phase the Trust intends to demolish Building No. 2 and construct a new building after temporarily shifting the School to G. H. High School at Borivali. It has been stated in the undertaking that the building wherein the School is being temporarily shifted, has requisite number of classrooms, necessary infrastructure and facilities. The

said contention of the Management is ratified by the report submitted by the CBSE dated 30th November, 2017 on the basis of inspection, which was carried out as per the directions issued by this Court.

14. The undertaking clearly states that the Trust will submit building plans of Phase 1 within a period of 30 days. It further states that on receipt of IOD, the Trust will demolish Building No. 2 and immediately apply for commencement certificate for Phase 1. It further states that the Trust will commence and complete construction of Phase 1 Building within a period of three years from the date of issuance of commencement certificate. The undertaking reveals that it shall re-shift the School in Phase 1 building. It further states that said building shall have requisite infrastructure and classrooms as are required under the CBSE Guidelines for continuation of affiliation with facilities not less than presently available. It further states that the Trust will construct the second building to accommodate the other educational institutions run by the Trust in terms of the Development Control Regulations.

15. In Clause (f) of paragraph 6 of the said undertaking the Trust specifically undertakes to keep the reservation area under PG 1

and PG 2 at 4,103.47 sq. mts., as reflected in the Letter of Intent at one location and shall not reduce the area of P. G.

16. It could, thus, be clearly seen that not even an inch of playground area is being reduced in the proposed redevelopment plan. Mr. Samdani states that on the contrary, after redevelopment, the two different plots for playgrounds, which were separate, would now be amalgamated, so that better facilities are available. Clause (g) of paragraph 6 of the said affidavit would reveal that in PG-1 and PG-2, no recreation club for any commercial purpose would be constructed.

17. Perusal of the undertaking would clearly show that until complete OC is received by the Trust, it would not shift the School to G. H. High School building. It is stated in the affidavit that Trust has also applied for the OC in respect of the balance constructed portion. We are more than satisfied that the undertaking, as placed on record, clearly takes care of the apprehension, as expressed by the Petitioners. The undertaking clearly states that after redevelopment, the existing plot would be used for continuation of educational activities, for which it is being used. It further goes to state that no recreation club for commercial purpose, as is apprehended by the Petitioners, would

be permitted on the said plot in PG-1 and PG-2.

18. At the cost of repetition, we may again say that this temporary arrangement is likely cause some inconvenience to the students; but can some inconvenience could be a reason for continuation of the School in a building, which experts of the CBSE find it to be not safe to continue the School. It is further to be noted that the redevelopment, which the Respondent Management proposes, will take care of the needs of the future generation of the students, who would be taking education in the better facilities. For a better tomorrow of thousands of students, the present students may have to suffer a little bit. However, if the order passed by the CBSE is allowed to remain in force, the entire career of the present students would come into jeopardy inasmuch as CBSE has directed the withdrawal of the affiliation of the School.

19. We, therefore, find that insofar as the petitions, which are filed by the parents, deserve no merits, and as such, we are inclined to dismiss the said petitions, viz. Writ Petition (L) Nos. 2227 of 2007, 2636 of 2017, 2843 of 2017 and 3103 of 2017, by taking on record the undertaking filed by the Trust (Respondent No. 2 in Writ Petition (L)

No. 2227 of 2017). The same is treated as an undertaking given to this Court and accepted. It is clarified that the present premises after the redevelopment shall be utilised only for educational purposes, as also for ancillary purposes, as permissible under the DC Regulations. We further clarify that the playground area shall not be reduced even by an inch, and shall not be used for commercial club activities. In view of disposal of Writ Petition (L) No. 2227 of 2017, Chamber Summons (L) No. 332 of 2017 filed in this petition, for intervention, does not survive, and it is accordingly disposed of.

20. That leaves us to deal with the Petition being Writ Petition (L) No. 3191 of 2017 filed by the School and the Management challenging the order dated 9th September, 2017. The order has been passed basically on the ground that the present premises of the School requires lot of repairs and that the construction is advised for proper ventilation and sanitation. Another ground given is that the other School is running in the same campus. On this ground, the impugned order is passed. We have already referred to the communication addressed by the CBSE dated 5.7.2017. In pursuance of the said communication, the Management and the School have

already taken steps for temporary shifting the School in G. H. School building. We find that if the impugned order is not stayed, it will seriously jeopardize the interest of 2,298 (approx.) students in the School and they will be left high and dry.

21. It is suggested by the learned counsel appearing for the CBSE that in the event this Court proposes to grant interim protection, it should only be for the present students with a condition that until new building is ready, the School and the Management should not admit further students. Taking into consideration the fact that the School is being run for last 15 years, we find that any disruption of batches would cause not only difficulty in functioning of the School, but also serious prejudice will be caused to the interest of the children, who are likely to take education from that area. In any case, the report of the CBSE which has been placed on record after carrying out inspection, as per the orders of this Court, would itself reveal that sufficient facilities are available in the new building wherein the Petitioners propose to shift the students.

22. We find that in the larger interest of the students presently taking education as well as in the interest of the children who are

likely to take admissions in the said School, the interim relief needs to be granted. As already discussed herein above, the perusal of the report of the CBSE would itself show that there does not appear to be serious objection for continuation of affiliation of the School. Hence, Rule. There shall be interim reliefs in terms of prayer clauses (c) and (d). Needless to state that the Respondent CBSE shall continue to grant affiliation to the Petitioner No. 1 – School, upon its satisfaction that the Petitioner provides necessary facilities and infrastructure for continuation of the School.

23. At this stage, Mr. Dave, learned counsel appearing for the Petitioners in Writ Petition (L) Nos. 2227/2017 and 2843/2017 prays for stay of above order. We fail to understand the approach of the Petitioners in these petitions in seeking stay, which would have the effect be of putting boulder on their own feet. If we stay the order, which is passed by us, the effect would be that the orders passed by CBSE dated 9th September, 2017, which directs closing the School. From tomorrow onwards, no students would be entitled to continue with the education in the School. We therefore, find that in the larger interest of the students, prayer as made by the learned counsel Mr.

Dave deserves to be rejected outrightly, and is accordingly rejected.

Sd/-
[MANISH PITALE, J.]

Vinayak Halemth

Sd/-
[B. R. GAVAI, J.]