

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

BENCH AT AURANGABAD.

WRIT PETITION NO.7719 OF 2017

Sarpanch Grampanchayat
Gawatwadi, Tq.Hadgaon,
Dist.Nanded, through
its Sarpanch Shri
Baliram Chandrao Khokle. ... Petitioner.

Versus

The State of Maharashtra
and others.

...

Mr.P.S.Shinde, advocate for the petitioner.
Mr.K.N.Lokhande, A.G.P. for the State.
Mr.Sachin Deshmukh, advocate for Respondent Nos.5
and 6.

...

**WITH
CONTEMPT PETITION NO.526 OF 2017
IN
WRIT PETITION NO.7719 OF 2017.**

...

**CORAM : S.V.GANGAPURWALA AND
A.M. DHAVAL, JJ.**

Date : 26.03.2018.

PER COURT :

1. Mr.Shinde, learned advocate submits
that the transfer of the Ashram Shala from

Gawatwadi is erroneous. The order passed is against the statute and the relevant Government Resolution. Six months time was given to the Respondent-institution to rectify the defects. The defects were not rectified by Respondent No.5. The recognition was cancelled. The Respondent Nos.5 and 6 preferred an appeal. Instead of rectifying the defects, the Respondent Nos.5 and 6 sought transfer of the Ashram Shala to another place. According to the learned counsel, the said transfer is not in consonance with the policy and the Rules applicable to it. The learned counsel submits that none of the contingencies as laid down in Rule 3.4.1 of the Ashram School Code are satisfied. In absence of any of the contingencies appearing in the said Rule, the transfer of the tribal Ashram Shala is not permissible. The students of village Gawatwadi and adjacent villages will face hardship. There is no other Ashram Shala within the vicinity of 10 Kms. of village Gawatwadi. The order of shifting of the Ashram Shala is illegal. The learned advocate relies on the judgment of the Division Bench of this Court at

Nagpur in a case of "**Gramoddhar Vidya Prasarak Shikshan Sanstha Vs. State of Maharashtra and others**" reported in **2011(6) Mh.L.J. 66**. The learned counsel submits that this Court on 14.6.2017 had directed Respondents not to take further steps based upon the impugned communication.

2. Mr.Deshmukh, learned counsel for Respondent Nos.5 and 6 submits that before this Court passed the prohibitory order, the Ashram Shala was already shifted. 309 students have taken admission in the Respondent No.5 Ashram Shala at Kharab Khandgaon, Tq.Mukhed, Dist.Nanded. Learned counsel submits that at Gawatwadi, the basic amenities were also not present. There was no place for residence of the girl students. As basic amenities were absent, the recognition was cancelled. The Respondent Nos.5 and 6 did not have the building also. The inspection was made by the authorities and thereafter the recognition was cancelled. The Respondent Nos.5 and 6 were under a different Management. The new Management took over. It had

its own building at Kharab Khandgaon, Tq. Mukhed, Dist. Nanded and it is shifted. All the teachers are also absorbed at the transferred place.

3. Learned A.G.P. supports the order of the transfer of the institution.

4. It is true that for transfer of the Ashram Shala, Rule 3.4.1 and 3.4.2 of the Ashram School Code are required to be complied. At the place where the Ashram Shala is situated i.e. at Gawatwadi, the Respondent Nos.5 and 5 did not have their own School building. There was not even place for residence of girl students. Various deficiencies were recorded by the authority. Even basic amenities, such as WC was absent. Students certainly could not have resided and studied in such an Ashram Shala. The new Management which took over had its existing building at the transferred place. All these aspects were considered. Even the students who were studying at Gawatwadi were absorbed in other School as per the report. The authority has

inspected the School at transferred place and the same is functioning. The affidavit filed by the Assistant Project Officer states that as per the Muster Roll, 309 students from standard I to X are enrolled. The affidavit further states that there is no building available for the Ashram School at village Gawatwadi. The order of cancellation was rightly passed. After new Management taking over and having the building at the transferred place has started its Ashram Shala. If the new Management wants to start Ashram Shala at Gawatwadi, the proposal can be submitted to that effect to the authority which can be considered by the authority.

5. In light of the above, the Writ Petition is disposed of. No costs.

6. In view of disposal of Writ Petition, the Contempt Petition also stands disposed of.

(A.M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

