

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

919 WRIT PETITION NO.1101 OF 2019

**RAMDAS SURYABHAN KHADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Uttam L. Telgaonkar
AGP for Respondent : Mrs. M. A. Deshpande
Advocate for Respondent No. 4 : Mr. V. M. Chate

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**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 7th February, 2019

ORAL ORDER :

1. Heard the learned counsel for the Petitioner.
2. The petitioner claims to be a social worker. The basic prayers in the petition are prayer clause B and prayer clause C. The petition leads to failure of the respondent No. 5 - Society, providing basic infrastructural facilities in the schools being run by respondent No. 5. A statement is made in the petition that the respondent No. 5 runs following three schools : -
 - i) Sant Bhagwan Baba Vidhyalaya, Bavi, Tq-Ashti, Dist. Beed.
 - ii) Subhash Golhar Vidhyalaya, Khilad, Tq – Ashti, Dist – Beed. And
 - iii) Sant Narayan Maharaj Vidhyalaya, Mahinda, Tq-Ashti, Dist. Beed.
3. It is stated in the petition that all these schools are the

aided schools, providing elementary primary education and the respondent No. 5 – society utterly failed to provide the infrastructural facilities and the teaching staffs working in the school are not the independent individuals but they are only the family members of the office bearers of the society.

4. Mrs. M. A. Deshpande, learned AGP appears for respondent Nos. 1 to 3 and Mr. Chate, appears for respondent No. 4.

5. The learned AGP appearing for the State authorities, namely, Respondent Nos. 1 to 3 raised a primary objection to the petition submitting that the grievance raised by the petitioner is in the nature of a public interest litigation. Learned AGP also submitted that the petitioner do not possess the locus to approach this Court by filing a writ petition as he is not aggrieved by any order and the grievance is in the nature of allegations that infrastructural facilities are not available in the school. These objections raised by the learned AGP could have certainly been entertained by us, but for the other facts, apart from the grievances of the petitioner referred above by us, the petitioner has approached the respondent authorities i.e. the State authorities dealing in the activities of education. The petitioner had approached from the officer of the level of education officer primary Zilla Parishad, Beed to the Higher authorities like the Commissioner of

Education, Pune, the Director of Education Secondary, the Director of Education Primary, Pune. There is series of representations submitted by the petitioner to these authorities and the copy of the representations is placed on record at Exhibit – C. Apart from raising the grievance against the society – respondent No. 5, the petitioner submits that he had approached the authorities apprising the authorities that the society is operating the school lacking of all the infrastructural facilities with incompetent teaching staff. The petitioner has also placed on record the schedule to the right to free and compulsory education. Now this schedule refers to the norms and standard for the school. Clause 2 of the scheduled refers to subject building and then it is stated in the norms and standard column thus :-

2	Building	All – Weather building consisting of - (i) at least one class-room for every teacher and an office-cum-store-cum-Head teacher's room. (ii) barrier – free access; (iii) separate toilets for boys and girls; (iv) safe and adequate drinking water facility to all children. (v) a kitchen where mid-day meal is cooked in the school; (vi) Playground; (vii) arrangements for securing the school building by boundary wall and fencing.
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6. Two photographs are also placed on record to show that

the building is nothing but a bunch of tin-sheds. Though a compact disc is also placed on record, we refrained ourself from viewing the compact disc. The learned counsel for the petitioner submitted that the petitioner invited the attention of the education authorities with submission of the factual aspects and it was for the authorities to satisfy themselves and on such a satisfaction arrived by them to take appropriate steps. This submission of the counsel and the copies of the representations placed on record which are undecided till date, prompts us to entertain the petition. We are making it clear that even though the petitioner made prayers B and C whereby, the petitioner is seeking inquiry and direction to take appropriate action, we are not inclined to consider prayer (B) but we can certainly consider prayer (C) wherein, the intention of the petitioner is reflected.

7. By way of prayer clause (C), the petitioner is seeking an insurance/assurance of the authorities. This prayer clause is considered on the backdrop of the representations. If a citizen is approaching this Court under Article 226 and 227 of the Constitution of India, apprising this Court that the respondent authorities who are the Education Authorities, are duty bound to assure themselves that all the infrastructural facilities which are the part of the act are made available to the students who are prosecuting their studies in primary classes, then, such an expectation is not unjustified and even though

the authorities are apprised of these facts by way of representation, the authorities are sitting tight over the representation for a considerable long period, then in our opinion the expectation is neither unjustified nor can be an impediment for us to entertain the petition and accordingly issue appropriate orders by exercising the extra ordinary powers of this Court under Article 226 and 227 of the Constitution of India.

8. At the cost of repetition, we state that if the authorities were apprised by way of series of representation nothing prevented the authorities either to seek a response from the subordinates or to depute some officers from the office of the Education Officer seeking a fact finding opinion/report. If the education authorities are apprised that the school, wherein, the students are taking primary education and these students including boys and girls are prosecuting their courses without their being any basic facility available in the nature of drinking water or proper washrooms then, it was for the education authorities to satisfy themselves as the responsible officers of the State in general and officers of the education department in particular. We are also making it clear that we are only referring to the contents of the representation. The education authorities are not prevented to satisfy themselves and then to arrive at the conclusion. Nothing prejudice the respondent authorities to undertake an exercise of their

own satisfaction and then to take appropriate steps. Considering these facts, we are inclined to entertain the petition for the limited purpose, even though the learned AGP raise certain objections and accordingly we are disposing the writ petition at the admission stage with directions to the respondent nos. 2, 3 and 4.

9. Accordingly, we dispose the petition with direction to respondent Nos. 2 to 4 to consider the representation submitted to them on the merit of the representation and take appropriate steps expeditiously.

10. We further make it clear that if these authorities are of the opinion that for arriving at a conclusion it is necessary to provide an opportunity of hearing to the institute or the petitioner as the case may be, the respondents authorities are permitted to undertake the exercise of opportunity of hearing to the parties by issuing notice to these parties. The respondent Nos. 2, and 3 are also not precluded from calling necessary records from the subordinates of the District level officers for their satisfaction. With these directions, the petition is accordingly disposed of.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)