

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2333 OF 2018

Dnyanai Shikshan Sanstha ... Petitioner
V/s.
State of Maharashtra and Another ... Respondents

Mr. A.B. Tajane I/b. Mr. A.D. Gurav, for the Petitioner
Mrs. P.N. Diwan, AGP for the Respondents-State.

**CORAM : R. M. BORDE AND
PUSHPA V. GANEDIWALA, JJ.
DATE : 28th FEBRUARY 2019.**

P.C.:

. The Petitioner is praying for issuance of Writ of Mandamus directing the State to allot an area admeasuring 0 H. 80 R, out of Survey No. 539, Chikhali, Tal. Haveli, Dist. Pune.

2. The Petitioner is an education society registered under Societies Registration Act. It is the contention of the Petitioner that the plot of land situate adjoining the school educational institution is being used as a play ground since 2004. The Petitioner contends that the application tendered by the institution to the State Government for allotment of the said plot in favour of the institution for its user as playground has been rejected.

3. The affidavit reply has been presented by the Sub Divisional Officer, Haveli wherein it has been stated that in view of the Government Resolution dated 12th July, 2011 as well as the judgment of the Supreme Court in Civil Appeal No. 1132 of 2011 dated 28th January, 2011 since the subject property forms a part of Gairan and common village land, the same cannot be allotted to the Petitioner which is a private institution. The Petitioner contends that the reliance placed by the Respondent on the Government Resolution dated 12th July, 2011 is misplaced and there shall not be any impediment for allotment of land for educational purpose.

4. It is not a matter of dispute that the plot in respect of which the allotment is requested by the Petitioner is admittedly Government land. The Petitioner does not have any legal entitlement under provisions of any law or under the policy framed by the State Government, to claim the Government land which is stated to be adjoining school operated by Petitioner institution. Since the Petitioner do not have any legal right to claim allotment of plot, it cannot claim issuance of Writ of Mandamus from High Court in exercise of extraordinary jurisdiction under Article 226 of Constitution of India.

5. Apart from this, the State Government has framed rules under Maharashtra Land Revenue Code namely the Maharashtra Land Revenue (Disposal of Government Lands) Rules 1971 and the aforesaid rules prescribed priority in respect of the allotment of the Government land. If at all the State Government decides to allot the land in favour of private party the priority prescribed under the rules shall have to be observed. The Petitioner cannot claim allotment in his favour directly in breach of provisions of the said rules. If the State Government is desirous to allot the land, apart from the observance of the rules, all the interested parties or the general public or the institution shall have to be notified as regard to such intention in order to maintain transparency.

6. For the reasons as aforesaid, no interference is called for.

7. The Petition is devoid of merits and stands rejected.

(PUSHPA V. GANEDIWALA, J.)

(R. M. BORDE, J.)