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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. 126 OF 2016
WITH
CIVIL APPLICATION (ST) NO. 27837 OF 2018**

Kundalik Hanumantrao Holambe Patil
and another

.....Petitioners

V/s.

State of Maharashtra and others

.....Respondents

Mr. K. H . Holambe Patil petitioner no. 1 in person
Ms. Nisha Mehra AGP for respondent State

**CORAM : PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.**

DATE : MAY 2, 2019.

P.C.

Heard the learned counsel for the parties.

2 The public interest litigation draws attention of the Court to the tribal children in district Palghar being deprived the benefit of education because of closure of the tribal residential school in village Mendhavan, taluka and district Palghar. The school which was till

secondary level was closed and the students were to be adjusted in a school building at a distance of about 20 Kms. This was in the year 2009. Reason to close the residential school was that the building had become dilapidated and as a result of snake bite, a child died. The tribal children were thus left without any education.

3 Orders passed from time to time in the petition would reveal that the authorities have introduced teaching as well as hostel facilities in the building at village Mendhavan, but recognising the fact that building is dilapidated, decision has been taken to construct a new residential school building in village Mendhavan district Palghar.

4 An affidavit filed by Shri. Subrao Narayan Shinde, Deputy Secretary, Tribal Development Department, State of Maharashtra informs the Court that on 03/06/2017 a joint inspection was carried out on land offered by the petitioner to establish the school. The affidavit appears to be using wrong language for the reason the petitioner owns no land and offered none. The intention in so

pleading appears to be to state before the Court that the petitioner pointed out a parcel of land on which the residential school could be established. The affidavit brings out that to establish Ashram Shala i.e. residential school, 5 hectors land is needed. The affidavit brings out that it was proposed to acquire the land comprised in Survey Nos. 16/37 & 16/38. The affidavit brings out that Sub-Registrar gave valuation of the land at ₹ 99,03,588/-. It is pleaded that the persons who offered their lands to the Government by accepting the value belongs to the Scheduled Tribes and thus, the acquisition had to be through private negotiation. The affidavit stops at that.

5 From perusal of the affidavit it appears that members of the Scheduled Tribes who own the land offered the same to establish a school.

6 At this stage, the learned counsel for the petitioner states that the proposal to take the land from tribals had since been shelved by Government on account of availability of common village land on which residential school could be established.

7 Since the primary function of the petition i.e. re-establishing of the residential school in the village has been achieved, we dispose of the petition directing the respondents to ensure that land is acquired for establishing a residential school in the village on which a new building would be constructed on account of the fact the existing building is dilapidated. From the safety point of view it is inadvisable to continue to run a residential school therein. Respondents would ensure that within the current financial year, suitable land is acquired in the village and in the next financial year, budgetary allocation is made to construct a residential school. It shall be ensured that a new building for the residential school is completed within 3 years from today.

8 Writ petition is disposed of.

9 Since the petition is disposed of, civil application is also disposed of.

N. M. JAMDAR, J.

CHIEF JUSTICE