

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

PUBLIC INTEREST LITIGATION (ST) NO.30534 of 2017

Grampanchayat Asland ... Petitioner

V/s.

Panchayat Samiti, Khanapur & ors. ... Respondents

Mr.R.A. Naik i/b.Umesh R. Mankapure for the petitioner.

Mr. P.P.Kakade, AGP for the State.

**CORAM : NARESH H. PATIL, C.J.
& N.M. JAMDAR, J.**

09th January, 2019.

P.C.

The issue as to whether Primary Health Centre from village Vita, Tal. Khanapur be transferred to Village Pare in the same Taluka of Sangli District was subject matter of petition filed earlier. By the judgment dated 2nd May 2011, the Division Bench of this Court disposed of the writ petition. Paragraphs 6 to 8 of the judgment read as

under:

"6. It is true that in exercise of writ jurisdiction under Article 226 of the Constitution of India, this Court is not to sit in appeal over an administrative decision. However, what is required to be noted is that it was not that either the District Planning and Development Committee or the Joint Director of Public Health or the State Government had considered the two rival claims, one of the Alsand Gram Panchayat and the other of Pare Gram Panchayat. If the State Government had considered the matter in this perspective, the matter would stand on a different footing. However, in the facts of the instant case, it appears to be almost undisputed that the claim of the Alsand Gram Panchayat or the resolution of the Khanapur Panchayat Samiti passed on 18th October 2010 was not at all placed before any of the authorities, viz. the District Planning and Development Committee or the Joint Director of Public Health or the State Government. On this short ground alone, that is to say that the impugned decision was taken without taking into account all the relevant factors, we set aside the impugned order dated 18th December 2010 and direct that the fresh decision be taken on the question of shifting of Primary Health Centre from Vita to village Pare after considering all the relevant material including the resolution dated 18th October 2010 of Khanapur Panchayat Samiti and such other material as may be considered relevant by the State Government.

7. *Rule is made absolute as above.*

8. *It is clarified that we have not expressed any opinion on the merits of the controversy and the State Government will be at liberty to take fresh decision in accordance with law."*

2. The learned Counsel for petitioner refers to the communication dated 16th June,2014. Placing reliance on the same, it is submitted that in principle the State sanctioned transfer of Primary Health Centre, Vita, Tal.Khanapur to Mauje Alsand, Dist. Sangli. The further grievance of the petitioner is that inspite of said communication, necessary infrastructure is not made available so as to start the Primary Health Centre at Mauje Alsand.

3. It is for the State Government to take appropriate decision in respect of starting a Primary Health Centre at a particular place including the village Vita and Alsand. Needless to mention that there is always a need for providing necessary medical assistance in rural sectors. We expect the authorities to take appropriate decision which would serve the residents of both these villages Vita & Alsand, Tal.

Khanapur.

4. With these observations, the Writ Petition stands disposed of.
5. The learned AGP to communicate the order to all concerned.

N.M. JAMDAR, J

CHIEF JUSTICE

L.S. Panjwani, P.S.