

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

88 WRIT PETITION NO. 5804 OF 2020

**PRIYANKA PRASHANT DUDHMANDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners: Mr. Sandanshiv M.b.
AGP for Respondents/State: Mr. P. K. Lakhotiya

Advocate for Respondent No. 3:

Mr. V. V. Bhavthankar

Advocate for Respondent No. 5: Mr. P. P. More

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 07th DECEMBER, 2020

PER COURT:

1. In a dispute between the father and the mother the children appear to be sufferer.

2. Petitioner No. 1 and respondent no. 5 are the husband and wife and parents of petitioners no. 2 to 4. It appears that there is a matrimonial discord between the petitioner no. 1 and respondent no. 5. In the said dispute, petitioners no. 2 to 4, their children, are made to suffer.

3. Petitioners no. 2 to 4 were earlier with respondent no. 3 school. Now, they are studying

with petitioner no. 4 school and staying with petitioner no. 1. It appears that petitioner no. 1 is at present staying at Parbhani.

4. Mr. Bhavthankar, learned Counsel for respondent no. 3 fairly submits that petitioners no. 2 to 4 are not at present taking education in respondent no. 3 school.

5. Mr. More, learned Counsel for respondent no. 5 submits that petitioner has also instituted civil suit for the same relief; as claimed in the present petition. Respondent no. 5 has filed an application for custody of petitioners no. 2 to 4. At Latur better education facilities are available and the same would be beneficial to petitioners no. 2 to 4. It is with this intention respondent no. 5 is insisting with petitioners no. 2 to 4 to take education at Latur.

6. As it is not disputed that petitioners no. 2 to 4 are not taking education with respondent no. 3 school there should not be any impediment for respondent no. 3 to issue the Transfer

Certificate, of course, if, there is no other impediment; except the objection of respondent no. 5.

7. As far as application of respondent no. 5 for custody of petitioners no. 2 to 4 is concerned, the same would be dealt with by the competent Court on its own merits. It is for the Court wherein the application of respondent no. 5 claiming custody of petitioners no. 2 to 4 is pending to consider the contentions raised by the petitioner no. 1 and respondent no. 5, so also, the stand of the petitioners no. 2 to 4. It appears that petitioners no. 2 to 4 have also attained the age of understanding.

8. In light of the above, respondent no. 3 shall issue the Transfer Certificate of petitioners no. 2 to 4 as observed supra

9. Considering the educational interest of the petitioners no. 2 to 4; we have not considered the objection of respondent no. 5 regarding pendency of the civil suit for the same purpose.

10. Writ Petition is accordingly disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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