

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5363 OF 2020 IN
WRIT PETITION NO. 14805 OF 2019

Shevgaon Municipal Council

Applicant

Versus

Pravara Medical Trust's
Ayurvedic College and Eknath
Ayurvedic Hospital at Shevagaon
& others

Respondents

Mr. N.D. Batule, Advocate for applicant.
Mrs. V.S. Choudhary, AGP for respondent Nos. 2 and 3.
Mr. A.V. Hon, Advocate for respondent No. 1.

**CORAM : UJJAL BHUYAN &
M.G. SEWLIKAR, JJ.**

DATE : 8th April, 2021.

PER COURT :

Heard learned counsel for the parties.

2. This application has been filed by original respondent No.
3 Shevgaon Municipal Council seeking leave of the Court to withdraw
Rs. 32,00,000/- (Rs. Thirty Two Lacs only) deposited by the original
petitioner in the Court.

3. Dispute between the parties has been succinctly summed up by this Court in the order dated 09.12.2019 which is extracted as under :-

1. We have heard Mr. Hon, learned Senior Advocate for the petitioner. Mr. Hon relies on the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 to contend that the petitioner is exempted from payment of educational cess. The learned Senior Advocate also relies on Rule 10 of the Maharashtra Municipal Councils (Consolidated Property Tax) Rules, 1969 to contend that the rate of tax shall be one-half of the rate fixed under Rule 4 or 5, as the case may be, to the property used for educational, religious or for giving free medical treatment. The learned Senior Advocate submits that the property in question is used for *Ayurved* College and the same is charitable institution.

2. Issue notice to the respondents, returnable on 17th February, 2020. Hamdast allowed.

3. The learned Asstt. Govt. Pleader waives service of notice for respondents No. 1 and 2.

4. Till then, ad-interim stay to the impugned notice on the condition that the petitioner deposits an amount of Rs. 32,00,000/- (Rs. Thirty two lacs only), in this Court, within a period of four weeks from today.

4. In terms of the aforesaid order, original petitioner has deposited the amount of Rs. 32,00,000/-. We are informed that as per usual practice, upon deposit of the aforesaid amount by the

original petitioner in the registry of this Court, the same has been invested in interest bearing Fixed Deposit(s).

5. Issue raised by the original petitioner would require adjudication by this Court. In the meanwhile, interest of the original respondent No. 3/applicant is protected inasmuch as amount of Rs.32,00,000/- has been deposited by the original petitioner in the registry of this Court, which in turn has been invested in Fixed Deposit(s).

6. In such circumstances, we are not inclined to accede to the prayer of original respondent No. 3/applicant to withdraw the said amount. Instead, the related writ petition may be heard at an early date.

7. Considering the above, civil application is dismissed.

(M. G. SEWLIKAR)
Judge

(UJJAL BHUYAN)
Judge

dyb