

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

913 WRIT PETITION NO.4556 OF 2021

TALAT SHIKSHAN MANDAL THROUGH ITS SECRETARY DR
KHAN QUTABUNNISA MAHMOOD UR RAHMAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Karad Atul M.
AGP for Respondent/s-State : Mr. S. G. Sangle.
Advocate for Respondent No.2 : Mr. A. P Bhandari.

...

**CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.**

DATE : 17.11.2021

PER COURT :-

1. The learned advocate for the Municipal Corporation has entered an affidavit-in-reply. We have briefly heard the learned advocates for the respective sides.

2. On 26.07.2021, when the petitioner approached this Court for claiming exemption from tax on the ground that section 132(1)(b) of the Maharashtra Municipal Corporations Act would not apply as the petitioner is a charitable trust and is covered by the definition of charitable purpose under Section 9(1)(2) of the Maharashtra Public Trusts Act. This Court

granted ad-interim protection to the petitioner on the condition that the petitioner should deposit Rs.15,00,000/- with the Corporation, considering that the bill for payment of taxes as on 02.04.2019 indicates an amount of Rs.25,38,474/-.

3. The learned advocate for the Corporation points out an order dated 18.09.2019 passed by this Court in Writ Petition No.12332 of 2018 filed by Bhagwan Shikshan Prasarak Mandal Vs. The State of Maharashtra and another, wherein the petitioner was permitted to withdraw the petition and avail of the remedy of presenting a civil suit before the competent civil court. The protection granted by this Court was continued for a period of two weeks to enable the petitioner to avail of the remedy.

4. The learned advocate for the petitioner submits on instructions that an earlier filed Writ Petition No.5096 of 2015, pending before this Court with regard to a challenge to the letter dated 29.03.2014 issued by the Aurangabad Municipal Corporation, would be withdrawn. This petition also is being withdrawn and the petitioner would approach the Civil Court for presenting a civil suit. The learned advocate for the

petitioner prays that the interim protection granted by this Court may be continued for at least two months.

5. In view of the above, this petition is disposed off as withdrawn with liberty to the petitioner to present a civil suit before the competent civil court at Aurangabad. If such a suit is preferred on or before 26.11.2021, the ad-interim protection granted by this Court vide order dated 26.07.2021 would be continued until 10.12.2021. We make it clear that in the event, the petitioner moves an application for seeking temporary injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure, the Trial Court would consider the said application on its own merits and shall not be influenced by the interim relief granted by this Court, as a ground for granting temporary injunction.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

...

vmk/-