

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

2 CRIMINAL WRIT PETITION NO. 976 OF 2021

**SHATAKSHI D/O. NIKHIL PIMPALGAONKAR
THROUGH, NIKHIL S/O AVINASHRAO PIMPALGAONKAR
AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioners : Mr. R.N. Bharaswadkar.
APP for Respondents No. 1 to 3 : Mr. S.J. Salgare.

**CORAM : SUNIL P. DESHMUKH AND
NITIN B. SURYAWANSHI, JJ.
DATED : 14.09.2021**

PER COURT :

1. This is a Habeas Corpus petition filed by the minor children aged eight years and four years respectively, filed through natural guardian - father.
2. After hearing the learned Advocate for the petitioners for sometime on 09.09.2021, when this Court expressed that the petition as is filed is not maintainable and Habeas Corpus petition cannot lie against mother who has custody of minor children, the learned Advocate for the petitioners sought time till today to take instructions for withdrawal of the petition.

3. Today when the petition was called out in the morning session, the learned Advocate for the petitioners was not present. The matter was, therefore, kept back. Even at the second call in the afternoon session, the learned Advocate for the petitioners is not present.

4. In the light of ratio in of *Tejaswini Gaud and Others Versus Shekhar Jagdish Prasad Tewari and Others* reported in (2019) 7 SCC 42, and in *Amit Gulrajani Versus State of Haryana and others*, passed by the Hon'ble Supreme Court in Special Leave to Appeal (CRL) No. 2552/2020, dated 13.09.2021, we are of the considered view that the present petition is not maintainable and the same is dismissed as not maintainable.

(NITIN B. SURYAWANSHI, J.)

(SUNIL P. DESHMUKH, J.)