

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

**28 WRIT PETITION NO.1088 OF 2021
WITH WP/8041/2021**

**DASHRATH TUKARAM JADHAV THROUGH ITS PRESIDENT
OF SCHOOL COMMITTEE SHIVACHA TANDA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. Munde Sambhaji G.
AGP for Respondents-State : Mr. S. B. Pulkundwar.
Advocate for Respondent Nos.5 & 6 : Mr. P. D. Suryawanshi.

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

DATE : 28.02.2022

PER COURT :-

1. This is a classic case which would the shock judicial conscience of the Court, when it comes operating a School for students in the hilly region known as "Shivacha Tanda".

2. In the first petition, the petitioner has put forth prayer clauses "C" and "D" as under :-

"C. By issuing writ of mandamus or any other writ in the like nature, the impugned order dated 17.01.2020 by closed down primary school Shivacha Tanda be quashed and set aside."

"D. By issuing writ of mandamus or any other writ in the like nature, it may kindly be directed to sanctioning staffing pattern as well as permanent posting of the teachers."

3. In the second petition, the petitioner has put forth prayer clause "C" as under :-

"C. By way of issuing writ of mandamus or any other appropriate writ, order or directions in the like nature, the Respondents may kindly be directed to provide Free & Compulsory Elementary Education to every child and to provide infrastructure and essential amenities including school building, teaching staff and learning equipments to the students of village Shivacha Tanda, Tq. Ambajogai, Dist. Beed, as prescribed in Sec.8 and 9 of the Right to Free & Compulsory Education to the Children Act, 2009."

4. The Block Education Officer, Panchayat Samiti, Ambejogai has placed before us four (4) photographs with the title in Marathi, which appears as "the school building of the Zilla Parishad, Primary School" at Shivacha Tanda. A single glance at the so called building which has grass and bamboo sticks partitions, would convince us that it is not even fit to accommodate cattle or goats. It is cited as a school building by the Block Education Officer. There was an uproar in the Gram Panchayat, which passed a resolution to close down the school. Nevertheless, it is surprising that the Extension Officer

(Education) Mr. D. V. Dhotre, Zilla Parishad, Beed who submitted a report dated 19.05.2017 to the Education Officer (Primary), Zilla Parishad, Beed does not even whisper anything as regards the status of the so called building of the school. Apparently, we suspect that the officials of the Zilla Parishad may be hands in gloves with the Management of the School and more so in view of the fact that such school was started in 2014.

5. By the second petition, the same petitioner who claims to be the President of the School Committee, has sought directions to the Zilla Parishad or the State in the alternative, to provide free and compulsory elementary education to every child and to provide infrastructure and essential amenities including school building, teaching staff and learning equipment to the students of the Shivacha Tanda.

6. It is undisputed that the school that we see in the four photographs placed before us at page Nos.39 and 40, is said to be owned by the Zilla Parishad. We have no words to describe the condition of the said school and a so called wash room. To say the least, both are in a horrible condition and it is in fact a

dis-service to the students from the hilly region and the rural areas by the Zilla Parishad in providing such type of a school.

7. The learned advocate representing the Zilla Parishad informs us that the students who had taken admissions in the school have already been accommodated in the nearest school having infrastructural facilities. The students are already taking education in the said facility in view of this school having been closed down in January 2020.

8. The learned advocate for the petitioner draws our attention to an order dated 26.02.2018 passed by this Court in Writ Petition No.9242 of 2017. We find from the order that the school was closed down due to the distance between two schools operated by Zilla Parishad, being less than one (1) k.m. This Court was not aware of the state in which the present school was being operated. Hence, the order of the closure of the school was set aside and the Chief Executive Officer, Zilla Parishad was directed to re-consider the viability and feasibility of the school at Shivacha Tanda, afresh by considering the various inspection reports. It is in the light of these reports that the said school has been closed down and we do not have the

slightest of doubt that the school has been rightly shut down.

9. In view of the above, both these petitions are dismissed.

10. We deem it appropriate to direct the Chief Executive Officer to initiate an inquiry into the aspect of which officers of the Zilla Parishad were instrumental in granting permission or starting such a school in the said huts and initiate disciplinary action against them pursuant to the disciplinary proceedings. Such preliminary inquiry should be completed within 45 days from today and if the erring officers of the Zilla Parishad are identified, disciplinary action shall be initiated against them. A Compliance Report shall be placed before us on 29.04.2022.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-