

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7195 OF 2022

THANSING CHINTAMAN WAGH
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND ANOTHER

...
Advocate for the Petitioner : Shri Shirurkar Kishor T.
AGP for Respondent 1/ State : Shri A.R. Kale
...

CORAM : RAVINDRA V. GHUGE
&
ANIL L. PANSARE, JJ.

DATE :- 14th July, 2022

Per Court :-

1. The petitioner has put forth the following ground as
a reason for us to issue a Writ of Mandamus :-

“3. Firstly, the petitioner requested that the entire Building with two Halls, i.e. one at ground floor and one at first floor with parking area of the said Building be given to the petitioner on Leave & License basis for a period of 29 or 99 years for convenient use of the Building. Secondly, the rent of the Building should be charged one the rate, which is charged to other similarly situated social organizations, to whom the Buildings are given on Leave & License basis at the rate of Rs.1000/- per annum. The petitioner is ready to pay the Electricity charges and water supply charges separately. In other cases the

respondent No.2 has granted Leave & License for a period of 3, 5, 10, 29, 30, 90 and & 99 years. However, the respondent No.2 has not considered the representation of the petitioner dated 26.10.2021. The petitioner submits that at present the Hall at First Floor of the said Building is lying vacant and the parking area of the said building is also lying vacant. Therefore, the respondent No.2 should consider the prayers made in this petition, for the convenient use of the said Building and no prejudice will be caused to the respondent No.2. The petitioner is ready to abide by all the conditions, which will be suggested by the respondent no.2. The said Building will be used for non-residential purpose. The said Building is without compound wall, therefore, the strangers are misusing the parking area of the Building.....”

2. We find that the relief sought by the petitioner that we should per-force direct respondent No.2/ Municipal Corporation to allot a particular hall to the petitioner for use on leave and licence for a period of 29 years or 99 years by issuing a Writ of Mandamus, is not a relief that can be granted by this Court exercising extraordinary jurisdiction. Needless to state, a Writ of Mandamus can be issued to an authority in whom the law vests a particular power and a particular obligation. In the absence of such ingredients, we cannot direct the Aurangabad Municipal Corporation to per-force enter into a leave and licence

agreement.

3. In view of the above, this Writ Petition is dismissed.

kps (ANIL L. PANSARE, J.) (RAVINDRA V. GHUGE, J.)