

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 607 OF 2023 IN
CRIMINAL WRIT PETITION NO. 1284 OF 2022

Durgaprasad s/o Rajeshwarrao Deshpande

Applicant

Versus

State of Maharashtra & others

Respondents

Mr. S. V. Dixit, Advocate for the applicant.

Mr. M. M. Nerlikar, APP for the State.

Mr. N. K. Tungar, Advocate for respondent No. 4.

Mr. V. C. Patil, Advocate for respondents No. 5 and 6.

WITH
CRIMINAL WRIT PETITION NO. 1284 OF 2022

**CORAM : SMT. ANUJA PRABHUDESSAI &
R. M. JOSHI, JJ.**

DATE : 10th FEBRUARY, 2023.

PER COURT :

1. By order dated 31st January, 2023, we had directed the applicant to cancel admission of children in Pravara Central Public School, Loni, Tq. Rahata, Dist. Ahmednagar during this academic year and to hand over the transfer certificate to the school at Oxford International School, Nanded within a period of two days from the date of uploading this order. We had also directed the Family Court to defer the hearing on Exhibit No. 14 in Petition No. A-489/2022 till the completion of academic year of 2023.

2. The petitioner has filed this application for recall of the order to the extent of cancellation of admission of children and handing over of transfer certificate to Oxford International School, Nanded and has sought modification to the same seeking direction to respondent No. 4 to facilitate children to appear for respective examination through Pravara Central Public School.

3. Learned counsel for the applicant states that by letter dated 3rd February, 2023, the applicant had requested the Principal, Pravara Central Public School to handover school leaving certificate of the children to Oxford International School, Nanded at the earliest, as per the directions of this Court. It is stated that by order dated 6th February, 2023, the Principal has rejected the request for issuance of transfer certificate. The letter dated 6th February, 2023 is placed on record at Exhibit B wherein it is stated that the children were admitted in Pravara Central Public School in the academic year 2022-2023 and that the second term of the school is almost over. It is further stated that as per the rules, the name of child Abhinav Deshpande who is in 9th standard has been enrolled in CBSC Board, New Delhi. It is stated that the irresponsible request by the applicant

can result in loss of academic year of the children. It is further stated that as per the order of the Family Court dated 19th September, 2022, the transfer certificate of these two children is required to be retained with the same school i.e. Pravara Central Public School. It is stated that the children would be permitted to answer online examination or that the question papers could be sent to them by post and they can solve the question papers and resubmit the same by post or that they can attend the school to answer the examination. It is stated that the request for issuance of transfer certificate was rejected considering the interest of the children.

4. Learned counsel for the applicant had stated that the order dated 22nd December, 2022 passed in Criminal Application No. 1746/2022 whereby the learned Single Judge of this Court allowed the children to continue their education at Nanded till the Family Court takes decision in that behalf was submitted to the school. It was only when the order was being dictated, he submitted that it was a wrong statement and that infact the said order was not submitted before the school. Learned counsel for the applicant had also submitted that the order dated 31st January, 2023, passed by this Court was brought to the notice of the school. He later on clarified

that this order was not annexed to the application dated 3rd February, 2023 and that the same was submitted to the school after the request for transfer certificate was rejected by letter dated 6th February, 2023. Learned counsel for the applicant was unable to explain as to why the copy of the order dated 31st January, 2023 was not annexed to the application dated 3rd February, 2023 or was not placed before school authority before the decision dated 6th February, 2023 was taken by the school.

5. As we expressed our prima facie view that the applicant has obtained letter dated 6th February, 2023 by suppressing the order of this Court and by relying upon the order of the Family Court dated 22nd December, 2022 and that action can be taken against the applicant for such conduct, learned counsel for the applicant seeks leave to withdraw the application.

6. Leave granted. Application stands dismissed as withdrawn.

7. As noted in the order dated 31st January, 2023, the parents have chosen to trade an endless journey of litigation least

realizing that they are destroying the childhood and jeopardising the future of their children, we had expressed that we cannot help the parents who are not ready to move beyond their ego and bent upon destroying their lives, but we certainly cannot allow them to shatter the dreams of their children, as we understand are ambitious and focused on their future pursuits. Despite these observations, the applicant has once again sought recall of the said order, the effect of which would be nothing but loss of academic year of children and which can cause disastrous impact on the educational pursuits of the children.

8. Considering the nature of litigation before us, we direct respondent No. 4, wife, to obtain a letter from the Oxford International School, Nanded to the effect that the children will be permitted to answer their examination on receipt of transfer certificates. We direct the applicant to abide by the order dated 31st January, 2023 and handover transfer certificate to the Oxford International School, Nanded, latest by Monday.

9. The petition be listed on Monday, 13th February, 2023, for production of letter from Oxford International School, Nanded and also for compliance report by the petitioner.

10. Stand over to 13th February, 2023.

11. Parties to act upon the authenticated copy of this order.

(R. M. JOSHI)
Judge

(SMT. ANUJA PRABHUDESSAI)
Judge

dyb