

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6911 OF 2022**

STUDENTS WELFARE AND EDUCATION SOCIETY
THROUGH ITS SECRETARY ZAHID HUSSAI MOHAMMED
YAKUB ANSARI
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS

...

Mr. P. D. Bachate, Advocate for the Petitioner.
Mr. S. B. Yawalkar, AGP for Respondent Nos.1, 2, 4 and 5.
Mr. N. N. Desale, Advocate for Respondent No.3.

...

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRADE, JJ.
DATE : 10th JULY, 2023.**

PER COURT:-

1. On 21.06.2023, we had passed the following order:-

1. Having considered the submissions of the learned advocates for the respective sides, we are not required to advert to their entire submissions, taking into account the order we are passing in the petition.

2. The Petitioner submits that the open space in a layout, only upto 10% of the size of the open plot area, is given to the Petitioner to operate a Balwadi. It is restricting its claim only to the extent of 10% for running the Balwadi. It undertakes that if there is any construction which is carried out de-hors the rules, it will itself demolish the excess construction and maintain the permitted construction within 10% area only.

3. The learned advocate representing the Corporation submits that the Petitioner has acquiesced its right to continue the use of the land, since it has violated terms and conditions imposed upon it.

4. We suggested to the Petitioner that, for the change of user and violation of the conditions it will have to pay Rs. 10,00,000/- (Rs. Ten Lacs only) to the Municipal

Corporation and which would condone its lapses , as a one time measure. The Petitioner is agreeable.

5. In view of the above, the Petitioner shall file an affidavit undertaking before this Court that it would operate the Balwadi within 10% space that has been given to it. The Corporation can measure the construction and any construction beyond the permission granted, would be demolished by the Petitioner at its own expenses. Cost of Rs. 10,00,000/- would be deposited with the Corporation within 60 (sixty) days and the demolition of the excess portion to be initiated at the earliest, within this period.

6. If the Petitioner desires any other issue to be considered, it would be at liberty to approach the appropriate authorities who may consider the same independently.

7. If the above affidavit is not filed till 05.07.2023 and the amount is not deposited, we would be dismissing this petition on 10.07.2023.

8. Stand over to 10.07.2023 in the passing orders category.

2. The learned Advocate for the petitioner submits on specific instruction that the affidavit as directed by this Court vide the above order, has been filed. Similarly, the amount as directed would be paid within the time frame.

3. In view of the above, **this petition is disposed off.**

(Y. G. KHOBRAGADE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE