



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7729 OF 2022

Maharashtra Shaikshnik Arogya Vidyanagari, ThanePetitioner

V/s.

The Tahsildar, Taluak Shahpur, District Thane & Anr.Respondents

Mr. Suresh M. Kamble i/b. Bhavesh Magam, for Petitioner.

Ms. S. S. Bhende, AGP, for Respondents-State.

CORAM : K. R. SHRIRAM &
Dr N K Gokhale, JJ.

DATED : 24th AUGUST 2023

PC. :

1 Petitioner is an Educational Institution running primary, secondary, and higher secondary schools/colleges in Plots bearing Nos. 326 and 327 situated at Kambare, Taluka Shahpur, Murbad, District Thane. It is stated that there are about 600 students studying in the institute. Petitioner institution has a playground admeasuring about 1000 Sq.Mtrs. There is a tar road abutting the playground. The height of the road was about from 2.25 feet to 3.5 feet. To prevent collection of water during monsoon, under the tar road a drainage pipe of 4 feet x 8 feet had been laid. The drainage was opening into the adjoining plot owned by one Santosh Vishe. The Local Authority decided to concretize the road and height of the road stands increased to 7 feet. It is alleged in the Petition that during the ongoing

Gaikwad RD

concretization of road, the adjacent land holder Santosh Vishe has blocked the outlet of the existing drainage and a new outlet has been created and that too on a higher level. It is alleged in the Petition that this has resulted in collection of water during monsoon in the playground and the playground was not even drying because of that. Mr. Kamble, appearing for Petitioner, states that Petitioner's students are unable to use the playground during monsoon. There are photographs also annexed to the Petition which support what is stated by Petitioner.

2 In view thereof, an application dated 5th May 2022 was made to the Tahsildar, i.e., Respondent No.1 to remove the blockage in the drainage and prepare a protecting wall or take any further steps as required so that water will not get collected in the playground and the adjoining land holder also does not suffer. As Respondent No.1 did not take any steps, despite the application received from Petitioner, this Petition came to be filed.

3 No affidavit in reply has been filed though served.

4 Mr. Kamble placed on record a report dated 19th July 2023 from the Circle Officer addressed to the Tahsildar, i.e., Respondent No.1. A copy of application made, is available to the learned Assistant Government Pleader who confirms the report concerns with what Petitioner has alleged in the Writ Petition. It is more than a month since the report has been given

to Respondent No.1 and there is nothing to indicate any action has been taken by Respondent No.1.

5 In the circumstances, we dispose Petition with the following directions:

- (a) Respondent No.1 shall, within one week, visit the site and take remedial measures as requested in the application dated 5th May 2022 in accordance with law.
- (b) Respondent No.1 shall ensure that the drainage becomes effective within one month from today.
- (c) Liberty to apply to Petitioner is granted if this order is not strictly or meticulously complied with.

(Dr N K Gokhale, J.)

(K. R. SHRIRAM, J.)