

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1263/2021

National Shikshan and Bahuuddeshiya Society Buldhana

Vs.

The Collector Buldhana, Tah. and District Buldhana and Ors.

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders

Court's or Judge's order

.....
Mr. A. R. Fule, Advocate for Petitioner.

Ms N. P Mehta, A.G.P for Respondent Nos.1 and 2/State.

Mr. A. P Kalmegh, Advocate for Respondent No.3.

CORAM : A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI,JJ..

DATED : 09.06.2023

. The challenge raised in this writ petition is to the communication dated 14.02.2020 that has been issued by the respondent No.2 refusing to renew the lease of land at Survey No.74 for a period of 30 years to the petitioner – Institution to undertake educational activities.

2. It is the case of the petitioner that the aforesaid land has been granted to it on lease by Municipal Council from 20.10.1999. The period of lease was extended on various occasions and ultimately on 27.01.2011 such lease was further extended. According to the petitioner, it has sought permission to undertake construction over the said land, which was objected to by the Municipal Council by urging that there was an encroachment at the instance of the petitioner. In that context, the proposal which was submitted by the Municipal Council to the Collector remained pending, thus giving rise to the present writ petition.

3. On 14.02.2020 the respondent No.1 issued the impugned communication refusing to renew the lease of the aforesaid land to the petitioner for educational purposes on the ground that the same was shown to be reserved as open space.

4. The learned Counsel for the petitioner submits that the said land is in use since 1999. Necessary permission to extend the term of the lease ought to have been granted by the respondent No.1. Without considering the grant of lease earlier, the impugned communication has been issued.

5. In reply filed on behalf of respondent No.2, it has been specifically stated that as per the Development Control and Promotion Rules applicable to Municipal Council, Buldhana the open plot cannot be used for educational purposes. It was in fact kept reserved for recreation centre for senior citizens. For that reason the impugned communication dated 14.02.2020 came to be issued.

6. We find that the fact that plot No.74 is reserved as an open space and its marking as recreation centre is not in dispute. It may be a fact that the aforesaid land was initially leased to the petitioner - Institution but in view of the Development Control and Promotion Rules now in force, use of the open plot for educational purposes is not permissible. That is the reason for issuance of the impugned communication dated 14.02.2020. We therefore do not find any legal right in favour of the petitioner to compel the respondents to extend the period of the lease for educational

purposes. We therefore find that there is no case made out to interfere in writ jurisdiction. The Writ Petition is therefore dismissed. No costs.

(MRS.VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

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