



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3793 OF 2024

- 1) Kakasaheb Jayaji Wagh,
Age-35 years, Occu:Agri & Labourer,
R/o-Sahastramuli, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajinagar,
- 2) Sadashiv Bhausheb Wagh,
Age-30 years, Occu:Agri & Labourer,
R/o-Sahastramuli, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajinagar,
- 3) Sandip Digambar Bongane,
Age-34 years, Occu:Agri & Labourer,
R/o-Sahastramuli, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajinagar,
- 4) Kalpana Rohidas Bongane,
Age-26 years, Occu:Household,
R/o-Sahastramuli, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajinagar,
- 5) Kailas Kundlik Wagh
Age-33 years, Occu:Agri & Labourer,
R/o-Sahastramuli, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajinagar,
- 6) Narayan Keshav Wagh
Age-33 years, Occu:Agri & Labourer,
R/o-Sahastramuli, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajinagar,
- 7) Dropadabai Navnath Ugale,
Age-42 years, Occu:Agri & Labourer,
R/o-Sahastramuli, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajinagar,

- 8) Gani Ibrahim Shaikh,
Age-35 years, Occu:Agri & Labourer,
R/o-Gadiwat, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajanagar,
- 9) Tayyab Shabbir Shaikh,
Age-40 years, Occu:Agri & Labourer,
R/o-Gadiwat, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajanagar,
- 10) Kadir Shaikh Chand,
Age-38 years, Occu:Agri & Labourer,
R/o-Gadiwat, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajanagar,
- 11) Narayan Ramnath Gawande,
Age-39 years, Occu:Agri & Labourer,
R/o-Gadiwat, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajanagar,
- 12) Dhumsing Mangalu Rathod,
Age-65 years, Occu:Agri & Labourer,
R/o-Sahastramuli, Post-Ghardon,
Tq. & Dist-Chhatrapati Sambhajanagar

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through Secretary,
Other Backward Bahujan Welfare
Department, Madam Kama Road,
Mantralaya, Mumbai-32,
- 2) The Desk Officer,
Other Backward Bahujan Welfare
Department, Maharashtra State,
Madam Kama Road, Mantralaya, Mumbai-32,
- 3) The Director,
Other Backward Bahujan Welfare,
Maharashtra State, Pune,

- 4) The Regional Deputy Director,
Other Backward Bahujan Welfare (Regional),
Aurangabad,
- 5) The Assistant Director,
Other Backward Bahujan Welfare,
Aurangabad,
- 6) Marathwada Banjara Seva Sangh,
Naiknagar, Banjara Colony, Aurangabad,
Through its President,
- 7) Marathwada Banjara Seva Sangh,
Naiknagar, Banjara Colony, Aurangabad,
Through its Secretary,
- 8) Rajendra Gulabsing Jadhav,
Age-60 years, Occu:Business,
R/o-Banjara Colony, Khokadpura,
Aurangabad.

...RESPONDENTS

...
Mr. I.K. Wagh Advocate for Petitioners.
Dr. Kalpalata Patil-Bharaswadkar, A.G.P. for Respondent
Nos. 1 to 5.

...
**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 12th APRIL, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed by the parents of the wards who are taking education in Ashram School, Shivgad Tanda, Taluka and District-Aurangabad for quashing and setting aside the order dated 15th December 2023 issued by respondent No.2

and order dated 27th December 2023 issued by respondent No.3. Further prayer is to direct respondent Nos.1 to 5 to make effective provision for new place, new building for absorption of students in the same locality.

2. Respondent No.2 initially by order dated 29th March 2022 and then 29th March 2023 appointed respondent No. 5- Assistant Director, Other Backward Bahujan Welfare, Aurangabad as administrator over seven Ashram Schools being run by Marathwada Banjara Seva Sangh. Thereafter by order dated 15th December 2023, the Director, Other Backward Bahujan Welfare, Maharashtra State was asked by respondent No.2 to take action for cancellation of recognition and transfer of seven Ashram Schools run by the said Marathwada Banjara Seva Sangh, to any backward education institution. Then On 27th December 2023 Respondent No.3 cancelled recognition of seven Ashram Schools, including the school wherein the wards of petitioners are taking education, run by Marathwada Banjara Seva Sangh. In fact the Government with an intention to provide better education facilities to the children from tribal areas, had set up the Ashram Schools in the State of Maharashtra. The permissions / recognitions were granted in favour of several non- Government

organizations, to run such Ashram Schools. The wards of the petitioners were studying in the primary, secondary and higher secondary Ashram School which has been now de-recognized by respondent No.3. The petitioners contend that there are no schools available near their village as Ashram School for primary, secondary and higher secondary education. After the administrator was appointed, the petitioners had challenged the said appointment by filing an Appeal before the Hon'ble Minister holding charge of Other Backward Bahujan Welfare Department. However, since the cancellation has been ordered and the said decision would affect more than 300 students who are taking education, the petitioners have made the prayer that the impugned order should be quashed and set aside and respondent Nos. 1 to 5 should be directed to give effective provision for new place, new building for absorption of students in the same locality.

3. Heard learned Advocate Mr. Wagh appearing for the the petitioners and learned AGP Dr. Kalpalata Patil-Bharaswadkar appearing for respondent Nos. 1 to 5. In order to cut short, we would like to say that the learned Advocates appearing on behalf

of the respective parties have argued in support of their respective contentions.

4. Learned Advocate for the petitioners relies on ***Sant Dnyaneshwar Shikshan Sanstha and another vs. State of Maharashtra and others, 2020(1) All MR 932 (S.C.)***, wherein it was considered that in the interest of the students the academic session should be allowed to be completed and certain directions were given.

5. At the outset, we would like to say that the decision in ***Sant Dnyaneshwar Shikshan Sanstha and another*** (supra) will not be applicable to the facts of the present case as the said Petition was filed before the Hon'ble Supreme Court by the employees of the school. It was then observed that the High Court was fully justified in levelling criticism on the action undertaken by the State Government in respect of issue of transfer of the schools. Herein this case, perusal of the communication would show that the State Government had tried its level best that instead of transferring the school, whether the condition of the institution can be improved by appointing an administrator. When it was found that there is no improvement,

the Government then decided to de-recognize those schools and take up the steps for transfer of those schools. It is also to be noted that the petitioners have not come with the case that the process of transfer of school is now complete. When the said process is still undergoing, the petitioners cannot say that the provisions under the relevant Government Resolutions will not be adhered to. The petitioners in fact have no locus standi to challenge the said action of the State Government, in the sense that if the management is not functioning properly and could not be improved, then the petitioners are not the proper persons to ask respondent No.1 to start the said school in respect of which many complaints have been received. The management cannot be asked generally to run the school, which might be under financial crisis or having some other problems. The writ of mandamus, therefore, cannot be issued in such cases.

6. The Writ Petition stands dismissed.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE