

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

901 WRIT PETITION NO. 4581 OF 2024

DHANDAI BAHUDHDHESHIY MANDAL THROUGH ITS  
PRESIDENT AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY  
AND OTHERS

...

Mr. V.D. Sapkal, Senior Advocate a/w Mr. Atharva Khedkar,  
i/by Mr. S.R. Sapkal, Advocate for the petitioners.  
Ms. R.R. Tandale, A.G.P. for respondent Nos.1 to 3.  
Mr. Sachin S. Deshmukh, Advocate holding for Mr. V.S.  
Panpatte, Advocate for respondent No.4.

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CORAM : R.G. AVACHAT AND  
SANDIPKUMAR C. MORE, JJ.

DATED : 9 APRIL 2025

P.C. :

1. This petition, under Article 226 of the Constitution of India, is filed for the following main relief :

*"B/ To quash and set aside the order dated 13.03.2024 passed by Under Secretary, State of Maharashtra, by issuing appropriate writ, order, directions as the case may be".*

2. Heard.

3. Petitioner No.3, a School is being run by petitioner No.1 Institute. There was "Baudha Tattwadnyan Kendra", a registered education Trust. Petitioner No.3 School was initially being run by this Trust at Dhule. With due permission of the

authorities concerned, the said school was transferred from Dhule to Khordad, Taluka and District Dhule. Thereafter the very Trust transferred its management, with due approval of the respondent State, in favour of the petitioner No.1.

4. The President of respondent No.4 was said to be a Member of a political party in power. He made various complaints against petitioner No.1 as regards the school. He had also preferred Writ Petition (No. 9136 of 2021) before this Court for closure of the said school. Meanwhile he withdrew the said Writ Petition contending that the State of Maharashtra in Education Department was redressing his grievance. Thereafter some enquiry took place into the complaints made by him and ultimately the order impugned herein has been passed.

5. The learned Senior Advocate took exception to the order mainly on the following grounds :

- (i) The order is passed without any reason.
- (ii) The petitioner has not been given an opportunity of hearing before the order impugned herein was passed.
- (iii) The authority which had granted sanction for transfer of the school, did not have power of review of its own order.

- (iv) Although the order of transfer was recalled, the order dated 13.08.2021, whereby the State has granted sanction for transfer of management, is intact.
- (iv) The order of recall of the transfer, is therefore, unsustainable.
- (v) The petitioner being minority Institution has been exempted from operation of Government Resolution dated 31 July 2013.

6. In support of his contention, the learned Senior Advocate relied on following authoritative pronouncements :

- (i) State of Punjab vs Bandeep Singh and others*  
*2016 (1) SCC 724*
- (ii) State of Uttaranchal & anr vs Sunil Kumar Singh Negi*  
*2008 AIR (SC) 2026*

7. Learned Advocate for the contesting respondent and learned A.G.P. countered the submissions on many grounds. Since their submissions would take colour of our reasons, in support of the order, we do not propose to advert thereto hereat.

8. We have considered the submissions advanced. Perused the order impugned herein. It is not in dispute that "Bauddha Tattwadnyan Kendra", a registered Trust would run petitioner No.3 School at Dhule. It applied for transfer of the said school

from Dhule to Khordad. The respondent State approved the transfer. Thereafter under the guise of financial crisis, it transferred its management in favour of petitioner No.1 Institute. The President of respondent No.4, a member of a political outfit, made various complaints against the said school. The cognizance thereof was taken by the authorities concerned. He had even filed writ petition to have redressal of his grievance. He withdrew the same since the State authorities were doing the needful. Learned Senior Advocate has a reason to contend that he being a member of party in power, the authorities concerned were biased. We, however, did not find anything supporting his contention. On the contrary, the grievance raised by Present of respondent No.4 was found to be genuine.

9. The order impugned in this writ petition is dated 13 March 2024. It reads thus :

**शासन निर्णय :**

बौद्ध तत्वज्ञान केंद्र, धुळे संचलित पंचशिल माध्यमिक विद्यालय, शासकीय दुध डेअरी मागे, भाईजी नगर समोर, गोकुळ नगर, धुळे या मराठी माध्यमाच्या अनुदानित माध्यमिक शाळेचे, खोरदड, जि. धुळे या शाळेस शासन निर्णय क्र. मशाह-३३२०/प्र.क्र.४३८/एस.एस-१ दि. १२.११.२०२० अन्वये करण्यात आलेले स्थलांतर रद्द करण्यात येत आहे.

२. विभागीय शिक्षण उपसंचालक, नाशिक विभाग, नाशिक यांनी या शासन निर्णयाच्या अनुषंगाने पुढील कार्यवाही चालु शैक्षणिक सत्र संपलेनंतर १५ दिवसात करावी व त्याबाबत शासनास अवगत करावे.

३. सदर शासन निर्णय महाराष्ट्र शासनाच्या [www.maharashtra.gov.in](http://www.maharashtra.gov.in) या संकेतस्थळावर उपलब्ध करण्यात आला असून त्याचा संकेतांक २०२४०३१३१९१६५५३०२१ असा आहे. हा आदेश डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

In the very order, a reference has been made to Government Resolution dated 12 November 2020, order dated 1 September 2023 and the complaints made by respondent No.4.

10. In the first blush, perusal of the said order may suggest that no reasons have been assigned as to why the sanction for transfer of the school from one place to another has been cancelled. There can be no two views over the proposition of law which has been sought to be raised by the learned Advocate relying on the two judgments of the Apex Court. We do not dispute what has been observed in para 4 of the judgment in the case of ***State of Punjab vs vs Bandeep Singh*** (supra). Para 4 reads as under :

*“4 There can be no gainsaying that every decision of an administrative or executive nature must be a composite and self sustaining one, in that it should contain all the reasons which prevailed on the official taking the decision to arrive at his conclusion. It is beyond cavil that any Authority cannot be permitted to travel beyond the stand adopted and expressed by it in the impugned action. If precedent is required for this proposition it can be found in the celebrated decision titled Mohinder Singh Gill v. The Chief Election Commissioner, New Delhi [1978] 2 SCR 272, of which the following paragraph deserves extraction:*

*“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in Gordhandas Bhanji [1952] 1 SCR 135:*

*Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of Explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.*

*Orders are not like old wine becoming better as they grow older”.*

*We must reproduce the noting dated 18.6.2004 of the Director, Industries and Commerce since there is an endeavour by the Appellant to add grounds and reasons thereto. It reads as follows:*

*“Above office note may kindly be perused. In my opinion the highest bids offered are marginally higher than the reserved price and it would be appropriate not to confirm those bids and go for re-auction.” This noting will palpably clarify that the element of cartelization or grouping was not one of the reasons for taking the decision to re-auction the two properties, which contention has been strenuously canvassed before us”.*

Same is the case as regards the observation of the Apex Court in the case of ***State of Uttaranchal vs Sunil Kumar Singh Negi*** (supra).

11. The record indicates, while the complaint made by the President of respondent No.4 was being inquired into, the petitioner Institute was called upon to file its say. The same finds place on record. The reasons for passing the order impugned herein is the creation of the petitioner Institute itself. It therefore cannot be said that it was taken by surprise by the order impugned herein. Unusual circumstances warrant passing of unusual orders. Present case is a glaring example of a person who indulged in misrepresentation or an act which is not short of a fraud, asking for an opportunity of hearing. It would be nothing but crying wolf. The reasons therefor are as follows.

12. Our attention has been drawn to a lease deed dated 07.08.2020 which was executed between petitioner Institute and the land owner one Vikas Bapurao Patil. Under the said lease deed, the petitioner Institute claimed to have taken on rent a constructed premises comprising of 7 classrooms, one office room, library, laboratory, rest room, gymkhana room, computer room, 8 bathrooms, 4 toilets with electric connection and meter therefor, water line, etc. The date of the lease deed indicates that the petitioner Institute was very much there on the scene even before it took over the management of the

school. The grievance of respondent No.4 was that the school lack even the basic amenities. The Education Officer had therefore paid visit to the school. He submitted his report on 11.01.2023. The learned Senior Advocate would submit that his report does not find reference in the order impugned, and therefore, the petitioner Institute was taken by surprise. The said report suggests that there was lack of basic amenities. It has been reported by the Education Officer that the school premises were of tin sheets (walls including the roof), while it was depicted that it has a constructed building. There was no electricity connection, no water line as well. Playground was also not there. There was no library, no water supply line. In short, whatever the basic requirements were necessary for running of a school, were not at all there. So far as regards washrooms are concerned, those were not in hygienic condition. It did not have a roof. The number thereof was also less than shown as "8". For better appreciation of the lack of amenities, the photographs of the school premises are made part of this order. Those were produced alongwith affidavit in reply. The petitioner Institute did not prefer to file rejoinder thereto. Instead of giving more reasons, the photographs themselves would speak in justification of the order impugned herein.

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शालेय इमारत (पन्थाचे शेड)



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शालेय इमारत व क्रिडांगण



13. So far as regards contention of the learned Senior Advocate for the petitioner that the order granting transfer of management has been intact is concerned, the learned Advocate for respondent No.4 would submit that, it has no grievance against the management. The management may shift the school to its original place at Dhule and run the same in proper condition. We, therefore, find that the order granting approval for transfer of the management was not a hurdle for passing the order herein. By not setting aside the order of transfer of management, the order of shifting the school from Dhule to Khordad could be set aside. We see no hurdle therein.

14. There is one more glaring instance. For passing our order dated 13.12.2024, it was submitted to this Court that there were 200 students studying in the secondary section of petitioner school and if the impugned order was given effect to, the same would be seriously prejudiced/affect the career of those students. This Court, therefore, passed the interim order staying the order impugned herein. A communication made by Headmaster of the school dated 27.02.2025 is placed on record. This too has not been countered in oral submissions. Headmaster of the School

reported that the students of the school have been absorbed in the nearby school and on the date on which he gave communication, there were no students on the roll call/attending register. This is one more example of misrepresentation.

15. It is reiterated that the photographs of the school are speaks for themselves about pathetic condition of the school in question. The Education Officer, on receipt of the complaint of respondent No.4, had called upon the petitioner Institute to explain the situation. It was reported by one Sahebrao Gopichand Patil, a President of the petitioner Institute, that they have taken on rent a building and it was equipped with all physical amenities required for running of a school. This statement is found to be false.

16. Sanction for shifting of the school from one place to another could necessarily be said to have been obtained by misrepresenting the facts. The misrepresentation is such that, it could be called nothing less than a fraud. It needs no mention that case of a fraud can be alleged made out at any time in any of proceedings. We find it to be a fit case even to impose heavy cost on the petitioner Institute. Since the order was obtained by misrepresentation and everything was in the

know of the petitioner, it could not be heard to say that the impugned order vitiates for non observance of principles natural justice (audi alteram partem).

17. For all the aforesaid reasons, we find the Authority concerned to have been justified in passing the order impugned herein. No interference in exercise of discretionary jurisdiction is warranted in the peculiar facts and circumstances of the case. The petition, thus, liable to be dismissed. The same is dismissed with cost of Rs. 1,00,000/-. The amount of cost be paid to High Court Legal Services Authority, High Court of Bombay, Bench at Aurangabad.

18. We are, in fact, not inclined to continue the interim order, but for our nod expressed yesterday. Therefore, interim order to continue for next six weeks only.

(SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT,J.)