



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12350 OF 2025

Shri Sant Kabir Bahuuddeshiya
Sewabhawi Sanstha
Ahmedpur
Through its Secretary
Mohan Shivraj Dudhate
Age-48 years, Occ. Service,
r/o Mahtma phule hsg society Ahmedpur
Dist Latur

-----PETITIONER

VERSUS

1. The State of Maharashtra
Through Principal Secretary
Social Justice and special Assistance
Department Mantralaya Mumbai -32.
2. The Commissioner of social Welfare
Maharashtra State Pune
3. The Chief Executive officer
Zilla Parishad Latur.
Office at Netaji Nagar
Latur-413531.
4. The District Social Welfare officer
Zilla Parishad Latur
Having office at Netaji Nagar
Latur-413531.

Mr. G. N. Kulkarni Mardikar and Mr. V. U. Jadhav, Advocate for petitioner
Mr. S. B. Narwade, AGP for respondent-State

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 09th December, 2025

JUDGMENT (PER : Hiten S. Venegavkar, J) :-

1. Rule. Rule made returnable forthwith. With the consent of parties the petition is heard finally at the admission stage itself.

2. This petition under Article 226 of the Constitution of India is directed against the communications dated 28.08.2024 and 04.09.2024 issued by respondent no. 4, whereby the proposal of the petitioner dated 18.09.2010 for transfer of one permanently closed boys' hostel for backward class students has been rejected and the petitioner has been informed that it may apply afresh under the policy brought into effect by the Government Resolution dated 31.10.2014. The petitioner seeks quashing of the said communications and a direction to the respondents to reconsider its proposal dated 18.09.2010 in terms of the policy then prevailing under Government Resolution dated 16.03.1998.

3. The petitioner is a society registered under the Societies Registration Act as well as the Bombay Public Trusts Act in the year 2007. It runs a boys' hostel in the name and style of "Rajmata Jijau Hostel" for backward class students at Ahmedpur in Latur district. Respondent no. 1 – the State Government – had framed rules in respect of sanction of grant-in-aid to hostels for backward class students under Government Resolution dated 16.03.1998. Those rules and the policy for allotment and transfer of hostels have undergone changes from time to

time. In particular, in the year 2014, the State Government took a policy decision not to make any allotment of permanently closed hostels for backward class students by way of individual applications and to cancel all such pending individual proposals, and to thereafter allot such hostels only after issuing proper advertisement and inviting applications through online mode under Government Resolution / circular dated 31.10.2014.

4. It is the case of the petitioner that an application for transfer of a permanently closed boys' hostel to the petitioner-institute was submitted on 18.09.2010. According to the petitioner, this proposal was processed by the authorities, certain spot inspection and panchnama were carried out, but no final decision was taken by the respondents. On account of this inaction, the petitioner approached this Court by filing Writ Petition No. 2946 of 2024. In that petition, by order dated 19.03.2024, this Court directed the respondent authorities to consider the pending proposal of the petitioner and decide the same within a period of three weeks.

5. When, according to the petitioner, the authorities still failed to comply with the said directions and did not take a decision on its proposal, the petitioner filed Contempt Petition No. 684 of 2024. Notices came to be issued in the contempt petition, but ultimately the contempt petition was dismissed for non-prosecution. In the meantime, respondent

No. 4 issued communication dated 28.08.2024 informing the petitioner that its proposal stood rejected. By further communication dated 04.09.2024, the petitioner was informed that in view of the Government Resolution dated 31.10.2014, all earlier individual proposals stood canceled and that the petitioner could apply afresh pursuant to the advertisement dated 29.08.2024, a copy whereof was also forwarded to the petitioner.

6. Learned advocate appearing for the petitioner submitted that the Government Resolution dated 31.10.2014 cannot govern or nullify the petitioner's proposal, which had been submitted long back in the year 2010 and had remained pending with the respondents. It was urged that government policies or resolutions which alter the mode of allotment cannot be applied retrospectively so as to destroy vested or accrued rights, and that the petitioner's proposal ought to have been decided in accordance with the rules and policy prevailing under the Government Resolution dated 16.03.1998. According to him, once the petitioner had applied in 2010 and the authorities had processed the proposal and undertaken spot inspection, the respondents were duty-bound to decide that proposal under the then prevailing regime and could not take shelter under a subsequent policy to reject it en bloc.

7. The learned advocate for the petitioner further placed

reliance on clause 3 of the Government Resolution dated 31.10.2014. He canvassed that, as per this clause, cases in which orders have been passed by the High Court are to be treated differently, and the circular is not to be applied in such cases. On this basis it was argued that, in the present matter, this Court had passed an order on 19.03.2024 in Writ Petition No. 2946 of 2024 directing the authorities to consider and decide the petitioner's proposal within three weeks, and therefore, the petitioner's proposal stood protected and could not be cancelled or rejected by invoking the Government Resolution dated 31.10.2014. He submitted that the respondents, instead of deciding the proposal on its own merits as per the 1998 rules, have sought to mechanically apply the Government Resolution dated 31.10.2014 and thereby frustrate the directions of this Court and the rights of the petitioner.

8. It was also urged on behalf of the petitioner that the respondents themselves had treated the proposal as alive and valid for several years, had processed the same and had carried out spot inspection and prepared a panchnama, which facts themselves show that the respondents accepted that the petitioner's proposal was required to be considered on merits. The learned advocate submitted that in these circumstances, legitimate expectation had arisen in favour of the petitioner that its proposal would be decided under the earlier regime. He contended that the impugned communications dated 28.08.2024 and

04.09.2024 are therefore, arbitrary, illegal, unsustainable and liable to be quashed and set aside, and that the respondents be directed to reconsider the proposal dated 18.09.2010 afresh in the light of the 1998 rules and the spot panchnama.

9. Per contra, learned Assistant Government Pleader appearing for the State supported the impugned communications and the policy decision of the Government. He submitted that the State Government has consciously revised the policy concerning transfer and allotment of permanently closed hostels for backward class students. As part of that exercise, under the Government Resolution dated 31.10.2014, the State Government decided that such permanently closed hostels would no longer be allotted on the basis of individual, direct applications made to the department. Instead, a list of such permanently closed hostels would be placed on the department's website, applications would be invited online from all interested institutions, and allotment would be made based on a comparative assessment of merits. This, it was submitted, was designed to bring in transparency, fairness, objectivity and to obviate any arbitrariness, nepotism or favoritism in the allotment process.

10. Learned AGP placed emphasis on the fact that the Government Resolution dated 31.10.2014 clearly clarifies that all

pending applications submitted individually and directly to the department, as on that date, shall stand cancelled. He pointed out that it is an admitted position that, as on 31.10.2014, the petitioner's proposal dated 18.09.2010 remained pending and that no decision, much less any order of this Court, had been passed in relation thereto. He submitted that, in terms of the express language of the Resolution, the petitioner's proposal stood cancelled as on 31.10.2014 and there was no subsisting right thereafter to insist on its consideration under the old policy.

11. Dealing with the reliance placed by the petitioner on clause 3 of the Government Resolution dated 31.10.2014, learned AGP submitted that the said clause protects only those proposals in which, as on 31.10.2014, an order had already been passed by the High Court. He pointed out that the petitioner had not approached this Court prior to 31.10.2014. The writ petition of the petitioner was filed only in the year 2024 and the order dated 19.03.2024 merely directed the authorities to consider the proposal in accordance with law and did not confer any substantive right of allotment upon the petitioner. Therefore, clause 3 is of no assistance to the petitioner. According to him, the order dated 19.03.2024 is only in the nature of a direction to perform a public duty and cannot be construed as nullifying or overriding the earlier policy decision embodied in the Government Resolution dated 31.10.2014.

12. The learned AGP then drew our attention to the impugned communication dated 28.08.2024, wherein the authorities have referred to the Government Resolution dated 31.10.2014 and, relying on the policy decision embodied therein, have informed the petitioner that its individual proposal of 2010 cannot be considered and stands rejected. By the subsequent communication dated 04.09.2024, the authorities have further informed the petitioner about the advertisement dated 29.08.2024 issued pursuant to the new policy, have forwarded a copy of the advertisement and have expressly permitted the petitioner to apply afresh and compete along with other eligible applicants. Learned AGP submitted that far from being arbitrary, the action of the authorities is in consonance with the prevailing policy, ensures equal opportunity to all eligible institutions and does not suffer from any legal infirmity. He prayed for dismissal of the petition, submitting that the petitioner's attempt is only to secure a separate, preferential treatment contrary to a policy which is otherwise valid and uniformly applied.

13. We have heard learned advocates for the parties at some length and have carefully perused the pleadings, documents, the earlier order passed by this Court on 19.03.2024 and the impugned communications. The foundational facts are largely undisputed. The petitioner submitted an application / proposal on 18.09.2010 seeking transfer of one permanently closed boys' hostel for backward class

students in its favour. This proposal remained pending with the department; no final decision was taken thereon. On 31.10.2014, the State Government issued a Government Resolution revising its policy in respect of transfer and allotment of permanently closed hostels. The Resolution, inter alia, records that numerous individual applications were being made directly to the department, that such mode of allotment did not ensure transparency or equality and that the Government had therefore, decided to discontinue consideration of such individual proposals and instead to adopt a uniform and transparent process of inviting online applications after publishing a list of permanently closed hostels on the website and issuing an advertisement. The Resolution further provides, in clear terms, that all individual applications / proposals which were pending with the department as on 31.10.2014 would stand cancelled. Clause 3 carves out an exception in favour of proposals in which, as on that date, an order of the High Court had been passed; such proposals are saved from the automatic cancellation.

14. It is also an admitted position that the petitioner did not challenge the Government Resolution dated 31.10.2014 at any point of time, nor did it challenge clause 3 thereof. The validity, legality or constitutionality of that policy decision is not under direct challenge before us. What is sought in this petition is only the quashing of the communications dated 28.08.2024 and 04.09.2024, which are simply

consequential actions taken in pursuance of the said policy decision, and a direction to the authorities to ignore the 2014 Resolution and to consider the petitioner's 2010 proposal under the 1998 rules.

15. The first limb of the petitioner's challenge is that the Government Resolution dated 31.10.2014 is being applied retrospectively to a proposal of the year 2010 and that such retrospective application is impermissible. We are unable to accept this contention. The Government Resolution does not purport to reopen any final allotments made in the past, nor does it seek to undo concluded rights. It merely declares the policy of the Government in regard to pending, undecided proposals and future allotments. As on 31.10.2014, the petitioner's proposal was admittedly pending and no decision in its favour had been taken. There was, therefore, no vested or crystallized right in favour of the petitioner. The Government, in exercise of its executive power, was well within its domain to decide that all such pending, individual proposals should stand cancelled and that future allotments would take place only under a transparent, competitive process. This is a prospective policy applied to a continuing situation; it does not amount to retrospective destruction of any accrued right. Once the petitioner's proposal stood cancelled by virtue of the policy as on 31.10.2014, there remained no live proposal thereafter which could be insisted upon.

16. The petitioner has chosen not to assail the Government Resolution or to urge that the policy decision is arbitrary, irrational, violative of any statutory provision or of Articles 14 or 16 of the Constitution. In the absence of such a challenge, and in the absence of any material to demonstrate that the policy is manifestly arbitrary or discriminatory, this Court cannot, in exercise of writ jurisdiction, ignore or bypass the policy and carve out a solitary exception in favour of the petitioner. It is well-settled that the scope of judicial review of policy decisions is limited; unless the policy is shown to be capricious, mala fide or plainly contrary to law, courts do not sit in appeal over or substitute their wisdom for that of the executive. The present policy, far from being arbitrary, seeks to introduce transparency, fairness and equal opportunity by replacing ad hoc individual considerations with a uniform, advertised process. We see no reason to hold that such a policy is, on its face, illegal or unconstitutional.

17. The reliance placed by the petitioner on clause 3 of the Government Resolution is equally misconceived. Clause 3 protects only those proposals in which, as on 31.10.2014, an order of the High Court had been passed. The object of this clause appears to be to avoid conflict between an existing judicial order and the newly framed policy by saving those cases in which the High Court had already intervened prior to the policy coming into effect. It is not disputed that, on 31.10.2014, no writ

petition had been filed by the petitioner in relation to its proposal and no order of this Court existed. The petitioner approached this Court much later, and the order dated 19.03.2024 was passed a decade after the policy came into force. Therefore, by the very language of clause 3, the petitioner's proposal does not fall within the saving provision. The petitioner's reading of clause 3 as covering any case where an order of the High Court is passed at any time, regardless of when the policy came into force, is contrary to the plain wording and the evident intent of the clause and cannot be accepted.

18. The next contention that the order of this Court dated 19.03.2024 has the effect of conferring a substantive right upon the petitioner or of reviving its cancelled proposal also cannot be sustained. A perusal of that order shows that this Court merely directed the authorities to consider and decide the petitioner's pending proposal within a specified period. The order does not adjudicate upon the validity of the Government Resolution dated 31.10.2014, does not examine whether the proposal had already stood cancelled in terms of that policy, and does not declare any right in favour of the petitioner to have a hostel transferred in its name. Such an order, which is in the nature of a direction to the authorities to perform their statutory or public duty, must necessarily be understood as requiring the authorities to decide the matter in accordance with law, including the policies and resolutions

holding the field. The authorities, while complying with such a direction, are not precluded from applying the prevailing policy. Once it is shown that, in terms of the 2014 Resolution, the petitioner's individual proposal had already stood cancelled, the only lawful decision that could be taken on the "pending" proposal in 2024 was to inform the petitioner of that position and to invite it to participate in the advertised process.

19. We also do not find any substance in the grievance that the authorities acted mechanically or without application of mind. The communication dated 28.08.2024 specifically refers to the Government Resolution dated 31.10.2014, records that the petitioner's proposal is of the nature of an individual application submitted prior to the policy and informs the petitioner that, in view of the explicit clause cancelling all such pending proposals, its application cannot be accepted. The subsequent communication dated 04.09.2024 goes a step further; it informs the petitioner about the advertisement dated 29.08.2024 issued pursuant to the new policy, forwards a copy of the advertisement and expressly allows the petitioner to apply afresh and compete with other similarly placed institutions. Far from displaying arbitrariness or mala fides, these communications indicate that the respondents have faithfully implemented the policy and have at the same time ensured that the petitioner is not excluded from the fresh, transparent process.

20. The argument based on “legitimate expectation” founded upon the facts that the petitioner’s proposal was processed and spot inspection was carried out also does not impress us. At the highest, these circumstances indicate that the authorities were at one time considering the petitioner’s proposal under the then existing policy. Legitimate expectation, however, cannot operate to compel the Government to perpetuate an old policy or to refrain from changing its policy in public interest. It is well recognized that the doctrine of legitimate expectation yields to a change in policy that is founded on rational considerations and is applied uniformly. Once a new, broader policy is introduced to ensure transparency and equal opportunity to all eligible institutions, any earlier expectation based on a different, individual-application-based regime cannot survive so as to entitle a particular applicant to special treatment. In any event, legitimate expectation cannot prevail against an express statutory or policy provision; here, the Government Resolution in clear terms cancels all pending individual proposals as on the specified date.

21. We may also note that the petitioner has not alleged, much less established, that the 2014 policy or its implementation is tainted by mala fides, that it has been selectively applied, or that it has been designed to exclude the petitioner alone. The petitioner is permitted to participate in the same process as any other institution. What is really

sought is a direction that the petitioner's proposal of the year 2010 should be decided as per the pre-2014 regime in isolation, while all others must participate in the advertised process. Granting such relief would itself be discriminatory and would defeat the very object of the policy, namely, to avoid arbitrariness and favoritism in allotment. A writ court cannot issue a mandamus compelling the State to act contrary to its valid, existing policy in favour of a single applicant.

22. On an overall conspectus of the admitted facts and the rival submissions, we are satisfied that the communications dated 28.08.2024 and 04.09.2024 are nothing but an application of the Government Resolution dated 31.10.2014 to the petitioner's case. The petitioner, despite having an opportunity over several years, has not chosen to challenge that Resolution itself. In the absence of any challenge to the foundational policy and in the absence of any material demonstrating that the policy is arbitrary, illegal or unconstitutional, we see no warrant to interfere in writ jurisdiction with the consequential communications issued by the authorities. The petitioner remains free to avail of the remedy created by the new policy, namely, to submit an application pursuant to the relevant advertisement and compete on its own merits; but it cannot insist as of right that an out-dated, individual proposal of 2010 should be considered and allowed under a superseded policy.

23. For all the aforesaid reasons, we hold that no case is made out for issuance of any writ of certiorari or mandamus as prayed. The writ petition is accordingly dismissed. Rule is discharged.

24. There shall be no order as to costs.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi