



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10898 OF 2025

Dr. K. D. Shendge Charitable Trust through its President and Another

VERSUS

The State Of Maharashtra through its Secretary and Others

...

- Mr. Bora Satyajit S., Advocate for the Petitioners
- Mr. A. B. Girase, GP for Respondents/State

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CORAM : SMT. VIBHA KANKANWADI
AND
HITEN S. VENEGAVKAR, JJ.

DATED : OCTOBER 09, 2025

JUDGMENT : [PER HITEN S. VENEGAVKAR, J.]

1. Petitioner No. 1 is a Public Charitable Trust registered under the Maharashtra Public Trust Act, established on 01.04.2003, to impart education. Petitioner No. 2 is an English Medium School run and managed by petitioner No. 1, conducting classes from standard I to X, with over 1,800 students on its roll. Of these, 207 are Scheduled Tribe (ST) students allotted/admitted under the State Government's '*Tribal Development Residential-cum-Hostel Scheme*' for educating tribal students in reputed English Medium Schools. The State introduced the said welfare scheme by Government Resolution dated 28.08.2009. It was modified by subsequent Government Resolution

dated 27.06.2016, thereby introducing a marking / grading system and 18.05.2018, thereby prescribing terms, conditions and selection of residential schools.

2. In 2017, the department permitted 250 tribal students in the school of petitioner No. 1 by its order dated 04.07.2017, after conducting a proper inspection and providing gradation of marks. Thereafter, for every academic year up to 2024-2025, the department has regularly granted approvals upon verification to the petitioner No. 2 - School.

3. On 29.08.2025, respondent No. 1 passed the impugned order: -

(a) withdrawing recognition/approval of the petitioner No. 2 - School as an eligible school under the Tribal Student Scheme, and

(b) directing Responder Nos 2 and 3 to absorb/transfer the Tribal students of petitioner No. 2 - School to some other schools.

4. The order cryptically states that some complaint was received against the petitioner No. 2 school but fails to identify the complainant or discloses the nature, particulars or supporting material in the impugned order. It does not even record any reasons for the necessity of passing or issuing such adverse directions against the petitioners.

5. The petitioners thus invoked Article 226 seeking quashing of the impugned order and prayed for protection order against transfer of students, *inter alia*, on the following grounds:

- (i) no notice, documents or hearing were afforded to the petitioners.
- (ii) The order is non-speaking and there is absolutely no application of mind and the order is arbitrary.
- (iii) The petitioners gradation for 2024-25 was 93% out of 100 as per the documents annexed and even as per the department, it is 72.50%, such high gradation does not support the impugned order of withdrawal of recognition of petitioner No. 2 – School.

6. The learned Government Pleader on instructions fairly states that no show cause notice or hearing preceded the decision and that the state is prepared to issue a proper notice and provide opportunity of hearing and thereafter will take a fresh decision in the matter. He adds that the scheme aims to mainstream tribal students and ensure quality of education for tribal students. He further submitted that the action has been initiated due to receipt of certain complaints against the petitioner No. 2 - School however he submits that he doesn't want to press it on merits but prays that the petition can be disposed of by

directing respondent No. 1 to follow the principles of natural justice and pass necessary orders thereafter.

7. upon hearing both the sides, the following questions arises for consideration in the present petition:-

(A) Whether the impugned order dated 29.08.2025, thereby withdrawing the recognition / approval of the petitioners school and also directing transfer of the tribal students enrolled with petitioner No. 2 - School to some other school could be passed without prior notice, disclosure of material and without an effective opportunity of hearing?

(B) Whether an order that contains no reasons can be sustained in judicial review?

(C) What reliefs and directions are warranted to balance procedural fairness with the continuity of the student's education?

8. It is a trite law that even when a statute or executive policy is silent, administrative actions entailing civil consequences or punishment must adhere to the principles of audi ultram partum rule. The Constitution Bench in *Maneka Gandhi vs. Union of India*¹ explained Article 21 and 14 protections, insisting on fairness and

¹ (1978) 1 SCC 248

reasonableness in state action. An order that affects valuable interests without affording the person concerned a fair hearing offends these guarantees. The Supreme Court in the case of *State of Orissa v. Dr. Binapani Dei and Others* ² held that even administrative orders having civil consequences cannot be made without giving the person an opportunity to meet the case, civil consequences cover infraction of material deprivations, and not merely property or personal liberty. This proposition is foundational and squarely applicable to the present case. It is a recognized principle of law that every judicial, quasi-judicial and administrative functions are necessarily to be based on the rules of natural justice so as to prevent miscarriage of justice. The petitioner's recognition/approval formed the basis upon which students were allotted and the infrastructure and the staffs were deployed by the petitioners. Its withdrawal directly affects both the institution and the enrolled tribal students and hence undisputedly such civil consequence should have been taken only after issuing a proper notice and providing an opportunity of hearing to the petitioners by the authorities. We also do not agree with the suggestions made by the learned Government Pleader that the matter can be remanded back to the authorities for notice and fresh hearing. Such post-decisional opportunity cannot salvage the decision that has

² (AIR 1967 SC 1269)

already been taken by the authorities. In the case of ***K.I. Shephard and Others vs. Union of India and Others***,³ the Supreme Court has categorically rejected the notion that post-decisional hearings could neutralize a fate accomplice where rights/interests were already prejudicially affected. The normal rule is a pre-decisional hearing.

9. We also find that it was the duty of the authorities to disclose the material that was being used against the petitioners before taking any such decision of withdrawing the approval / recognition. Non supply of any such material and non mentioning about the details of the same in the impugned order also makes the impugned order arbitrary and illegal, passed without application of mind.

10. The impugned order is absolutely silent and records no reasons. Even if the authorities are taking decisions on the administrative side, the basic principle that is required to be followed is to record reasons, which is an indispensable facet of fairness. Well-reasoned order demonstrates application of mind, which enables judicial review and restrains arbitrariness. An unreasoned order carrying civil consequences is unsustainable in law. The Supreme Court in the case of ***Mohinder Singh Gill and Another vs. The Chief Election Commissioner, New Delhi and Others***⁴ has held that an administrative order must stand or fall on the reasons contained in it,

³ (1987) 4 SCC 431

⁴ (1978) 1 SCC 405

the authority cannot improve the order by new grounds through affidavits in Court or by arguments of its counsel. The State's present attempt to justify withdrawal by alluding to unspecified complaints cannot cure the original defect in the impugned order.

11. On the admitted position that no notice or hearing preceded the impugned order and given fact that the order is devoid of reasons, we hold that the action of respondent No. 1 issuing impugned order violates the principles of natural justice and also violates Article 14 and Article 21 of the Constitution of India and is therefore, arbitrary and unsustainable in law. Thus, we are inclined to allow the petition.

ORDER

- A) The writ petition is allowed.
- B) The impugned order dated 29.08.2025, passed by respondent No. 1 – the Tribal Development Department, withdrawing recognition/approval of Petitioner No. 2 - School under the Tribal Student Scheme and directing transfer/absorption of its students, is hereby quashed and set aside.
- C) No order as to costs.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)