



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11647 OF 2024

Matoshri Panai Sevabhavi Shikshan Sanstha,
Naiknagar, Degloor Road, Udgir,
Tq. Udgir, Dist. Latur,
Through its President,
Anilkumar s/o Virbhan Pawar,
Age : 55 years, Occu : Social Work,
R/o. Naiknagar, Degloor Road, Udgir,
Tq. Udgir, Dist. Latur.

... **Petitioner.**

Versus

1. The State of Maharashtra,
Through the Secretary,
Other Backward Bahujan Welfare Department,
Mantralaya, Mumbai-32.
2. The Hon'ble Minister,
Co-operation and Other Backward
Bahujan Welfare Department,
Mantralaya, Mumbai-32.
3. The Director,
Other Backward Bahujan Welfare
Directorate, Pune.
4. The Regional Deputy Commissioner,
Other Backward Bahujan Welfare
Department, Nashik Division, Nashik.
5. The Assistant Commissioner,
Social Welfare, Ahmednagar,
Tq. and Dist. Ahmednagar.
6. Sanjivani Medical Training Center,
Kaudgaon, Tq. and Dist. Ahmednagar.
Through its Secretary.

... **Respondents.**

WITH

CIVIL APPLICATION NO.12066 OF 2024
IN WRIT PETITION/11647/2024

Sanjivani Medical Training Center,
Through its President,
Milind Bhagwan Funde,
Age : 36 years, Occu. Social Work,
R/o Mehekari, Tq. & Dist. Ahmednagar. ... **Applicant.**

Versus

1. Matoshri Panai Sevabhavi Shikshan Sanstha,
Naiknagar, Degloor Road, Udgir,
Tq. Udgir, Dist. Latur,
Through its President,
Anilkumar s/o Virbhan Pawar,
Age : 55 years, Occu : Social Work,
R/o. Naiknagar, Degloor Road, Udgir,
Tq. Udgir, Dist. Latur.
2. The State of Maharashtra,
Through the Secretary,
Other Backward Bahujan Welfare Department,
Mantralaya, Mumbai-32.
3. The Hon'ble Minister,
Co-operation and Other Backward
Bahujan Welfare Department,
Mantralaya, Mumbai-32.
4. The Director,
Other Backward Bahujan Welfare
Directorate, Pune.
5. The Regional Deputy Commissioner,
Other Backward Bahujan Welfare
Department, Nashik Division, Nashik.
6. The Assistant Commissioner,
Social Welfare, Ahmednagar,
Tq. and Dist. Ahmednagar. ... **Respondents.**

WITH

CIVIL APPLICATION NO.390 OF 2025
IN WRIT PETITION/11647/2024

Virbhadra Dongar Parisar Gramin
 Vikas Pratishthan at Bardari,
 Taluka Nagar, District Ahmednagar
 Registered Trust Through its Joint Secretary,
 Sonyabapu Ramdas Jadhav,
 Age : 62 years, Occu. Agril. and Social Worker,
 R/o Ratadgaon, Taluka Nagar,
 Dist. Ahmednagar. **... Applicant.**

Versus

1. The State of Maharashtra,
 Through the Secretary,
 Other Backward Bahujan Welfare Department,
 Mantralaya, Mumbai-32.
2. The Hon'ble Minister,
 Co-operation and Other Backward
 Bahujan Welfare Department,
 Mantralaya, Mumbai-32.
3. The Director,
 Other Backward Bahujan Welfare
 Directorate, Pune.
4. The Regional Deputy Commissioner,
 Other Backward Bahujan Welfare
 Department, Nashik Division, Nashik.
5. The Assistant Commissioner,
 Social Welfare, Ahmednagar,
 Tq. and Dist. Ahmednagar.
6. Sanjivani Medical Training Center,
 Kaudgaon, Tq. and Dist. Ahmednagar.
 Through its Secretary.
7. Matoshri Panai Sevabhavi Shikshan Sanstha,
 Naiknagar, Degloor Road, Udgir,
 Tq. Udgir, Dist. Latur,
 Through its President,
 Anilkumar s/o Virbhan Pawar,
 Age : 55 years, Occu : Social Work,

R/o. Naiknagar, Degloor Road, Udgir,
Tq. Udgir, Dist. Latur. ... **Respondents.**

WITH

WRIT PETITION NO.12917 OF 2024

Virbhadra Dongar Parisar Gramin
Vikas Pratishthan at Bardari,
Taluka Nagar, District Ahmednagar
Registered Trust Through its Joint Secretary,
Sonyabapu Ramdas Jadhav,
Age : 62 years, Occu. Agril. and Social Worker,
R/o Ratadgaon, Taluka Nagar,
Dist. Ahmednagar. ... **Petitioner.**

Versus

1. The State of Maharashtra,
Through its Secretary,
Other Backward Bahujan Welfare Department,
Mantralaya, Mumbai.
2. The Deputy Secretary,
Other Backward Bahujan Welfare Department,
Maharashtra State, Mumbai.
3. The Director,
Directorate of Other Backward Bahujan Welfare,
Maharashtra State, Pune.
4. The Assistant Commissioner,
Social Welfare, Ahmednagar,
District Ahmednagar.
5. Sanjivani Medical Training Center,
Kaudgaon, Taluka Nagar, District Ahmednagar.
Through its President/Secretary.
6. Matoshri Panai Sevabhavi Shikshan Sanstha,
Naiknagar, Degloor Road, Udgir,
Tq. Udgir, Dist. Latur,
Through its President ... **Respondents.**

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Advocates for Petitioner in WP/11647/2024 : Mr. V. D. Gunale
& Mr. S. G. Rudrawar.

AGP for Respondents-State in both WP : Mr. A. S. Shinde.
Advocate for Respondent No.6 in WP/11647/2024 : Mr. G. L.
Deshpande.

Advocate for Applicant in CA/390/2025 : Mr. V. H. Dighe.
Advocate for Applicant in CA/12066/2024 : Mr. G. L.
Deshpande.

Advocate for Petitioner in WP/12917/2024 : Mr. V. H. Dighe.
Advocate for Respondent No.5 in WP/12917/2024 : Mr. G. L.
Deshpande.

Advocate for Respondent No.6 in WP/12917/2024 : Mr. V. D.
Gunale & Mr. S. G. Rudrawar.

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**CORAM : S. G. MEHARE, AND
SHAILESH P. BRAHME, JJ.**

**RESERVED ON : 29.01.2025
PRONOUNCED ON : 13.02.2025**

JUDGMENT : (Per S. G. Mehare, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties.
2. The petitioner in Writ Petition No.11647 of 2024 has impugned the order of transferring the primary Ashram School of Baradari to the respondent No.6 Sanjivani Medical Training Center, Kaudgaon, Taluka and District Ahmednagar by impugned order dated 01.10.2024.
3. The petitioner in Writ Petition No.12917 of 2024 has impugned the order dated 27.04.2022 cancelling the approval

of the school which was subsequently transferred to the petitioner in Writ Petition No.11647 of 2024 by the impugned order. He has also impugned the order dated 01.10.2024 transferring the said school to the respondent No.6 institution.

4. The facts of the case in brief were that the petitioner Virbhadra Dongar Parisar Gramin Vikas Pratishtahan Sanstha was allotted a primary Ashram School. However, the said institution failed to follow the rules and regulations. Therefore, their approval was cancelled by order dated 27.04.2022. It neither preferred the appeal nor impugned the said order. However, thereafter, they had impugned the said order by way of appeal. In the mean time, the school was transferred to the petitioner in Writ Petition No.11467 of 2024 and subsequently it was also cancelled and transferred to respondent No.6. The petitioner in Writ Petition No.11647 of 2024 had preferred the appeal before the Hon'ble Minister against the cancellation of the approval. The Hon'ble Minister by order dated 24.08.2023 dismissed the appeal. Thereafter, by following due process, the impugned order dated 01.10.2024 was passed.

5. The petitioner in Writ Petition No.11647 of 2024 has assailed the impugned order mainly on the grounds that by the communication dated 21.06.2022, it was transferred to the

petitioner by following due procedure by order dated 29.06.2022. However, respondent No.2 without notice to the petitioner and following the due procedure of law has cancelled and transferred it to the respondent No.6. Thereafter, the advertisement was issued for granting sanction transfer. However, by writ petition No.6983 of 2023 the advertisement was stayed and respondent Nos.1 and 2 were directed to decide the appeal on merit. They have assailed the reasons assigned for the rejection of their appeal. There was no fault on the part of the petitioner. Not following the procedure of transferring the institution to the petitioner by order dated 29.06.2022, it should not be faulted with and punished.

6. The respondent No.6 has heavily assailed the petition containing that the allotment/sanction of the school to the petitioner was in violation of the norms.

7. In the nutshell, the issue revolve around the cancellation of the registration and transferring the Ashram School.

8. Learned counsel for the petitioners have referred to the certain Government Resolutions prescribing the procedure for allotting the Ashram school, cancelling the registration as well

as transferring the school after its closure. Hence, we would like to refer certain relevant rules/procedure laid in the Government Resolution dated 24.04.2018. This Government Resolution speaks of transferring /shifting the closed Ashram school to another institution. The procedure has been laid down in Clause-A, in brief it provides that after the school registration is cancelled a public advertisement be published in the State level newspaper through the concerned Directorate. The next condition was that the school of which registration is cancelled and is granted aid should be transferred in the same revenue division. The interested institution must be registered under the Maharashtra Public Trust Act, 1950 having the object of education running, residential school. Such institution should be in Maharashtra State only. After the proposal is submitted, pursuant to the advertisement District/Regional offices of the concerned Directorate should submit the illegalities of such institution to the Government along with other relevant information. State level committee recommend the interested institution application to the Government. Thereafter, the Government would take appropriate decision and the decision of the Government would be final. One of the conditions for transferring the closed school was that if the school is closed for want of students, such school should be

opened again on the same place. A care of the employee/staff has also been taken.

9. Another Government Resolution dated 13.01.2021 is relevant to decide the right of the petitioner in Writ Petition No.12917 of 2024. By this Government Resolution, it has been resolved that the institution whose registration is cancelled would not be given, the same school again or their proposal cannot be considered.

10. Petitioner in Writ Petition No.12917 of 2024 was granted Primary Ashram school. However, its registration was cancelled, by order dated 27.04.2022, under regulation 109 of Maharashtra Primary Education Act, 1949 as well as the Ashram School Code, Clause No.3.5 and under Clause 1 and 2 of the Government Resolution. After the cancellation of the school, it was transferred to petitioner in Writ Petition No.11647 of 2024. Its registration was also cancelled by order dated 13.01.2023 because the procedure laid down in the Government Resolution dated 24.04.2018 was not followed. Thereafter, a fresh advertisement was issued. Though the petitioner avoided to plead this fact, it had again participated in a fresh advertisement. However, his proposal was not considered. He has filed this writ petition seeking the

cancellation of the allotment of the school to the respondent No.6 institution.

11. A first serious objection as has been raised by the learned counsel Mr. Deshpande for the respondent No.6 that writ petition No.11647 of 2024 should be dismissed for suppression of the material fact. The petitioner never disclosed that after cancellation of its registration, he participated in a fresh process of allotment and directly filed writ petition. Not only this, its appeal has also been dismissed by the Government. The petitioner has preferred writ petition No.6983 of 2023 challenging the advertisement dated 21.06.2023 inviting application for transferring the Ashram school in question. The process of transferring the school in view of that advertisement was stayed by the Coordinate Bench on 26.06.2023. In this writ petition, by order dated 17.10.2024, it has been observed that the Hon'ble Minister has decided the appeal of the petitioner on 24.08.2023. However, the petitioner has incorrectly alleged that it was never communicated to it and all of sudden, by impugned order dated 01.10.2024, the school was transferred to respondent No.6.

12. Learned counsel for respondent No.6 has pointed out that after the fresh advertisement, the applications were

invited, the petitioner has participated. During the selection process, some short falls were sought for. The petitioner also complied with and after considering the explanation as sought by the letter referred to in order dated 25.01.2024. Other Backward Bahujan Welfare Directorate referred the matter to the Chief Secretary and then the impugned decision has been taken. The serious objections were taken by respondent No.6 by Civil Application No.12066 of 2024 as mentioned above and asked to vacate the interim stay dated 17.10.2024. However, we have heard the matter on merit by giving opportunity to all respective learned counsels.

13. The legality of the impugned order of the Hon'ble Minister dated 24.08.2023 has also been impugned in this writ petition.

14. Learned counsel for the petitioner Mr. Gunale would submit that the Hon'ble Minister did not consider that the grounds on which the school is cancelled were perverse and all those defects were curable. The Hon'ble Minister has considered the Government Resolution dated 24.04.2018 and observed that the process laid down in that Government Resolution was not considered. However, the petitioner has no contra evidence to believe that the school in question was

allotted to it by order dated 29.06.2022 was in compliance with the terms and conditions required as per the Government Resolution dated 24.04.2018. So, we do not find any substance in the arguments of the learned counsel for the petitioner that the cancellation of their school is illegal.

15. As far as the claim about allotting the school to respondent No.6 is concerned, it has been vehemently argued that no hearing was given by the Hon'ble Minister, is also falsified by the reasoned order by Hon'ble Minister. It specifically indicates that hearing was kept on 12.07.2023 and the petitioner had advanced the arguments there. This ground seems to be against the facts of the case, hence, cannot be considered.

16. The order dated 01.10.2024 has been challenged on the sole ground that the order of the Hon'ble Minister dated 24.08.2023 is without giving opportunity. Therefore, consequently the order dated 01.10.2024 is illegal. At the cost of repetition, we may record the findings that after a fresh advertisement was issued, the petitioner participated in the process and his proposal was not accepted. Already the registration of the petitioner had been cancelled. Therefore, in

view of the Government Resolution dated 13.01.2021, the petitioner is not entitled to get the Ashram school.

17. Learned AGP referring to the affidavit-in-reply has vehemently argued that the impugned order granting or transferring the school in question to respondent No.6 is perfectly in view of the Government Resolutions. Its appeal was also dismissed on merit. The order granting or transferring the school to the petitioner by dated 29.06.2022 was cancelled to avoid the contempt of direction of the Hon'ble Supreme Court dated 05.03.2019. His arguments revolved around the conduct of the petitioner and suppression of facts.

18. We have discussed the various provisions of law and facts of the case along with a Government dated 13.01.2021 which debars the institutions whose registration has been cancelled. We do not find substance in the arguments of the learned counsel for the petitioner that the order of the Hon'ble Minister dated 24.08.2023 is illegal and perverse. On the contrary, the petitioner has tried to suppress the facts while securing the interim stay. The petition is devoid of merits, hence, liable to be dismissed.

19. So far as the writ petition No.12917 of 2024 is concerned, they have challenged the order dated 01.10.2024 and 27.04.2022. By this order, the registration of the school was cancelled for the reason that there was a internal dispute amongst the trustees and their dispute has not been decided for last 14 years. In inspection, the record of the trust was not available and no response was given to the Assistant Commissioner of Welfare and most importantly the admitted students were not given the facilities.

20. Learned counsel for the petitioner Mr. Dighe has argued that against the order dated 27.04.2022, an appeal has been preferred and it is pending. Condition No.3 in the impugned order dated 01.10.2024 that from the date of the Government Resolution the respondent No.5 did not purchase two acres of land. Therefore, that order is liable to be called back. The learned AGP would submit that the order granting school to respondent No.6 was never challenged. Unless that order has been challenged the petitioner has no voice to challenge the impugned order dated 01.10.2024. Learned counsel Mr. Gaurav Deshpande has vehemently opposed the ground raised by the petitioner and argued that the impugned order dated 01.10.2024 was passed after following the due procedure and

guidelines issued by the High Court in writ petition at Principal Seat. He would also argue that the so called ground raised for non-compliance of Clause 3 of the impugned order is concerned, there is absolutely no pleading or grounds raised to that effect. It is a matter of investigation of the fact and does not fall within the jurisdiction of this Court.

21. We have gone through the facts of the case and impugned order. The first question is the appeal against the rejection of the school is still pending. So, the grounds indirectly raised that affecting the appeal cannot be considered. We are of the opinion that these petitioners have woke up late. Whether the cancellation of its school is legal or not is to be tested first by the Appellate Authority. The question has also been raised that the appeal ought to have been filed within 15 days. This question can also be considered by the learned Appellate Authority. *Prima facie*, we have not satisfied that there is no substance in these writ petitions.

22. For the reasons mentioned above, both writ petitions stand dismissed.

23. Rule made discharged. No order as to costs.

24. Pending civil applications stand disposed of accordingly.

(SHAILESH P. BRAHME, J.)

(S. G. MEHARE, J.)

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