

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4765 OF 2024

Welfare Association for The Disabled,)
Miraj, Dist. Sangali,)
Through its President)
Mr. Hortikar Shrishail Kallappa)
Age: 58 Years, Occ: Service) ...Petitioner

VERSUS

1. The State Of Maharashtra,)
Through its Secretary,)
Revenue and Forest Department,)
Government of Maharashtra,)
Mantralaya, Mumbai – 400032)
2. The Collector,)
Sangli, Dist. Sangli)
3. The Sub-Divisional Officer,)
Miraj Subdivision, Dist. Sangli.)
4. The Tahsildar,)
Jath, Tal. Jath, Dist. Sangli)
5. The Circle Officer,)
Jath, Tal. Jath, Dist. Sangli)
6. Taluka Inspector of Land Records)
At Jath, Tal. Jath, Dist. Sangli) ...Respondents

Mr. D. G. Dhanure for the Petitioner.
Mr. K. S. Thorat, Assistant Government Pleader for respondents-State.

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATED : 8th JANUARY 2025

ORAL JUDGMENT (Per M. M. SATHAYE, J):

1. Rule. Rule made returnable forthwith. Heard the learned counsel for the parties.

2. The petitioner is a Public Charitable Trust, registered under Maharashtra Public Trust Act, 1950 and a Society registered under Societies Registration Act, 1860. It is running an Educational Institute. The petition is filed impugning a decision dated 04/10/2017 taken by the respondent no. 2 – Collector, Sangli by which the application of petitioner dated 09/09/2008 for the allotment of 40 R (1 Acre) portion of land from City Survey No. 889 situated at Taluka-Jath, District-Sangli, is rejected. The said land is sought by the petitioner for constructing a residential school for the mentally retarded / physically disabled students. A direction is also sought to the respondent no. 2 to allot the said portion of land to the petitioner for the said purpose.

3. Learned counsel for the Petitioner submitted that presently the residential school for the disabled persons is being run on a rental land. He invited this Court's attention to various recommendations/no objections, viz. a Resolution dated 30/06/2008 passed by the Gram Panchayat, Jath resolving to allot the said portion of land to the Petitioner and recording its no objection, a No-objection report issued by Tahsildar, Jath dated 26/12/2008 addressed to the Sub-Divisional Officer (SDO), Miraj Sub-Division, Miraj, a communication dated 17/01/2009 issued by SDO, Miraj Sub-Division, Miraj to the Collector, Sangli stating that there is no objection for the allotment sought by the Petitioner and a further report dated

05/04/2011. It is further pointed out that the necessary measurement of the land in question is also completed. The communication dated 05/07/2010 issued by SDO, Miraj Sub-Division, Miraj to the Collector, Sangli requesting permission to proceed with the allotment, is also placed on record. Our attention is drawn to GR dated 25/07/2007, which is regarding allotment of the land to the blind and disabled persons on priority basis, as per provisions of the Persons With Disabilities (Equal Opportunities, Protection Of Rights And Full Participation) Act, 1995, which shows that under its Category-4, the allotment as sought by the petitioner is squarely provided. It is pointed out that the said GR directs the Collectors as well as Divisional Commissioners to act for such allotment to blind and disabled persons. Our attention is also invited to GR dated 31/07/2023, which refers to the said GR dated 25/07/2007. Record further shows that on 04/03/2015, the Tahsildar, Jath has again recommended in its report to the SDO, a favourable opinion about allotment.

4. The rejection under the impugned order is solely based on the Government Resolution (GR) dated 12/07/2011. Perusal of said GR shows that it is regarding prohibition of use of public lands / *Gai-ran* lands for any other purposes and for removal of encroachments thereon. The said GR *inter alia* provides that the *Gai-ran* lands meant for public use of the villagers should not be allotted to any person or private institute or association, which is apparently the reason for rejection under impugned order. However, reading of the said GR nowhere indicates any bar in respect of land allotment sought for blind or disabled persons. On the contrary, clause-4 thereof indicates that even existing encroachments on the public land / *Gai-ran* lands which are being used for 'schools', amongst other public utilities such as hospital etc., are excluded.

5. We therefore find that conjoint consideration of all the GRs dated 25/07/2007, 12/07/2011 and 31/07/2023 is needed. It is not pointed out to the Court from any of the report, that the land sought to be allotted is a *Gai-ran* land.

6. In view of the aforesaid facts and circumstances, in our view, the impugned order, solely based on GR dated 12/07/2011 cannot be sustained. The Collector is required to apply his mind to the purpose of allotment sought for and the effect of GR dated 25/07/2007 and take a fresh decision. Also, various recommendations as well as no objections issued by various authorities such as Gram Panchayat, Tahsildar and SDO need to be considered.

7. Therefore, in our view, the following order will meet the ends of justice.

(a) The impugned order dated 04/10/2017 is set aside.

(b) Respondent No. 2 is directed to re-consider the petitioner's application dated 09/09/2008 afresh in the light of GRs dated 25/07/2007, 12/07/2011 and 31/07/2023 and all the earlier recommendations made in that regard, in accordance with law.

(c) The Collector shall take decision within a period of 6 weeks of receiving the copy of this order.

(d) Rule is made absolute in the aforesaid terms. No costs.

(e) All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J)