

Ajay

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

WRIT PETITION NO. 16160 OF 2025

Youth Education & Welfare Society

.. Petitioner

Versus

State of Maharashtra and Anr.

.. Respondents

.....

- Mr. Vivek Punjabi a/w Mr. Tarak Shah and Mr. Sahil Panjwani, Advocates for Petitioner.
- Dr. Dhruti Kapadia, AGP for Respondents – State.
- Mr. Suryakant Bhorse, Assistant Revenue Officer is present.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 09, 2025.

P.C.:

1. Heard Mr. Punjabi, learned Advocate for Petitioner and Dr. Kapadia, learned AGP for Respondent - State.

2. By the present Petition, order dated 24.11.2025 passed by the Respondent No.1 - State is assailed by the Petitioner - Trust. Facts are in a very narrow compass. Principal ground is that the impugned order dated 24.11.2025 is passed without hearing the Petitioner and forfeiture of Petitioner's land has been directed for committing breach of terms and conditions of Sanad. Petitioner filed Application dated 19.08.2019 before Respondent No.2 seeking conversion of its land held under Occupancy Class II to Occupancy Class I under the Government Resolution dated 08.03.2019. By virtue of the said Government Resolution, holders of Occupancy Class II land were permitted to seek

conversion to Occupancy Class I by complying with the Terms and Conditions for payment of premium as stipulated in the said Government Resolution. Such Applications were to be made within 3 years from the date of the Government Resolution. Accordingly Petitioner made Application to the Collector within time seeking conversion and as per the prescribed Terms and Conditions agreed to pay 15% premium chargeable calculated as per the rate specified in the current annual statement of rates. The Application remained pending before the Collector without being decided. Being aggrieved Petitioner called upon the Collector to adjudicate on the Application. On 22.02.2022 the Tahsildar Nashik filed Report affirming the status of the land with the Petitioner. The said Report noted that Circle Officer, Nashik inspected the said land. The Tahsildar gave his no objection for conversion of the said land from Occupancy Class II to Occupancy Class I pursuant to the said Government Resolution. The Report of Tahsildar recorded the Ready Reckoner value of the said land and its valuation at Rs.10,10,00,040 and computed the conversion premium payable at the rate of 15% of the said Ready Reckoner value at Rs. 1,51,50,006/- as prescribed in the Government Resolution for conversion. On the basis of this Report, Respondent No.2 - Collector issued Show Cause Notice dated 23.05.2022 and fixed the hearing thereon on 30.05.2022 for determining the Application for conversion filed by Petitioner. Petitioner remained present in the

hearing before Collector and was duly heard. No order was passed by Respondent No.2 - Collector even thereafter.

3. It is seen that eventually on 27.03.2023 proviso to Rule 3(4) of the Maharashtra Land Revenue Conversion of Occupancy Class II and Leasehold Lands into Occupancy Class I Land Rules 2019 was added by virtue of which in such cases for conversion, Collector was required to seek permission of the State Government where premium payable for such conversion exceeded Rs.1,00,00,000/-.

4. Mr. Punjabi would submit that Petitioner's case is covered by the said proviso and therefore the Collector i.e. Respondent No.2 sought permission from the State Government. He would submit that Petitioner filed Writ Petition No. 14700 of 2024 in this Honorable Court seeking mandamus to the respondents for conversion of the said land from Occupancy Class II to Occupancy Class I on the ground of unnecessary delay and no decision being taken on the conversion Application dated 19.08.2019 and absence of any specific time frame for dealing with such Applications. That Writ Petition is pending in this Court.

5. Mr. Punjabi would submit that Additional Collector filed Affidavit-in-Reply dated 24.07.2025 in the said Writ Petition wherein it was stated that Petitioner committed breach of the terms and conditions of the original Sanad and executed a notarized

Development Agreement and a Power of Attorney in favor of a private third party, however it is Petitioner's case that Report dated 22.02.2022 filed by Tahsildar categorically certified after due enquiry that there was no breach of the terms and conditions of the original Sanad which was not looked into by the Additional Collector Nashik while filing the Affidavit-in-Reply. That apart he would submit that Respondent No.1 - State passed a detailed order dated 21.11.2007 modifying the conditions of the original Sanad and granted permission to Petitioner to develop the said land on certain terms and conditions despite the said land being of Occupancy Class II status. This order granted by the State restricted construction up to 15% of the constructed portion to be put to commercial use and no right to transfer of the said land to any third party without the premium of the State. I have perused this order appended at Exhibit 'J' – page No.145. The Report of Tahsildar dated 22.02.2022 is appended at Exhibit 'O' – page No.164. Respondent No.1 - State has rejected the Application dated 19.08.2019 filed by Petitioner for seeking conversion the said land from Occupancy Class II to Occupancy Class I without even hearing the Petitioner, without issuing notice for hearing, without communicating the order to the Petitioner, without considering the Report of the Tahasildar and order passed by the Collector previously and directed forfeiture of Petitioner's land on the ground of breach of terms and conditions of the original Sanad.

6. Mr. Punjabi would vehemently argue that before passing the impugned order principles of natural justice ought to have been followed and the Petitioner ought to have been heard so that the Report filed by Tahsildar dated 22.02.2022 and the Collector's order dated 21.11.2007 modifying the conditions of the Sanad could be placed before Respondent No.1 – State for consideration.

7. What is shocking is the fact that pursuant to the passing of the order dated 21.11.2007, Petitioner filed Application for building permission along with building plan on 04.02.2008 which was duly sanctioned on 02.09.2008 by the Nashik Municipal Corporation and Building Permit and Commencement Certificate dated 02.09.2008 was issued in favour of Petitioner. However it is seen that thereafter Respondent No.2 - Collector restrained the Petitioner from carrying out any construction activity till a final Report was prepared by the Tahsildar, Nashik with respect to the any breach of the terms and conditions of the Sanad. That final Report is prepared and filed by the Tahsildar on 22.02.2022 with the Collector after a hiatus of 14 years. The Report is appended at Exhibit "O" to the Petition. The Report affirms the status of the said land being utilised as hostel / holding house for residential purposes of accommodating students. The Report highlights the fact that because of restraint order passed by Respondent No.2 - Collector, Petitioner duly complied with the same and has not committed any violation in respect thereof. The Report

categorically gives its no objection for the said land for conversion from Occupancy Class II to Occupancy Class I status pursuant to the Government Resolution dated 08.03.2019. The Report computes the conversion premium to be paid as per the Government Resolution for the said land on the basis of its annual rate i.e. Ready Reckoner value.

8. Dr. Kapadia, learned AGP in her usual fairness places on record the aforesaid facts and orders passed in the present case. There is no dispute about the facts whatsoever except for the fact that the impugned order rejects the Application for conversion dated 19.08.2019 on the ground of breach of terms and conditions of the Sanad.

9. The learned AGP has placed on record the objections raised by the Collector in his letter dated 25.06.2025 wherein it is stated that there is violation of Clause No.5 by the Petitioner. It pertains to Petitioner requiring to take permission of the State prior to dealing with / transferring / mortgaging the said land since it was Occupancy Class II. Therefore based on this recommendation from the Collector in May 2025, the impugned order is passed.

10. After going through the record of the case it is seen that sanction has been granted by the learned Charity Commissioner under Section 36(1) of the Bombay Public Trust Act, 1950 for transfer in accordance with law and most importantly order dated 21.11.2007

passed by the learned Revenue Minister i.e. Respondent No.1 has modified the conditions of the original Sanad and granted permission to the Petitioner to develop the said land on certain terms and conditions. The said order is appended at page No. 137 Exhibit "G" to the petition. Thus it is seen that immediately after the restraint by the Collector the Petitioner has not taken any steps or violated any conditions despite the Building Permit and Commencement Certificate having been granted by the Nashik Municipal Corporation. Without considering the aforesaid the impugned order has been passed unilaterally. It was the duty of the Collector to bring this to the notice of the State before the impugned order was passed.

11. *Prima facie* it is seen that order dated 21.11.2007 and Report of Tahsildar dated 22.02.2022 giving no objection for conversion ought to have been considered before passing the impugned order. Though there is reference to order dated 21.11.2007 and the status of the subject land, the Report of the Tahsildar dated 22.02.2022 has not been considered at all. Rather there is no consideration of the said Report and the Application dated 19.08.2007 has been dismissed. In that view of the matter, the impugned order dated 24.11.2025 is not sustainable and is therefore quashed and set aside. The Respondent No.1 – State is directed to consider the permission granted under Section 36(1) by the Charity Commissioner, the order dated 21.11.2007 passed by the State permitting

modification of conditions of the original Sanad and the enquiry Report conducted by the Tahsildar on the basis of the inspection carried out by the Circle Officer, Nashik in the Report dated 22.02.2022 and determine the Application seeking conversion filed by Petitioner in the light of the above and the applicable Government Resolution dated 08.03.2019 and pass a reasoned speaking order only after hearing the Petitioner in accordance with the principles of natural justice.

12. All contentions of Petitioner are expressly kept open.
13. Impugned order dated 24.11.2025 is quashed and set aside.
14. Respondent No.1 - State shall hear the Petitioner – Trust and determine the Application dated 19.08.2019 seeking conversion of its land holding from Occupancy Class II to Occupancy Class I in accordance with the above directions and strictly in accordance with law and determine the same within a period of 3 months from the date of uploading of this order.
15. Writ Petition is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

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by AJAY
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