

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

WRIT PETITION (STAMP) NO.32591 OF 2024

Kamayani Prashikshanand
Sanshodhan Society (Kamayani
Training and Research Institute)
and Anr.

...Petitioners

V/s.

The State of Maharashtra and Ors.

...Respondents

**WITH
WRIT PETITION (STAMP) NO.32606 OF 2024**

Kamayani Prashikshan and
Sanshodhan Society (Kamayani
Training and Research Institute)
and Anr.

...Petitioners

V/s.

The State of Maharashtra and Ors.

...Respondents

**WITH
INTERIM APPLICATION NO.7802 OF 2025
IN
WRIT PETITION (STAMP) NO.32606 OF 2024**

1. Anil Namdeo Jadhav and Anr.

...Applicants

In the matter between

Kamayani Prashikshan and
Sanshodhan Society (Kamayani
Training and Research Institute)
and Anr.

...Petitioners

V/s.

The State of Maharashtra and Ors.

...Respondents

Mr. Anil Anturkar, *Senior Advocate i/b. Mr. Siddhartha Ronghe and Mr. Atharva Date for the Petitioner.*

Mrs. S.A. Prabhune, *AGP for Respondent -State in WPST/32591/2024.*

Ms. Tanu N. Bhatia, *AGP for Respondent -State in WPST/32606/2024.*

Mr. Milind Deshmukh *for Intervenor Applicant in IA/7802/2025.*

Mr. Prathamesh Bhargude *with Mr. Vaibhav Thorave for Intervenor Respondent Nos.6 to 54.*

CORAM: SANDEEP V. MARNE, J.

Dated: 6 MAY 2025.

P.C.:

1) Petitioner No.1-Kamayani Prashikshan and Sanshodhan Society (Kamayani Training and Research Institute), is a society registered under the provisions of Maharashtra Co-operative Societies Act, 1960. It was established in the year 1964. Over the last about 61 long years, the Society has established a name in working for intellectually challenged children in and around city of Pune. The Society runs Kamayani School for intellectually challenged children at Nigdi, Pune. The School has sanctioned strength of 100 students. The Society also runs a Workshop for preparing intellectually challenged students in acquisition of vocational skills. The workshop is being run on unaided basis and has sanctioned strength of 50 students.

2) An unfortunate incident apparently occurred on 16

July 2024 when a girl student in the workshop was sexually assaulted by an employee of the Petitioner-Society working in the school. It appears that inspection of the school and the workshop was carried out by the District Social Welfare Officer, Zilla Parishad, Pune on 26 July 2024 and a report was prepared. In that report, recommendations were made for cancellation of registration certificate of the school. A separate recommendation was made in respect of the workshop wherein it was found that the same was running without any valid registration certificate, which had already expired on 31 March 2019. Accordingly, notices were issued to the Petitioner-Society for conduct of hearing in respect of both the proposals regarding school and the workshop. After hearing Petitioner, order dated 7 October 2024 was passed by the Competent Authority and Commissioner in exercise of powers under Sections 51 and 52 of the Rights of the Persons with Disabilities Act, 2016 by which the registration certificate of the School issued on 2 December 1998 came to be cancelled w.e.f. 7 October 2024.

3) So far as the workshop is concerned, it was found that the same was being conducted despite expiry of Petitioner's license on 31 March 2019. Accordingly, by a separate order dated 7 October 2024, the license in respect of the workshop was treated to have been cancelled from 1 April 2019.

4) Petitioners preferred appeals before the Secretary of the concerned Department. However, by two separate orders

dated 4 November 2024, the appeals have been dismissed by the Appellate Authorities. Aggrieved by the orders dated 7 October 2024 passed by the Commissioner and orders dated 4 November 2024 passed by the Appellate Authority, the Society has filed these two Petitions *qua* the School and the Workshop.

5) So far as the Workshop is concerned, this Court noticed that Petitioner's application for renewal of license of the Workshop was pending. Accordingly, by order dated 29 November 2024, this Court directed decision on the said application. By order dated 12 October 2024, the Commissioner had disposed of the said application observing that since the main license itself had expired in the year 2019 there was no question of granting any renewal in respect of the license of the Workshop.

6) So far as functioning of the School is concerned, this Court took note of the difficulties that would be faced by the students of the School and accordingly passed interim order dated 13 November 2024 directing the Respondents not to take any coercive action based on the impugned order. It appears that accordingly, the School is functioning through an Administrator on account of interim order passed by this Court.

7) With a view to verify whether it was possible for the Respondents -Authorities to accommodate the students studying in the School of Petitioner in nearby schools offering education to intellectually challenged students, this Court passed order dated

25 February 2025 directing filing of an affidavit by State Government indicating the steps taken for accommodation of students affected due to closure of the school of the Petitioner. Accordingly, two affidavits have been filed by the Respondents - Authorities.

8) I have heard Mr. Anturkar, the learned senior advocate appearing for the Petitioners in both the Petitions, Ms. Prabhune, the learned AGP for the Respondents-State in Writ Petition (stamp) No.32591 of 2024, Ms. Bhatia, the learned AGP for the Respondents-State in Writ Petition (stamp) No.32606 of 2024 and Mr. Bhargude and Mr. Deshmukh, the learned counsel appearing for the Intervenors.

9) During pendency of the present Petitions, there have been few developments in the case. It is the case of the Petitioners that the Commissioner has held Petitioners responsible for the unfortunate incident on account of various deficiencies noticed in the campus of the School and the Workshop wherein it was found that there was common gate through which it was possible to access both Schools as well as the Workshop. He contends that after passing of the impugned orders, Petitioner-Society has undertaken various steps for removal of those deficiencies. It appears that for the purpose of considering the Petitioners' application for renewal of Workshop License, an Inspector was appointed to make site visit and report the existing conditions at the School and the Workshop. It

appears that the Inspector has submitted report dated 10 January 2025, which *prima facie* shows that most of the deficiencies are cured by the Petitioner-Society.

10) As observed above, this Court on 25 February 2025 directed the State Government to file affidavit about steps taken by the Respondents -Authorities for accommodating the students disturbed on account of closure of the School. Accordingly, affidavit dated 26 March 2025 is filed by the District Social Welfare Officer, Zilla Parishad, Pune and affidavit dated 5 April 2025 is filed by the Assistant Commissioner, working in the office of Commissioner for Persons with Disabilities, Maharashtra State, Pune. In those affidavits, it is indicated that there are only two schools available in the vicinity of Petitioner's School and Workshop. Jay Vakil School for Children in Need of Special Care is located at a distance of 18 kms. at Ambi, Talegaon, Taluka -Maval, District-Pune. The said school has sanctioned capacity of 40 students, whereas the number of students taking education therein is indicated as 56. Other institution by name Brahmadatt Shikshan Prasark Sanstha, operates school for intellectually disabled students at a distance of about 2 kms. However, as against the sanctioned strength of 30 students, 31 students are taking education therein. It thus, *prima facie* appears that there is no alternate school available in the nearby vicinity for accommodation of 100 students disturbed on account of closure of the school of the Petitioner -Society.

11) The impugned orders dated 7 October 2024 appears to be a net effect of reaction towards the unfortunate incident of sexual assault which had allegedly occurred on 16 July 2024. No doubt such an incident must be dealt with iron hands and all persons responsible for the same must be taken to the task. At the same time what disturbs this Court is the fact that 100 students taking education in the school and 40 students taking vocational training in the workshop are ultimately being affected on account of direction for closure issued by the Commissioner, as upheld by the Appellate Authority. The Petitioner-Society now claims that necessary corrective actions are taken in the campus so as to avoid repetition of any such incident in future. As of now, the possibility of accommodating 100 students studying in the Petitioner-School in alternate school appears to be difficult. In my view, the Commissioner needs to apply his mind afresh to these two aspects viz. corrective steps taken by the Petitioner-Society and difficulty in adjusting and accommodating the students on account of closure of the school. In the event, the Commissioner ultimately finds the Petitioner - Society still at fault and conducts School and Workshop in a manner not conducive to the interest of the intellectually challenged students, Commissioner is well within his rights to maintain the impugned order dated 7 October 2024. However, if indeed Commissioner is ultimately satisfied that corrective steps are taken by the Petitioner- Society and that permitting Petitioner -Society to run School and the Workshop would ultimately assist the students taking education and vocational

training in the School and Workshop, he can reconsider the closure decision.

12) In my view therefore, the Commissioner needs to apply his mind afresh to the fact situation that exists as of today. Petitioner -Institution ultimately has been functioning for the last 64 long years and has been looking after the welfare of the intellectually challenged students. In my view therefore instead of this Court undertaking an enquiry about correctness of the reasons recorded in the impugned order dated 7 October 2024 *qua* the School and the Workshop, it would be appropriate that the Commissioner revisits the entire case, particularly with reference to the corrective measures taken by the Petitioner-Society and difficulty in accommodating the students in nearby schools.

13) I accordingly proceed to pass the following order:-

- (i) Petition succeeds partly.
- (ii) Orders dated 7 October 2024 passed by the Competent Authority and Commissioner for Disabled as well as order dated 4 November 2024 passed by the Appellate Authority are set aside. Similarly, order dated 12 December 2024 passed by the Commissioner refusing to renew the license of the workshop is also set aside.
- (iii) Proceedings are remanded before the Competent

Authority and Commissioner for Disabled, who shall proceed to decide the issue of closure of School and the Workshop afresh after grant of due opportunity of hearing to the Petitioner-society. In the remanded proceedings Commissioner shall have due regard to the report submitted by the Inspector on 10 January 2025, so also the difficulties expressed in the affidavit for accommodating students in nearby schools.

- (iv) While deciding the issue of closure of Workshop, which is apparently directed to be closed on account of expiry of license on 31 March 2019, the Commissioner shall obviously decide the issue of grant of renewal of the license for operation of the workshop.
- (v) The Commissioner however, would be at liberty to conduct any further site inspection as is considered necessary.
- (vi) The remanded proceedings shall be decided by the Commissioner in an expeditious manner, preferably within a period of three months. Petitioner shall appear before the Commissioner on 21 May 2025 and obtain further directions for fixation of date (s) of hearing.
- (vii) The Commissioner shall decide the remanded proceedings on their own merits.

(viii) Till decision of the remanded proceedings and for a period of four weeks thereafter interim orders granted by this Court in the present Petitions shall continue to operate.

(ix) It would be open for the Intervenor, who are parents of the students, who are disturbed on account of closure of the School and Workshop, to participate in the hearing of the remanded proceedings before the Commissioner.

14) With the above directions, both the Petitions are disposed of.

15) Interim Application stands disposed of.

[SANDEEP V. MARNE, J.]