



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.396 of 2025

[Vishwakarma Bahuddeshiya Shikshan Prasarak Mandal, Rajura, through its Secretary, Sangita W/o Ravindra Thamke **VERSUS** The State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's order
Registrar's orders.

Shri Anil Mardikar, Senior Advocate, assisted by Mshri Kaushiki Gadge,
Counsel for Petitioner.

Shri D.P. Thakare, Additional Government Pleader for Respondent
Nos.1 to 4.

Shri Amol M. Raut, Counsel for Respondent No.5.

CORAM : NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : APRIL 17, 2025

CIVIL APPLICATION (CAW) NO.922 OF 2025 :

1. This is an application for amendment of the petition.
2. We deem it appropriate to allow the application for amendment, since the amendment is based on subsequent developments.
3. Necessary amendment be carried out within a period of one week from today.
4. The civil application stands disposed of.

WRIT PETITION NO.396 OF 2025 :

1. By consent, the writ petition is taken up for final disposal at the admission stage.
2. The challenge in the petition is to the order dated October 08, 2024 passed by the Hon'ble Minister, Other Backward Class and Special Backward Class Welfare Department, State of Maharashtra.

3. Vide impugned order, the State Government has set aside the order dated December 30, 2020 passed by the respondent No.1 and directed the School to be restored to the respondent No.5-Society. Certain conditions are incorporated therein, which are to be complied with by the respondent No.5.

4. The few facts necessary for deciding the petition are as under :

4.1. The petitioner, a registered Society and a Public Trust, was managing Late Narayanrao Thamke Primary Aashram School, Kolshi (Kd), Taluka Korpana, District Chandrapur, since 2020.

4.2. The respondent No.5 is also a registered Trust and is running a School by name Vidarbha Marathi Prathamik Shala, Gadchandur, Taluka Korpana, District Chandrapur. The respondent No.5 prior to 2020 was running another Aashram School by name Late Chamanseth Primary Aashram School, Kolshi, Korpana, District Chandrapur. Since these two Aashram Schools were not properly managed by the respondent No.5, the Assistant Commissioner, Social Welfare, Gadchiroli, after visiting the School on November 07, 2012, notified the deficiencies, which has resulted into issuance of a show cause notice to the respondent No.5.

4.3. Vide order dated September 30, 2013, the respondent No.2-Director of VJNT, OBC and SBC Welfare Directorate, Maharashtra State, Pune, cancelled the recognition of the School run by the respondent No.5-Management.

4.4. The appeal preferred by the respondent No.5 before the State Government against the order dated September 30, 2013 passed by the respondent No.2 came to be decided on December 31, 2013 and the order impugned therein was stayed on compliance of certain conditions.

4.5. In view of the inability of the respondent No.5 to manage the School, the respondent No.5 offered to transfer the Aashram School with

all paraphernalia, including the immovable property to the petitioner. Accordingly, the said School stood transferred in favour of the petitioner-Management vide agreement dated August 03, 2020.

4.6. Accordingly, the petitioner submitted an application for approval of transfer to the respondent No.4- Assistant Commissioner, Social Welfare, Chandrapur, on August 03, 2020, which was recommended by the respondent No.4 to the respondent No.2- Director of VJNT, OBC and SBC Welfare Directorate, Maharashtra State, Pune. Vide order dated December 30, 2020 passed by the respondent No.1- State Government, the permission was granted to transfer the Aashram School from the respondent No.5 to the petitioner. The sale-deed of the Class-II land over which the School was being operated was to be executed subsequent to the aforesaid permission and after conversion of the same from Class-II to Class-I, the Sub-Divisional Officer, Rajura, vide order dated January 28, 2022, granted conversion to Class-I.

4.7. Since the respondent No.5-Management refused to perform its part of the contract in the matter of transfer of School, a civil suit came to be instituted for specific performance vide Special Civil Suit No.22 of 2023 pending on the file of the Civil Judge, Senior Division, Chandrapur.

4.8. It appears that since the respondent No.5 was not intending to give effect to the transfer pursuant to the order, it preferred proceedings before the respondent No.1-State Government.

4.9. The respondent No.1 has accordingly passed the impugned order. As such this petition.

5. Amongst other grounds canvassed, Shri Anil Mardikar, learned Senior Advocate appearing for the petitioner, would urge that the order impugned dated October 08, 2024 passed by the respondent No.1- State Government is without issuing notice of hearing so also without offering an opportunity of personal hearing to the petitioner and as such the same

is in violation of the principles of natural justice guaranteed under the Constitution of India. According to Shri Mardikar, the order impugned has adverse civil consequences, viz. the undoing of the permission of transfer granted in favour of the petitioner by the respondent No.1- State Government on December 30, 2020, consequent to which the petitioner is managing the Primary School. In such an eventuality, the learned Senior Advocate would urge that the order impugned is liable to be quashed and set aside.

6. According to Shri Mardikar, on March 31, 2025, the respondent No.3 released the grants to various Primary Schools and the grants were issued to the petitioner to the tune of Rs.20,43,914/-. Once the grants were sanctioned and directed to be released by the State Government, according to Shri Mardikar, the respondent No.1- State Government lacks an authority to stop release of the grants, particularly vide communication dated April 04, 2025 issued by the Regional Deputy Director, Social Welfare Department, Nagpur, and illegal orders passed by the State Authorities.

7. As such, the learned Senior Advocate would urge that since the grants, which are directed to be released, were for a period for which the petitioner was administering the School for Academic Session 2024-25, the petitioner is entitled for release of the grants.

8. As against above, Shri Thakare, learned Additional Government Pleader appearing for the respondent Nos.1 to 4, opposed the prayer made by the learned Senior Advocate, as, according to him, the transfer itself is illegal and as such, the order passed by the State Government is quite justified. According to him, as a consequence of the order of transfer being set aside by the State Government, the grants are directed not to be released.

9. We have considered the rival claims.

10. From the factual matrix, it is apparent that the respondent No.1-State Government, vide order dated December 30, 2020, granted permission to transfer the Aashram School from the respondent No.5-Management in favour of the petitioner and such order was already given effect to, as the petitioner is managing the Primary School since then without any interruption.

11. It appears that the respondent No.5 approached the State Government after more than four years' period of passing the said order of granting permission to transfer in form of an appeal, which led to passing of the impugned order dated October 08, 2024. In response to the Court's query, the learned Additional Government Pleader is unable to satisfy this Court as to the issuance of a notice of hearing or that of the grant of an opportunity of personal hearing to the petitioner. Apart from this, it is apparent that the proceedings are entertained by the State Government after a period of more than four years for grant of permission to transfer the School, which aspect is also not looked into by the State Government.

12. That being so, the order impugned dated December 08, 2024 passed by the respondent No.1-State Government cannot be said to be sustainable and as such, the same is accordingly quashed and set aside.

13. As a consequence of above, we are inclined to observe that since the grants are released for Academic Session 2024-25, that too to the extent of 40% of the salary grants, we declare that the petitioner is entitled to receive the same, as the communication issued by the respondent No.3-Regional Director, Social Welfare Department, Nagpur, is without any authority of law, as neither the State Government nor other Authorities of the State Government can withhold the grants in view of the order of transfer dated December 30, 2020. That being so, the prayer of the petitioner to the extent of issuance of a direction to release the grants is also allowed.

14. We direct the respondent Nos.2, 3 and 4 to forthwith release the grants in favour of the petitioner.
15. The petition accordingly stands allowed. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)

LANJEWAR