



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

WRIT PETITION NO. 5947 OF 2025

Career Campus, through it's sole proprietor
Sushant Laxmanrao Bhagat, Aged about 46
years, Occ. Education, having registered office
at Plot No.10, Makde Plots, Nandanwan
Main Road, Bhande Plot, Nagpur- 4400024.

.... PETITIONER.

// **VERSUS** //

1. The State of Maharashtra, through its
Principal Secretary, Department of Social
Justice & Special Assistance, Mantralaya,
Mumbai – 400 032.
2. Dr. Babasaheb Ambedkar Research and
Training Institute (BARTI), Through its
Director General, 28, Queen's Garden,
Pune – 411001.

.... RESPONDENTS.

Shri S.P.Bhandarkar, a/w Ms Sejal Lakhani, Advocate for Petitioner.
Shri N.S.Rao, A.G.P. for Respondent No.1.

CORAM : ANIL S. KILOR AND
RAJNISH R. VYAS, JJ.

DATED : 04/12/2025

ORAL JUDGMENT : (Per : Anil S. Kilor, J)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. The petitioner herein is engaged in business of providing coaching for competitive examinations. The respondent No.2 issued tender for providing pre-examination coaching for JEE and NEET to Scheduled Caste students. Then the petitioner was empaneled as approved training centre along with other institutions.

4. Thereafter on 17/06/2025 the respondent No.2 published a fresh expression of interest / E-tender seeking empanelment of reputed coaching institute at Mumbai, Pune, Nashik, Latur, Nagpur, Amravati and Chhatrapati Sambhaji Nagar to provide 22 months JEE/NEET coaching to Scheduled Caste students of Class-XI and Class-XII.

5. The respondent issued a Technical Corrigendum on 07/07/2025 whereby clause 19(a)(8) and 19(a)(9) were altered with retrospective effect, which gave a cause to the petitioner to file this petition seeking declaration that the said corrigendum is arbitrary, illegal, discriminatory and violative of Article 14 and 19(1)(g) of the Constitution of India and further seek to quash and set aside the same.

6. The learned A.G.P. Shri Rao, at the outset, raised preliminary objection to the maintainability of this petition on the ground of territorial jurisdiction. According to him, the tender was issued by respondent No.2, whose office is situated in Pune; the expression of interest was also scheduled to be opened at the office of respondent No.2 in Pune. The pre-bid meeting and the opening of the bid likewise took place at Pune. Therefore, he submits that the present petition ought to have been filed before the Principal Seat at Bombay, as the territorial jurisdiction, in view of the High Court Appellate Side Rules, 1960, lies with the Principal Seat. To substantiate his contention he has placed reliance on the following judgments :

- i) *Union of India and others Vs. Adani Export Ltd.*, reported in **(2002) 1 SCC 567**;
- ii) *Kusum Ingots and Alloys Ltd. Vs. Union of India and Ors.*, reported in **(2004)5 SCC 254** ;
- iii) *Sterling Agro Industries Ltd. Vs. Union of India & Ors.*, reported in **2011 SCC OnLine Del 3162**;
- iv) *Shantidevi Vs. Union of India*, reported in **(2020)10 SCC 766**;
- v) *H.C. Developers Pvt.Ltd. Vs. Rahul*, reported in **2022 (1) Mh.L.J. 81**;
- vi) *Food Safety Services Vs. State of Maharashtra*, in **W.P. No.2108/2023**.

7. On the other hand, Shri Bhandarkar, learned counsel for the petitioner argues that the expression of interest seeking empanelment of coaching institute is for seven centres, including Nagpur and Amravati, which come within the jurisdiction of this Court and therefore, a part of cause of action arose within the jurisdiction of this Court and as such this Court has jurisdiction to entertain this writ petition. In support of his contention, he has placed reliance on the following judgments :

- i) *Navinchandra N. Maithia vs. State of Maharashtra & Ors.*, reported in **(2000) 7 SCC 640**;
- ii) *Nitin Industrial Associates, Khamgaon vs. State of Maharashtra & Ors.*, reported in **AIR 1986 Bom 298**.
- iii) *Mohamed Rizwan Memon & Ors ..vs.. State of Goa & Ors.*, reported in **(2018) 1 AIR Bom R (Cri.) 193**,

8. In light of the rival submissions made by both the parties, we have perused the record and also gone through the authorities cited by both the parties.

9. The Hon'ble Supreme Court of India, in the case of *Union of India and others Vs. Adani Export* (supra) has observed thus :

“16. It is clear from the above constitutional provision that a High Court can exercise the jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises. This provision in the Constitution has come up for

consideration in a number of cases before this Court. In this regard, it would suffice for us to refer to the observations of this Court in the case of Oil and Natural Gas Commission v. Utpal Kumar Basu (SCC at p. 713) wherein it was held:

"Under Article 226 a High Court can exercise the power to issue directions, orders or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action, wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. The expression 'cause of action' means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the court. Therefore, in determining the objection of lack of territorial jurisdiction the court must take all the facts pleaded in support of the cause of action into consideration albeit without embarking upon an enquiry as to the correctness or otherwise of the said facts. Thus the question of territorial jurisdiction must be decided on the facts pleaded in the petition, the truth or otherwise of the averments made in the petition being immaterial."

10. The Hon'ble Supreme Court of India, in the case of *Kusum Ingots and Alloys Ltd.* (supra) has observed thus :

"27. When an order, however, is passed by a court or tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. Even in a given case, when the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places. In other words, as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the order of the appellate authority is also required to be set aside and as the order of the original authority merges with that of the appellate authority.

28. *Lt.Col. Khajoor Singh v. Union of India* whereupon the learned counsel appearing on behalf of the appellant placed strong reliance was rendered at a point of time when clause (2) of Article 226 had not been inserted. In that case the Court held that the jurisdiction of the High Court under Article 226 of the Constitution of India, properly construed, depends not on the residence or location of the person affected by the order but of the person or authority passing the order and the place where the order has effect. In the latter sense, namely, the office of the authority which is to implement the order would attract the territorial jurisdiction of the Court was considered having regard to Section 20(c) of the Code of Civil Procedure as Article 226 of the Constitution thence stood, stating: (AIR p. 540, para 16)

"The concept of cause of action cannot in our opinion be introduced in Article 226, for by doing so we shall be doing away with the express provision contained therein which requires that the person or authority to whom the writ is to be issued should be resident in or located within the territories over which the High Court has jurisdiction. It is true that this may result in some inconvenience to persons residing far away from New Delhi who are aggrieved by some order of the Government of India as such, and that may be a reason for making a suitable constitutional amendment in Article 226. But the argument of inconvenience, in our opinion, cannot affect the plain language of Article 226, nor can the concept of the place of cause of action be introduced into it for that would do away with the two limitations on the powers of the High Court contained in it."

11. The Hon'ble Supreme Court of India, in the case of *Sterling Agro Industries* (supra) has observed thus :

"34. The principle of *forum conveniens* in its ambit and sweep encapsulates the concept that a cause of action arising within the jurisdiction of the court would not itself constitute to be the determining factor compelling the court to entertain the matter. While exercising jurisdiction under articles 226 and 227 of the Constitution of India, the court cannot be totally oblivious of the concept of *forum conveniens*. The Full Bench in *New India*

Assurance Co. Ltd. v. Union of India, AIR 2010 Delhi 43; (2011) 166 Comp Cas 87 (Delhi), has not kept in view the concept of forum conveniens and has expressed the view that if the appellate authority who has passed the order is situated in Delhi, then the Delhi High Court should be treated as the forum conveniens. We are unable to subscribe to the said view.

35. In view of the aforesaid analysis, we are inclined to modify the findings and conclusions of the Full Bench in *New India Assurance Co. Ltd. v. Union of India*, AIR 2010 Delhi 43; [2011] 166 C-C 87 (Delhi) and proceed to state our conclusions in seriatim as follows:

(a) The finding recorded by the Full Bench that the sole cause of action emerges at the place or location where the Tribunal/appellate authority/revisional authority is situate and the said High Court (i.e., Delhi High Court) cannot decline to entertain the writ petition as that would amount to failure of the duty of the court cannot be accepted inasmuch as such a finding is totally based on the situs of the Tribunal/appellate authority/revisional authority totally ignoring the concept of forum conveniens.

(b) Even if a minuscule part of cause of action arises within the jurisdiction of this court, a writ petition would be maintainable before this court, however, the cause of action has to be understood as per the ratio laid down in the case of *Alchemist Ltd. v. State Bank of Sikkim* (2007) 136 C-C 665; (2007) 11 SCC 335.

(c) An order of the appellate authority constitutes a part of cause of action to make the writ petition maintainable in the High Court within whose jurisdiction the appellate authority is situated. Yet, the same may not be the singular factor to compel the High Court to decide the matter on merits. The High Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.

(d) The conclusion that where the appellate or revisional authority is located constitutes the place of forum conveniens as stated in absolute terms by the Full Bench is not correct as it will vary from case to case and depend upon the lis in question.

(e) *The finding that the court may refuse to exercise jurisdiction under article 226 if only the jurisdiction is invoked in a mala fide manner is too restricted/constricted as the exercise of the power under article 226 being discretionary cannot be limited or restricted to the ground of mala fide alone.*

(f) *While entertaining a writ petition, the doctrine of forum conveniens and the nature of cause of action are required to be scrutinised by the High Court depending upon the factual matrix of each case in view of what has been stated in Ambica Industries v. CCE (2007) 213 ELT 323; [2009] 20 VST 1 (SC) and Union of India v. Adani Exports Ltd. (2002) 1 SCC 567.*

(g) *The conclusion of the earlier decision of the Full Bench in New India Assurance Co. Ltd. v. Union of India, AIR 2010 Delhi 43; (2011) 166 C-C 87 (Delhi) (page 115): "... that since the original order merges into the appellate order, the place where the appellate authority is located is also forum conveniens" is not correct.*

(h) *Any decision of this court contrary to the conclusions enumerated hereinabove stands overruled."*

12. The Hon'ble Supreme Court of India, in the case of *Shantidevi*

Vs. Union of India (supra) has observed thus :

"20. This Court had occasion to consider the cause of action in the context of Article 266 of the Constitution and has explained the expression "cause of action" in a large number of cases. We may refer to a three-Judge Bench judgment of this Court in ONGC v. Utpal Kumar Basu, where in paras 5 and 6 following has been laid down: (SCC pp. 716-17)

"5. Clause (1) of Article 226 begins with a non obstante clause-notwithstanding anything in Article 32- and provides that every High Court shall have power 'throughout the territories in relation to which it exercises jurisdiction', to issue to any person or authority, including in appropriate cases, any Government, "within those territories" directions, orders or writs, for the enforcement of any of the rights conferred by Part III or for any other purpose. Under clause (2) of Article 226 the High Court

may exercise its power conferred by clause (1) if the cause of action, wholly or in part, had arisen within the territory over which it exercises jurisdiction, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. On a plain reading of the aforesaid two clauses of Article 226 of the Constitution it becomes clear that a High Court can exercise the power to issue directions, orders or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action, wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. In order to confer jurisdiction on the High Court of Calcutta, NICCO must show that at least a part of the cause of action had arisen within the territorial jurisdiction of that Court. That is at best its case in the writ petition.

6. It is well settled that the expression "cause of action" means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the court. In Chand Kour v. Partab Singh Lord Watson said: (IA pp. 157-58)

**... the cause of action has no relation whatever to the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the grounds set forth in the plaint as the cause of action, or, in other words, to the media upon which the plaintiff asks the court to arrive at a conclusion in his favour."*

Therefore, in determining the objection of lack of territorial jurisdiction the court must take all the facts pleaded in support of the cause of action into consideration albeit without embarking upon an enquiry as to the correctness or otherwise of the said facts. In other words the question whether a High Court has territorial jurisdiction to entertain a writ petition must be answered on the basis of the averments made in the petition. the truth or otherwise whereof being immaterial. To put it differently, the question of territorial jurisdiction must be decided on the facts pleaded in the petition."

13. This Court in the case of *H.C. Developers Pvt.Ltd.* (supra) has observed thus :

“19. In *Haji Abdul Razak Yasim Patel'* case this Court in paragraph 8 referred to sub-rule (1) of Rule 1 of Chapter XVII of the Appellate Side Rules, which reads as follows: “1(1) Applications for issue of writs, directions, etc. under Article 226 of the Constitution.— Every application for the issue of a direction, order or writ under Article 226 of the Constitution shall, if the matter in dispute is or has arisen substantially outside Greater Bombay, be heard and disposed of by a Division Bench to be appointed by the Chief Justice. The application shall set out therein the relief sought and the grounds on which it is sought, it shall be solemnly affirmed or supported by an affidavit. In every such application, the applicant shall state whether he has made any other application to the Supreme Court or the High Court in respect of the same matter and how that application has been disposed of.” Further, for purpose of this Petition it is material to consider Rule (1) of Chapter XXXI of the Appellate Side Rules which reads as follows: “**1. Presentation of matters at Nagpur, Aurangabad and Goa.**— All appeals, applications, references and petitions including petitions for exercise of powers under Articles 226 and 227 of the Constitution arising in the Judicial Districts of Akola, Amravati, Bhandara, Buldhana, Chandrapur, Nagpur, Wardha, Yavatmal and Gadchiroli which lie to the High Court of Bombay shall be presented to the Additional Registrar of that High Court at Nagpur and shall be disposed of by the Judges sitting at Nagpur:

Provided that the Chief Justice may, in his discretion, order that any case arising in any such District shall be heard at Bombay;

Provided further that the Chief Justice may, in his discretion, order that any case presented at Bombay be heard at Nagpur.”

Further in paragraph 15 it is observed thus:

“15. It must be made clear that as observed by the Division Bench in *Nitin Industrial Associates* (supra), the jurisdiction of the Court is coterminus with the territory of the State. Therefore, as a matter of law, the litigants would be entitled to invoke the jurisdiction of the Principal Seat of any Bench in respect of any matter arising anywhere in the State of Maharashtra in view of the express language of clause (1) of Article 226. It makes no difference if the jurisdiction of the

Court under Article 227 is invoked since clause (1) of Article 227 is couched in similar language. It reads as follows:—

“Art. 227.(1) Every High Court shall have superintendence over all Courts and tribunals throughout the territories in relation to which it exercises jurisdiction.” (Emphasis supplied)

However, having regard to the High Court (Appellate Side) Rules, the Benches of the Principal Seat would be extremely slow in entertaining matters which have arisen within the ordinary territorial jurisdiction of another Bench.”

28. The decision in Haji Abdul Razak Yasim Patel's case will not apply in the present facts for reasons more than one. The RERA Act is intended to provide a forum for speedy redressal or those seeking redressal. The fact in question in respect of which the complaint is filed is situated in a project which is at Nagpur. Moreover, Clause 63 of the Flat Purchasers Agreement provides that any disputes in relation to this agreement, shall be subject to the exclusive jurisdiction of Courts at Nagpur. The dispute is a consequence of alleged failure on the part of the developer in handing over the flat situated at Nagpur though substantial consideration was paid by the flat purchaser to the developer. In this case, almost the entire cause of action has arisen at Nagpur. It is the passing of the impugned order by the Statutory Tribunal situated in Mumbai which resulted in part of the cause of action arising in Mumbai. It is necessary to consider the factum of hardship and inconvenience to any of the parties having regard to the nature of the legislation. As observed earlier, the Petition is maintainable at the Principal Seat as well as the Nagpur Bench. Therefore the decision in Haji Abdul Razak Yasim Patel's case has no application to the present case, though the impugned order is passed by the Tribunal situated within the territorial jurisdiction of the Principal Seat.”

14. This Court in the case of *Food Safety Services* (supra) has observed thus :

“9. Reference can also be made to the decision in National Textile Corporation Limited and others (supra). The petitioners in the writ petitions were situated at Mumbai and entered into contracts for purchasing cloth. With regard to contractual obligations, it was their grievance that the National Textile Corporation which had taken over the mills in question failed to

abide by the contractual obligations. Writ petition in that regard was filed before the Calcutta High Court by urging that since the said petitioners were carrying business at Calcutta, letters were sent by them from Calcutta and replies to the same had been received at Calcutta, a part of cause of action had accrued in the State of West Bengal. On the question of territorial jurisdiction, the Hon'ble Supreme Court held that the mills in question were situated in Mumbai and supply of cloth was to be made ex-factory at Mumbai. The mere fact that the petitioner carried on business at Calcutta or that reply to the correspondence made by it was received at Calcutta would not be an integral part of the cause of action and therefore the High Court at Calcutta had no jurisdiction to entertain the writ petition.

13. For aforesaid reasons, we decline to entertain the writ petitions on merits since it has been found that no part of cause of action has arisen within the territorial jurisdiction of the Nagpur Bench of this Court. With liberty to the petitioners to invoke appropriate jurisdiction for pursuing the prayers made in the writ petitions, the same are disposed of as not entertained. The points raised in the writ petitions are kept open. We are informed that with regard to the same tender process, the co-ordinate Bench at the Principal Seat in Writ Petition No.5420 of 2023, (National Management Training Institute v. State of Maharashtra and others) decided on 25-4-2023 has found only one bidder has been found eligible. The Principal has been directed to consider this aspect. The observations in paragraph 9 of the said order dated 25-4-2023 would take care of the petitioners' apprehensions till they invoke appropriate remedy. Rule accordingly. There shall be no order as to costs."

15. The Full Bench of this Court at Goa in the case of *Mohamed Rizwan Memon* (supra) has observed thus :

"24. The principles, which can thus be culled out from the aforesaid discussion are:-

(i) That, under Article 226(1) of the Constitution of India, the emphasis is on the presence of any person or Authority, including in appropriate cases, any Government, within those territories, over which the High Court exercises jurisdiction, for

issuance of any directions, orders or writs for the enforcement of any of the rights conferred by Part III and for any other purpose.

(ii) That, there is a common High Court exercising jurisdiction over the States of Maharashtra and Goa and the two Union Territories.

(iii) That, every Judge wherever he sits, sits as a Judge of a common High Court, exercising jurisdiction over the entire territory, to which the territorial jurisdiction of Bombay High Court extends and this cannot be curtailed by any statutory enactment or the Rules.

(iv) That, it is for the administrative convenience that the territorial Jurisdiction of the Principal Seat and the Benches and the High Court of Bombay at Goa, under Chapter XXXI of the Appellate Side Rules, has been defined and has normally to be adhered to.”

16. The principle which could be culled out from the above observations is that if the cause of action wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. The expression "cause of action" means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the Court. Therefore, the Court must take all the facts pleaded in support of the cause of action into consideration albeit without embarking upon an enquiry as to the correctness or otherwise of the said facts.

17. Having gone through the facts pleaded in the matter at hand, admittedly, the impugned corrigendum in respect of 'expression of interest' was issued by the respondent No.2. The Head Office of the respondent No.2 is at Pune. The place of opening of expression of interest, pre-bid meeting and opening of bid had taken place at Pune. Except the fact that the centres for which the expression of interest is called, includes Nagpur and Amravati, which fall within the jurisdiction of this Court, The complete process of expression of interest right from issuing the same till finalizing the same is to be done at Pune as per the tender document.

18. The judgment cited by the learned counsel for the petitioner in the case of *Nitin Industrial Associates* (supra) is of no assistance to the petitioner for the reason that though the Court in that case has held that Nagpur Bench has no jurisdiction to try and hear the petition, but it required to be entertained and tried at Bombay, but it was entertained in view of the peculiar facts and circumstances, namely, that the matter was admitted by the Court as back as on 25/09/1984.

19. In the circumstances, we are of the opinion that this petition will lie before the Principal Seat.

20. In that view of the matter, we pass the following order:

- i) The Writ Petition is **dismissed**. Rule stands discharged.
- ii) The petitioner is at liberty to raise his grievance before the Principal Seat at Bombay, if he so desires.
- iii) In the circumstances, there shall be no order as to costs.

(RAJNISH R. VYAS, J)

(ANIL S. KILOR, J)

RRaut..