

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

WRIT PETITION NO. 747/2025

Vivekanand Shiksha Samiti, Sitasaongi A Society

Vs.

The Tahsildar, Tumsar and Ors.

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. R. L. Khapre, Sr. Advocate with Mr. Amit Khare, Advocate for
 Petitioner.

Ms K. H. Bhondge, A.G.P. for Respondents/State.

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

DATED : 21/02/2025.

1. Heard Mr. R. L. Khapre, learned Senior Counsel
 assisted by Mr. Amit Khare, learned Counsel for the
 petitioner.

2. It is the case of the petitioner that it being a
 Public Trust, got the land in question in gift from
 Mr. Lalwani, whose source was a sale-deed from a tribal.
 Since the character attached to the land in question is that
 of a tribal land, unless the permission is granted by the
 State Government for purchase of such tribal land by a
 non-tribal, the property of the tribal cannot be transferred
 or vested in a non-tribal. As a sequel of which, the State
 has directed restoration of land to the tribal.

3. According to Mr. Khapre, learned Senior
 Counsel, after the land was returned from petitioner, same
 was offered to the tribal from whom in 1971, Mr. Lalwani
 has purchased the land. Said land was gifted by a deed
 dated 27.03.1978 to the petitioner. Section 5A of the
 Maharashtra Restoration of Lands to Scheduled Tribes Act,

1974 contemplates vesting of the land in favour of the State Government, which in turn, can offer it to the other tribal. Since the land of which the petitioner is in possession is offered to the other tribal, who has refused to accept the same pursuant to Sub-Section (7) of Section 5A of the Act, it is open for the State Government to dispose of the said tribal land as it desires.

4. That being so, it is the case of the petitioner that the petitioner having invested in the land in question by constructing college and hostel buildings, it cannot be said to be a non *bona fide* claimant of the land as the request of the petitioner for allotment of the land is turned down for unreasonable reason.

5. Issue notice for final disposal to the respondents, returnable on 10.03.2025.

6. Ms. K. H. Bondge, learned A.G.P. waives service for notice for respondents/State.

7. To be heard with Public Interest Litigation No.60/2023.

(MRS. VRUSHALI V. JOSHI, J.) (NITIN W. SAMBRE, J.)