



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4246 OF 2026

Sharad Lingappa Kyadar

VERSUS

The State Of Maharashtra Through Its Secretary And Another

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Mr. B. B. Shelke h/f Mr. V. S. Bedre, Advocate for the Petitioner
Mr. A. M. Phule, AGP for Respondent-State

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CORAM : SMT. VIBHA KANKANWADI &
AJIT B. KADETHANKAR, JJ.

DATED : 21ST APRIL, 2026

ORDER :-

. Present petition has been filed for following reliefs:

“B. By issuing appropriate writ in the nature of direction and order and to direct the respondent no.2 to take immediate action on the basis of the application submitted by the petitioner on dated 10.01.2025, in the interest of justice.”

2. Heard learned Advocate for the petitioner. Learned Advocate for the petitioner submits that Padmashali Vidya Prasarak Mandal Trust is registered under the provisions of Bombay Public Trust Act and the same is registered as A-55 Ahmednagar. As there was no scheme, the present petitioner has filed Scheme Application No.40 of 1997 before learned District Judge, Ahmednagar. Learned District Judge, Ahmednagar framed the scheme in the year 2000 and appointed the petitioner and others as a trustees of the trust for a

period of five years. Since from year 2000 and onwards, he is working as a President of the said trust. Time to time, the petitioner has submitted change reports with the learned Assistant Charity Commissioner, Ahmednagar and same are pending. After taking permission from the learned Charity Commissioner on 30.07.1990, the President of Shri. Markandye Temple Devasthan Trust has lease out the premises for a period of 49 years in favour of Padmashali Vidya Prasarak Mandal Trust, and accordingly executed registered lease agreement on 23.08.1990. It is further submitted that there was a dispute between the trustees and members of the trust. Thereafter, on 28.08.2024, without holding any meeting of the Trust and without obtaining necessary permission from the authority, one Shri Balkrushna Ballaya Sidham has executed false resolution and executed consent deed in favour of Markandye Devasthan Temple Trust alleging that without obtaining necessary permission from the competent authority, possession was handed over in favour of Markandye Devasthan Temple Trust. On the basis of the said consent deed, the trustees of Shri Markandye Devasthan Temple Trust demolished the construction of 1000 sq.ft. Therefore, immediately the petitioner has lodged a complaint with the Police Officer on 09.12.2024.

3. Learned Advocate for the petitioner further submits that the the trustees of Shri Markandye Devasthan Temple Trust, in collusion hands with the headmaster of the school as well as the other trustees of Shri. Padmashali Vidya Prasarak Mandal, have committed illegal acts. Therefore, on 10.01.2025, the petitioner had submitted detailed application with respondent no.2 requesting to take immediate action against the persons who have committed illegal acts. Petitioner also sought information from Zilla Parishad, Ahmednagar whether any permission was granted for demolition and in reply of the same, on 04.07.2025, Zilla Parishad informed him that no such permission was granted. On the basis of the alleged agreement of consent deed, the unauthorized persons have illegally demolished the school building and office premises of the scheme, therefore, the criminal complaint is also filed against the said persons. Despite obligatory on the part of respondent no.2, no such steps have been taken against the said persons by respondent no.2. However, in spite of repeated request from the petitioner, respondent no.2 did not paid any heed. Accordingly, when no action has been taken by respondent no.2, the petitioner is before this Court.

4. Here, when the petitioner seeks registration of the FIR and the investigation thereof, then we are guided by the decisions in *Sakiri*

Vasu Vs. State of U.P. and Ors., [(2008) 2 SCC 409], Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and Ors., [(2016) 6 SCC 277] and *T.C. Thangaraj Vs. V. Engammal and Ors., [(2011) 12 SCC 328]*, which have been then referred in *M. Subramaniam and Ors. Vs. S. Janaki and Ors., [(2020) 16 SCC 728]*, wherein the Hon'ble Supreme Court has held that the petitioner/complainant will have to approach the Judicial Magistrate First Class or Chief Judicial Magistrate, as the case may be under Section 175 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Old Section 156(3) of Cr.P.C.).

5. In view of the said legal position, the writ petition stands disposed of with liberty to the petitioner to approach the Judicial Magistrate First Class or Chief Judicial Magistrate as provided under the law.

6. If such proceedings are filed, then the concerned Court would be at liberty to decide the same upon its own merits.

[AJIT B. KADETHANKAR, J]

[SMT. VIBHA KANKANWADI, J.]