



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

WRIT PETITION NO. 2251 OF 2024

1. Chunnilal S/o Hariji Pardhi
age- Major, Occ : Service (Principal)
R/o. At Post Brahmapuri, Tahsil
Brahmapuri, District Chandrapur
2. Subhash S/o Lakhaji Shivankar,
age - Major, Occ : Service
R/o C/o Lakhaji Shivankar, At Post
Pavirmuranda, Tahsil Chamorshi,
Pavirmuranda, District Gadchiroli,
Pin Code : 442603
3. Harsha w/o Rushi Naitam,
age - 48 years, Occ : Service,
R/o. C/o Shrikant Madavi, at post
Sawalkheda, Tahsil Kurkheda,
District Gadchiroli - 441217
4. Varsha D/o Rajeramjee Dahake,
age - 46 years, Occ : Service,
R/o. C/o Rameshwar Rakhade,
At and Post Nanohari,
District Chandrapur - 441206
5. Ravindra S/o Cheptuji Madavi,
age - 52, Occ : Service,
R/o. C/o. Cheptuji Madavi, Gokul
Nagar, Ward No.22, Gadchiroli,
District Gadchiroli - 442605
6. Abhayrao Vithobaji Tammiwar
age - Major, Occ : Service,
R/o. C/o. Vithobaji Tammiwar,
Ward No.1, Talodhi Mokasa,
District Gadchiroli - 442603
7. Sujeet S/o Gangadhar Urade,
age - Major, Occ : Service,
R/o. At C/o. Gangadhar Urade,
Hanuman Nagar, Ward No.1,
At Post & Tahsil Chamorshi,
District Gadchiroli - 442603

.. Petitioners

8. Devnanda Krushnaji Kalbandhe
age – Major, Occ : Service,
R/o. C/o. Krushnaji Kalbandhe,
At Post Lanjeda, District Gadchiroli
9. Chetram S/o Manohar Nissar
age – 43 years, Occ : Service,
R/o. C/o. Manohar Nissar,
At Post Gadchiroli,
District – Gadchiroli
10. Lata D/o Paikaji Kankalwar
age – Major, Occ : Service,
R/o. C/o. Paikaji Kankalwar
At Post Kotgul, Tahsil Gadchiroli,
District Gadchiroli
11. Jyoti D/o Baburao Kamidwar
age – Major, Occ : Service,
R/o. C/o. Baburao Kamidwar,
At Post Chamorshi,
Tahsil and District Gadchiroli

.. Petitioners

Versus

1. State of Maharashtra
through the Secretary, Tribal
Development Department for the
State of Maharashtra, Madam Kama
Road, Mantralya, Mumbai 400032
2. The Commissioner,
Tribal Development Department
Commissionerate, Tribal
Development Bhavan, 1st Floor, Ram
Ganesh Gadkari Chowk, Old Agra
Road, Nashik : 422002
3. Additional Commissioner,
Tribal Development Department
Office of the Additional
Commissioner, Tribal Development
Department, Nagpur Division,
Giripeth, Nagpur – 440010
4. The Project Officer,
Integrated Tribal Development
Project, Gadchiroli, Office of the

.. Respondents

Project Officer, Integrated Tribal
Development Project Gadchiroli,
Complex Area, Near LIC Office,
District Gadchiroli 442605

5. Semana Vidya Va Vanvikas
Prashikshan Mandal, Gadchiroli
through its Director Kishor
Waddettiwar, C/o.Vijay Waddettiwar,
"Rainfall Niwas", Potegaon bypass,
Gadchiroli 442605
6. Navjyot Shikshan Prasarak Mandal,
through its Secretary, Dattatray
Shriram Lahane, Address : Navjyot
Shikshan Prasarak Mandal, Lavhala,
Taluka Mehkar, District Buldhana
7. Shiv Sai Anudanit Aadiwavi Aashram
Shala, Janefal through the Head
Master Sandeep Dnyandeo Kale
Address: Shiv Sai Anudanit Aadiwavi
Aashram Shala, Janefal, Taluka
Mehkar, District Buldhana

.. Respondents

WITH
WRIT PETITION NO. 8162 OF 2022

1. Nitin Balkrushna Dange
age-48 years, Occ:Service (Teacher)
R/o.C/o.Balkrushna Dange,
Potegaon Road Near Wadettiwar
House, Kannamwar Nagar, Ward
No.18, Gadchiroli 442603
2. Rajesh S/o. Digambar Yelke
age 40 years, Occ: Service (Teacher)
R/o.House No.705, Vivekanand
Colony, Parsar, Ward No.02, Near
New Hanuman Temple, Thana Petrol
Pump, Bhandara 441906
3. Avinash Ramkrushna Despande
age 41 years, Occ : Service (Peon)
R/o. Ward No.2, At/Po Pavimuranda
Tahsil Chamorshi, District Gadchiroli,
Pavimuranda - 442603

.. Petitioners

4. Harish S/o Balujee Jettiwar
age 44 years, Occ:Service (Teacher),
R/o.C/o. Baluji Jettiwar, Gavharpura,
Ward No.3, Chamorshi,
Gadchiroli 442603
5. Anil Kumar S/o Rupchand Borkar
age 51 years, Occ:Service (Warden)
R/o. Devhadi, Tahsil Tumsar,
Stationtoli, Tumsar Road,
Bhandara – 441913
6. Thaneshwar Sukhiram Kothare
age 40 years, Occ:Service (Jr.Clerk)
R/o. C/o Sukhiram Kothare,
Kunghada, Kunghada Raiyyatwan,
Chamorshi, Gadchiroli – 442603
7. Shyamrao Baburao Walke
age 43 years, Occ:Service (Cook)
C/o. Baburao Walke, Gandhi Chowk
Ward No.2, Chikmara,
Tmbegadimendha,
Chandrapur – 441215
8. Bahadur S/o Baban Padwal
age 42 years, Occ : Service (Cook)
R/o C/o Baban Singh Padwal, Ward
No.01, Pavimuranda, Tahsil
Chamorshi, Gadchiroli – 442603
9. Suryabhan s/o Baliram Londe
age 51 years, Occ : Service
C/o Baliram Londhe, behind Bhaji
Mandi, At Shitalwadi,
Post K.K.Nagar, Tahsil Ramtek,
District Nagpur 441106

.. Petitioners

Versus

1. The State of Maharashtra
through the Secretary,
Tribal Development Department for
the State of Maharashtra, Madam
Kama Road, Mantralya, Mumbai
400032

2. The Commissioner,
Tribal Development Department
Commissionerate, Tribal
Development Bhavan, 1st Floor, Ram
Ganesh Gadkari Chowk, Old Agra
Road, Nashik : 422002
3. The Additional Commissioner,
Tribal Development Department
Office of the Additional
Commissioner, Tribal Development
Department, Nagpur Division,
Giripeth, Nagpur - 440010
4. The Project Officer,
Integrated Tribal Development
Project, Gadchiroli, Office of the
Project Office, Integrated Tribal
Development Project, Gadchiroli,
Complex Area, Near LIC Office,
District Gadchiroli 442605
5. Semana Vidya Va Vanvikas
Prashikshan Mandal, Gadchiroli,
through its Director, Kishor
Waddettiwar, C/o.Vijay Waddettiwar,
"Rainfall Niwas", Potegaon bypass,
Gadchiroli - 442605
6. The Head Master/Principal,
Shivani Adivasi Secondary & Higher
Secondary, Ashram School,
Pavimuranda, District Gadchiroli

.. Respondents

Mr. S.R. Dambhare, Advocate for Petitioners.

Mr. J.Y. Ghurde, AGP for respondent Nos. 1 to 4.

Mr. N.B.Kirtane, Advocate for respondent No.5.

Mr. S.M.Vaishnav, Advocate for respondent Nos.6 & 7(intervenor).

**CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.**

DATED : APRIL 09, 2025

JUDGMENT (PER : ABHAY J. MANTRI, J.)

Heard. **Rule.** Heard finally with the consent of the learned counsel appearing for the parties.

(2) Both these petitions question the validity of Government Resolution (GR) dated 04/12/2023 issued by respondent No.1 as unconstitutional being ultra-virus to Article 14 of the Constitution, void, and arbitrary, therefore, transfer of the Ashram School run by respondent No.5 – the NGO namely the Semana Vidya Va Vanvikas Prashikshan Mandal, Gadchiroli to respondent No.6 – Navjyot Shikshan Prasarak Mandal, Lavhala, Taluka Mehkar, District Buldhana, is claimed to be contrary to the GR dated 19/12/2016.

(3) The petitioners in both these petitions were appointed by respondent No.5 authorities to officiate as teachers and other non-teaching posts of Class – III and Class – IV in the Shivani Adiwas Secondary and Higher Secondary, Ashram School, Pavimuranda, District Gadchiroli (hereinafter referred to as "**Ashram School**") which is government aided, run by respondent No.5 NGO, namely, Semana Vidya Va Vanvikas Prashikshan Mandal, Gadchiroli (for short, "**Respondent No.5 NGO**"). The Ashram School receives 100% grant-in-aid from respondent No. 1. It was governed according to the terms and

conditions, as well as under the guidance, financial aid, and statutory mandate of the State of Maharashtra through the Tribal Development Department. The respondent, No. 5 NGO, confirmed the petitioners' appointments as permanent to their respective posts. The respondents Nos. 1 to 4 duly approved their services. Respondent No.1 had issued various GRs from time to time to ensure the smooth running of management and governance of the Ashram Schools throughout the State of Maharashtra.

(4) The Ashram School was facing tremendous hardship, with several basic facilities lacking, including inadequate infrastructure, insufficient electricity, and a shortage of daily necessities, which led to a decline in student admissions. The petitioner No.1 in Writ Petition No.2251/2024 while working as Principal/Headmaster of the said Ashram School have repeatedly made several representations to the various authorities to ensure smooth running of the Ashram School, but due to maladministration and inaction on the part of respondent No.5 NGO, not only the employees including the petitioners, but also students and local people were facing hardship and the said Ashram School was on the verge of closing down. The same was noted by respondent No. 3 in its letters dated 14/07/2016, 12/03/2018, 14/08/2020, and 26/05/2022, which forwarded the proposal to respondent Nos. 1 and 2 to initiate action for the derecognition of the

said Ashram School. However, this action was stayed by the GR dated 10/06/2019. Respondents Nos. 1 to 5 have not taken any positive steps to provide the necessary educational materials, infrastructure, electricity, food, and other essential items required for the smooth functioning of the Ashram School.

(5) Respondent No. 3, vide communication dated 17/10/2022, requested Respondent No. 2 to guide its office on how to temporarily absorb teaching and non-teaching staff from Ashram School into other Ashram Schools, so that their salaries can be released. Respondents Nos. 3 and 4 noted that respondent No. 5 did not provide the educational materials and facilities to the Ashram School; accordingly, the petitioners were temporarily absorbed into service in other Ashram Schools through a separate notification. The respondent No.5 played fraud with petitioners and respondent Nos. 1 to 4 and prepared forged and fabricated minutes of the meeting, evincing that petitioners have given their consent for the transfer of the Ashram School from village Pavimuranda, District Gadchiroli, to respondent No.6 Navjyot Shikshan Prasarak Mandal, Lavhala, Taluka Mehkar, District Buldhana. (for short, "**Respondent No.6.-institution**") When petitioners and other teachers and non-teaching staff came to know about the said act of respondent No.5, they raised an objection vide representation dated 05/06/2023, however, the respondent Nos.1 to 3

ignored the GRs dated 19/12/2016, 29/04/2017, 11/06/2019 and issued another GR dated 04/12/2023, thereby transferred the Ashram School from village Pavimuranda, District Gadchiroli to respondent No.6 institution, hence this petition.

(6) The thrust of the argument of Mr. Damhare, learned counsel for the petitioners was that the respondent Nos.1 to 3 has not considered GR dated 19/12/2016 and issued fresh GR dated 04/12/2023, whereby erred in permitting to transfer the Ashram School to respondent No.6 institution and therefore, the issuance of the said GR is contrary to the earlier GR's dated 19/12/2016, 29/04/2017 and 11/06/2019, thus, the same is void and arbitrary.

(7) He further contended that the Ashram School had been derecognised; however, the respondents Nos. 1 to 3 had ignored this fact and erred in granting permission to transfer the Ashram School to respondent No. 6, the institution. The respondent Nos.1 to 3 acted contrary to the dictum laid down in ***Sant Dnyaneshwar Shikshan Sanstha and another vs. State of Maharashtra and others (2019) 20 SCC 564*** and ***Jeevanjyoti Krida and Shikshan Prasarak Mandal vs. State of Maharashtra and others (2012) 6 Mah.L.J. 836***, as once the existing School is derecognised, original recognition ceases to exist and such derecognised School cannot be transferred. Hence, he urged that

the petition be allowed.

(8) Mr.Ghurde, learned Assistant Government Pleader for respondents No.1 to 4; Mr. Kirtane, learned counsel for respondent No.5; and Mr. Vaishnav, learned counsel for intervenors/respondent Nos. 6 and 7, vehemently oppose the petitions on the grounds that the petitioners have no locus standi to challenge the GR dated 04/12/2023, as they are neither affected persons nor parties. Besides, the petitioners have given their consent to transfer the said Ashram School.

(9) They further argued that the petitioners have not approached the Court with clean hands and have suppressed the material fact that 7 petitioners out of 11 in Writ Petition No. 2251/2024 have already been absorbed in other schools by way of an order dated 22/07/2023. Similarly, 2 petitioners in connected Writ Petition No. 8162/2022 were also absorbed in other schools by orders dated 14/08/2023 and 11/08/2023. However, the petitioners have suppressed the said fact from the Court on that ground alone, the petitions are liable to be dismissed. Lastly, it is submitted that respondents Nos. 6 and 7 are ready to absorb the remaining petitioners into their School, but they are not willing to join their services; as such, the petitioners are not entitled to the relief as claimed.

(10) The learned counsel for respondent Nos. 6 and 7 has also brought to our notice the order dated 22/07/2023 and argued that the management raised no grievance regarding the issuance of the GR. Moreover, no students were admitted to the other School. Therefore, nobody would be affected by the issuance of the said GR transferring the Ashram School to the respondent No. 6 institution. Hence, they urged the dismissal of both these petitions.

(11) At the outset, the petitioners are challenging the issuance of the GR dated 04/12/2023 as unconstitutional, invalid and arbitrary and prayed for striking down the same as contrary to the GR dated 19/12/2016. However, on perusal of Rule 4.3.1.3, it reveals that the Government is empowered to issue GR for change in management, transfer/shifting of the Ashram School to another place, so we would like to reproduce the said Rule as under :-

“4.3.1.3 व्यवस्थापनातील बदल / आश्रमशाळा हस्तांतर / स्थलांतर
व्यवस्थापनातील बदल, आश्रमशाळा हस्तांतर व स्थलांतर बाबतीत
शासनाने वेळोवेळी विहित केलेल्या शासन निर्णयानुसार कार्यवाही
करण्यात येईल.”

(12) On perusal of the absorption order dated 22/07/2023 (page 152), it appears that 7 petitioners out of 11 have been absorbed into other Ashram Schools. *Likewise*, upon perusing the orders dated 14/08/2023 and 11/08/2023, it is revealed that two petitioners in the

connected petition have been absorbed into another School. Apart from this, it is pertinent to note that respondents Nos. 6 and 7, by filing their reply, have categorically stated that they are ready to absorb the remaining petitioners into their School. Moreover, the petitioners in paragraphs 6 and 7 acknowledged that the School was facing tremendous hardship and lacked several basic facilities, including inadequate infrastructure, insufficient electricity, and a shortage of daily necessities, which led to a decline in admissions at the aforementioned Ashram School. Respondents Nos. 1 to 4 have also reiterated the said facts.

(13) The respondent No. 1 had issued a GR dated 23/08/2023, wherein detailed guidelines were set forth regarding the migration and transfer of closed or derecognised tribal-aided Ashram Schools to other interested institutions. It also prescribed procedures for transferring the Asaram school to another institution, by following the guidelines provided in the GR above. Pursuant to said guidelines and following the procedures, the respondents Nos. 1 to 4 transferred the Ashram School to respondent No. 6, the institution, and a GR dated 04/12/2023 was issued.

(14) It further appears that as per Rule 4.3.1.3, the State Government is empowered to issue GRs from time to time, therefore, it

cannot be said that issuance of the GR dated 23/08/2023 and 04/12/2023 by respondent No.1 is contrary to the GRs dated 19/12/2016, 29/04/2017 and 11/06/2019, therefore, the grievance of the petitioners clearly appears to be unjustified.

(15) The petitioners question the G.R. dated 04.12.2023 only on the ground that the Ashram school was derecognized and, therefore, it cannot be transferred to respondent No. 6, the institution. Similarly, as per the G.R. dated 19/12/2016, the Ashram school cannot be transferred beyond 10 k.m. Also, they relied upon the judgment of the Hon'ble Apex Court in *Sant Dnyaneshwar Shikshan Sanstha* (supra) and the judgment of this Court in *Jeevanjyoti Krida and Shikshan Prasarak Mandal* (supra). Upon perusal of the same, it appears that the Hon'ble Apex Court and this Court have not dealt with the GR dated 23/08/2023 issued by respondent No. 1, nor was the said G.R. placed before them. By the said G.R., the government permits the transfer, shifting or relocation of all closed or derecognized aided Ashram Schools anywhere in the State. The said GR makes it clear that there is no area restriction applicable to transferring the said School from one place to another within the State, and other terms and conditions have been laid down in the said GR. The respondents No. 5 and 6, after following the guidelines and procedures as laid down in the G.R. dated 23.08.2023, and respondent No. 1, upon satisfying itself, issued G.R.

dated 04.12.2023, thereby permitting the shift of the Asharam school with a change of management and transferring the same to respondent No. 6, the institution. Therefore, in our view, the dictum laid down in the decisions above is hardly of any assistance to the petitioners in support of their claim.

(16) Considering the above discussion, we do not find merit in the petitioners' contention. Consequently, both petitions, being bereft of merit, stand dismissed. No order as to costs.

(17) Rule is discharged.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

KOLHE