

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5625 OF 2009

Sufa Education and Welfare Society's
D. S. R. College of Education, Aurangabad.. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Kum. Vaishali R. Deshpande h/f Shri A. S. Bayas, Advocate for
the Petitioner

Smt. M. S. Patni, A. G. P. for the Respondent No. 1

Smt. R. R. Mane, Advocate for the Respondent Nos. 2 and 3

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 30TH MARCH, 2015.

ORAL ORDER (*Per S. V. Gangapurwala, J.*) :

1) Heard.

2) Rule. Rule returnable forthwith. With the consent of
the parties, taken up for final hearing.

3) The learned counsel for the petitioner states that, the
petitioner is granted recognition by the NCTE to run the Post
Graduate College of Education vide order dated 20th January,

2009. The learned counsel submits that, thereafter revised order is passed on 23rd January, 2009 granting permission to the petitioner to shift the institution from D. S. R. College of Education, Professors Colony, Outside Delhi Gate, Plot No. 39/A, N-12, Sector-B, Aurangabad to D. S. R. College of Education, Sufa Educational and Welfare Society, Gut No. 17, Wanjarwadi, Aurangabad. The same was granted after inspecting the new premises. The learned counsel submits that, though NCTE had granted permission to the petitioner to shift the college, the University imposed fine of Rs. 50,000/- (Rs. Fifty Thousand Only) for shifting the college without permission of the University. According to the learned counsel the same is illegal. Once the NCTE grants the recognition / permission the University does not have any right to object to the same. Section 82 and 83 of the Maharashtra Universities Act are held to be inconsistent with the provisions of NCTE, Act and are declared to be null and void by the Apex Court in a case of **State of Maharashtra V/s Sant Dnyaneshwar Shikshan Shashtra Mahavidyalaya and Others** reported in **2006 AIR SCW 2048**.

4) Mrs. Mane the learned counsel for the University submits that, it is the University which grants affiliation and as shifting of the institution was without prior permission of the University, the penalty was rightly imposed.

5) We have considered the submissions canvassed by the learned counsel for the respective parties. The fact that NCTE has granted permission to the petitioner institution to shift its college is a matter of record.

4) The Apex Court in a case of **State of Maharashtra V/s Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others** referred supra has held that, once permission has been granted under section 14 of the NCTE Act the University is bound to grant affiliation. The order dated 23.01.2009 by NCTE granting permission to shift has been passed under section 14 of the NCTE Act. No other provision is pointed out by the respondent by virtue of which the University would be in a position to impose penalty for shifting the college with the permission of NCTE. In light of the above, the impugned order is quashed and set aside. Rule is accordingly made absolute. No costs.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]