

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

WRIT PETITION NO.1473 OF 2003

1. Bharatiya Rashtriya Shikshan Sanstha
Lohara, Tq. Omerga, Dist. Osmanabad,
through it's Secretary
Shri Sheshrao Shankarrao Patil,
Age : 34 years, Occ : Service,
R/o : Nagur, Tq. Lohara,
Dist. Osmanabad.
2. Bharatiya Rashtriya Shikshan Sanstha
Arts, Science & Commerce College,
Lohara, Tq. Lohara, Dist. Osmanabad
Through it's Principal. ... Petitioners

Versus

1. The State of Maharashtra,
through it's Secretary,
Mantralaya, Mumbai.

Copy to be served on G.P.
High Court Bench at Aurangabad.
2. The Secretary,
Higher and Technical Education Department,
Maharashtra State, Mantralaya,
Mumbai.
3. Director of Higher Education,
Central Building, Pune.
4. The Joint Director of Higher Education,
Aurangabad Region,
Aurangabad. ... Respondents

.....

WITH
WRIT PETITION NO. 6054 OF 2011

...

1. Bharatiya Rashtriya Shikshan Sanstha,
Lohara, Tq. Lohara, Dist. Osmanabad.
Through it's President
Shri Dinkar s/o. Shankarrao Patil,
Age : 46 years, Occ : Agriculture,
R/o. Nagur, Tq. Lohara, Dist. Osmanabad.
2. Bhartiya Rashtriya Shikshan Santha's
Arts, Science and Commerce College,
Lohara, Tq. Lohara, Dist. Osmanabad,
Through its Principal. ... Petitioners

Versus

1. The State of Maharashtra
Through Secretary
Higher & Technical Education Department,
Mantralaya, Mumbai

(Copy to be served on the
Government Pleader, High Court
of Judicature of Bombay,
Bench At Aurangbad.)
2. The Secretary,
Higher and Technical Education Department,
Maharashtra State, Mantralaya,
Mumbai.
3. The Director of Higher Education,
Central Building, Pune,
Tq. & Dist. Pune.
4. The Joint Director of
Higher Education, Aurangabad
Region, Aurangabad. ...Respondents

.....

Mr. V. D. Salunke, Advocate for Petitioners.
Mrs. S. A. Dhumal, AGP for respondent-State.

...

CORAM : A.V. NIRGUDE & V.K. JADHAV, JJ.

...

DATE OF RESERVING THE JUDGMENT : **01.09.2015**
DATE OF PRONOUNCING THE JUDGMENT : **04.09.2015**

...

JUDGMENT :- (Per V.K.Jadhav, J.)

1. By Writ Petition No.1473/2003, the Petitioner-Institution is seeking directions to the respondents to modify the permission granted in favour of the petitioner no.1 to start senior College at Lohara on permanent non grant basis and to grant 100% financial aid and assistance to Petitioner No.2 College as per the decision under Government Resolution dated 26.5.1999.

By Writ Petition No.6054/2011, the Petitioner-Institution is seeking directions to the Respondents to sanction grant-in-aid to Science Stream run by the Petitioner No.2 College as per the Government Resolution dated 4.2.2009 and also prayed to quash and set aside the impugned order dated 14.6.2010.

2. The learned counsel for the petitioners submits that, the State of Maharashtra has taken a policy decision by Government Resolution dated 17.6.1995 whereby it is decided that, the Taluka at which there is no senior college in existence and if any college is granted at such place, the same shall be granted on 100% grant-in-aid basis. Further, the State of Maharashtra has issued another Government Resolution dated 26.5.1999, whereby, the earlier Government Resolution dated 17.6.1995 is modified and it is decided that, if a senior college is granted at a Taluka Place where there is no existing senior college, then the same shall be granted on 100% grant-in-aid basis from the beginning itself.

3. The learned counsel further submits that, the Lohara Taluka is newly created in the year 1999 and it is carved out from Omerga Taluka. There is no other senior college at Lohara so also, no other senior colleges within the radius of 25 kilometers from Lohara. Therefore, the petitioner No.1 has moved a proposal for

grant of permission to start a senior college at Lohara. After some litigation, the Respondent authorities granted permission in favour of the petitioner on 20.7.2002 to run a College of Commerce and Science faculties. The said permission was granted on permanent non grant basis.

4. By filing Writ Petition No.1473/2003, the petitioner is seeking directions to the respondent authorities to release the grants in view of the Government Resolution dated 17.6.1995 and subsequent Government Resolution dated 26.5.1999. The learned counsel further submits that in the year 2009, the Respondent authorities however, released the grants only to the commerce college and not to the science College run by the Petitioner-Institution. The learned counsel further submits that, inspite of the recommendations by the Special Committee constituted by the Government, no grants are released to the Science College run by the Petitioner institution. Consequently, the petitioner institution filed Writ Petition No.8426/2009 before this

Court. This Court by order dated 5.5.2010 directed the respondent authorities to decide the question about sanction of grants to the Petitioner College for Science Faculty within a period of three months. However, the respondents did not take any action to decide the proposals within three months. The petitioner, therefore, constrained to file a contempt petition. In response to the notices issued in the contempt petition, the State of Maharashtra has brought to the notice of the Court that the decision on the proposal of the petitioner was already taken on 14.6.2010, and it was rejected accordingly. In view of said statement, the Contempt Petition came to be rejected by this court.

5. The learned counsel further submits that in the year 1995, the Government of Maharashtra took a decision to provide 100% grant in aid to such a college which would be started in Taluka where there was no College at all. The learned counsel vehemently submitted that the policy of the Government which is incorporated in the Government Resolution of the year

1995 and 1999 is crystal clear and as per the said policy, if the existing institution in the aforesaid Talukas started a new stream of Education in the already existing college, then the same would also be entitled for 100% grant-in-aid. The learned counsel thus lastly submits that the Writ Petitions deserve to be allowed.

6. The learned AGP for the Respondents submits that the State of Maharashtra has granted permission to the petitioner Institution to open a senior college at village Lohara and said permission was granted on permanent non- grant basis only. Though the petitioner Institution has challenged the said order of the Government by filing writ petition No.1473/2003 in accordance with the policy of the Government, the Government has taken a decision to sanction and release grant only to the commerce faculty of the petitioner College. The learned AGP further submits that a Local Committee was constituted at the level of the Office of the Regional Joint Director of Higher Education for the purpose of physical verification of the infrastructure of the aspiring

Institutions. The recommendations made by such a Committee as contended by the petitioner are not binding on the Government. The Government vide Government Resolution dated 14.5.2009 constituted a Task Force Committee for assessing and verifying the merits of the Institutions. The learned AGP further submits that as per the directions given by this Court in Writ Petition No.8426/2009 and after giving a personal hearing to the parties concerned including the petitioner and on considerations of the recommendations submitted by the Task Force Committee, the proposal of the petitioner Institution for grant in aid was considered for Commerce Faculty and proposal submitted by another Institution namely Bharat Shikshan Sanstha, Omerga, Dist Osmanabad was considered and granted 100% grant-in-aid for Science faculty. The learned AGP thus submits that there is no substance in the Writ Petitions and Writ Petitions are thus liable to be dismissed.

7. We have considered the submissions canvassed by the learned counsel for respective parties.

8. We have carefully perused the Government Resolution dated 17.6.1995. It appears that, the State of Maharashtra has taken a policy decision by the aforesaid Government Resolution whereby it is decided that, the Talukas at which there is no senior college in existence and if any college is granted at such place, the same shall be granted on 100% grant-in-aid basis. We have also perused the Government Resolution dated 26.5.1999 whereby the State of Maharashtra has decided that if a Senior College is granted at the Taluka place where there is no existing senior College, the same shall be granted on 100% grant-in-aid basis from the beginning itself. It appears from the Government Resolution dated 17.6.1995 that only nine Talukas are considered for granting senior college on 100% grant in aid. Taluka Lohara is newly created in the year 1999 and it is carved out from Omerga Taluka, District Osmanabad. The Government Resolution dated 26.5.1999 is in the nature of supplementary Government Resolution to the basic Government Resolution dated 17.6.1995. Thus, the Talukas which

are mentioned in the Government Resolution dated 17.6.1995 were only considered for granting permission to start a senior college on 100% grant-in-aid basis and same benefit is also extended to new Education Branch, if introduced by such a College in the said Talukas.

9. In the year 2008, the State of Maharashtra has considered the demands of newly established Talukas in the State of Maharashtra and accordingly took a policy decision to grant permission to open a new college on 100% grant in aid and, to 100% grant-in-aid to the new Education Branch being run by the existing College in such a newly established Talukas. However, this time, the State of Maharashtra has imposed certain conditions, prominent amongst them is that, if there are more than one College in existence in such a newly created Talukas, then, 100% grant-in-aid will be given to such a Institution/s on merits. Accordingly, the State of Maharashtra has decided to extend such benefits to certain Talukas including Lohara Taluka.

10. It appears that till the time, the State of Maharashtra took a decision about the newly established Talukas by Government Resolution dated 4.2.2008 and 26.8.2009, two proposals were received from Lohara Taluka. The petitioner Institution has submitted a proposal for 100% grant-in-aid for commerce and science faculty whereas, one Bharat Shikshan Sanstha has submitted a proposal for 100% grant in aid for Science faculty.

11. We have carefully gone through the recommendations by the Task Force Committee constituted by the State of Maharashtra vide Government Resolution dated 14.5.2009 for assessing and verifying the merits of the proposals submitted by such institutions. It appears that on nine points the proposal submitted by the said Bharat Shikshan Sanstha found better than the proposal submitted by the Petitioner Institution. On careful perusal of the said recommendations, it appears that the regular Principal is appointed in Bharat Shikshan Sanstha and University

has also granted approval to such appointment whereas in the case of the petitioner Institution there is no regular Principal appointed. Furthermore, there are nine full time lecturers appointed in the said Bharat Shikshan Sanstha, whereas in the petitioner College only three full time lecturers are appointed. The said Bharat Shikshan Sanstha is having its own building and construction of new building is in progress. However, the petitioner Institution is having its own building in which there are nine RCC rooms and 12 rooms having tin sheets walls and roof. There is no need to discuss all the recommendations, however, it appears that the financial condition of the said Bharat Shikshan Sanstha is far better than the petitioner Institution and the infrastructural facilities provided to the staff and students are better than the petitioner Institution. We do not find any fault in the decision of the State of Maharashtra rejecting the proposal of the petitioner Institution for 100% grant-in-aid to the Science Faculty. We do not find any substance in the allegations that the proposal of the said Bharat

Shikshan Sanstha was accepted by the Government for extraneous consideration.

12. In light of the above, we do not find any substance in the petitions. Hence, following order.

ORDER

I] Writ Petition Nos.1473/2003 and 6054/2011 are hereby dismissed.

II] In the circumstances, there shall be no order as to costs.

Sd/-

(V.K. JADHAV, J.)

sd/-

(A.V. NIRGUDE, J.)

aaa/-

...