

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

WRIT PETITION NO.8377 OF 2014
WITH CA/10891/2014 WITH CA/11336/2014

SYED WAJEDULLAH RASHID
VERSUS
THE STATE OF MAHARASHTRA OTHERS

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Advocate for Petitioner : Mr. Kulkarni Shailendra S.
Mr. GR Ingole, AGP for Respondents 1 to 3;
Mr. SG Chapalgaonkar, Adv. For Resp. 4 & 5;
Mr. VJ Dixit, Sr.Counsel h/for Mr. Resp.no.6;
Mr.SS Bora, Adv. For Resp.No.7;
Mr. RR Sancheti, Ad. For Resp.No.8;
Mr. RS Deshmukh, Adv. For Resp.No.9;
Mr. Amol N.Kakde, Adv. For Resp.No.10.

CORAM : **R.M.BORDE &**
P.R.BORA, JJ.

DATE : **5th March, 2015.**

PER COURT :

1) The petitioner has presented this petition purported to be a petition in the larger public interest, seeking directions against the Respondents to initiate an inquiry into the affairs of Respondent Nos.8, 9 and 10, i.e. management of Maulana Azad Education society; Marathwada College of Education, Aurangabad as well as against Respondent No.6 – Afzal Khan Gulab Khan, Ex-Director of BCUD of the

University, by constituting a special investigating team with further directions to take action against them as well as other responsible persons and officers in respect of alleged fraud, mis-appropriation, mis-deeds and breach of trust allegedly committed by them. A request is also made for issuance of directions to Respondents No.1 to 5 to constitute a special investigating team and to submit periodical report to this court. It is further prayed that appropriate directions be issued against the Respondents for enforcing recovery of the amount allegedly mis-appropriated by the office bearers of the Respondent/institution. A further request is made for issuance of directions, prohibiting the present management of Respondent No.8-society and Respondent No.10-College from managing the affairs of the society as well as college.

2) We have heard Shri Kulkarni, Counsel appearing for petitioner, at length. He has, in substance, made three broad allegations,-

I) Firstly in spite of withdrawal of

recognition to B.Ed. and M.Ed. Courses, by National Council for Teachers Education(hereinafter to be referred as N.C.T.E.) by order dated 18.09.2013 the Respondent/institution is conducting B.Ed. and M.Ed. courses.

II) It is alleged that after withdrawal of the recognition, the Respondent/institution, continued to operate the courses and made false representation to the State authorities and thereby received grants in aid.

. It is further contended that it was a fraudulent act of the Respondents to claim grant in aid, even after withdrawal of the recognition to the courses. The recognition was restored by the Appellate Authority of the N.C.T.E. on 15.10.2014, however, the Respondent/institution continued to receive financial benefits from the State Government.

III) Another objection raised by the petitioner is as regards illegal appointments by the Respondent/institution. It is contended that

in pursuance to the complaints lodged by the interested persons, Dr. Babasaheb Ambedkar Marathwada University, Aurangabad, (for short, the University), constituted a committee for investigating into the allegations of making illegal appointments by the Respondent/college. The Inquiry Committee, constituted by the University, on conduction appropriate inquiry, has drawn a conclusion that the Respondent/institution had appointed eight employees over-looking the educational qualifications and without observing and complying the norms prescribed by the University. The inquiry committee has also recommended for withdrawal of approval to the appointments of eight employees. The petitioner further contends that in spite of the recommendations made by the Inquiry Committee, the Respondent/ institution has not taken any action as regards the illegal appointments and permitted such employees to continue in employment. It is thus contended that there is heavy financial loss to the State

Government as a result of illegal appointments and continuation of their services.

3) So far as the first objection raised by the petitioner that in spite of withdrawal of the recognition of the B.Ed. and M.Ed. courses by the N.C.T.E., is concerned, we find that admittedly, the N.C.T.E. had withdrawn the recognition of two courses, operated by the Respondent/institution on no grants basis, by order dated 18.09.2013. The order of withdrawal of recognition of two courses, it appears, has been passed on consideration of request by the Respondent/institution itself. The institution later on, in changed circumstances, approached appellate forum, constituted by N.C.T.E. and on consideration of appeal, presented by the institution, the order issued by N.C.T.E. was set aside on 15.10.2014. Since withdrawal of recognition itself is referable to non-aided courses, there is no question the institution drawing any grant in aid from the State Government for conducting these courses. There

is no material placed on record that for operating/conducting these courses on no grants basis, the Respondent/institution has secured any financial assistance from the State Government. Thus, the allegation levelled by the petitioner in respect of mis-appropriation of Govt. funds by making fraudulent representation to the State Government, is devoid of any substance.

4) So far as allegation of illegal appointments made by the Respondent/institution, is concerned, it has been pointed out that the report tendered by the Inquiry Committee to the University, is in the nature of fact finding report and the University authorities, after extending an opportunity to the concerned employees, have drawn a conclusion that the appointment orders issued in favour of four employees were not proper since they were not fulfilling the necessary requirements, and as such, action of withdrawal of approval to such appointments was rightly taken by the University. Consequent upon decision of the

University, action was taken by the institution and the services of those employees were brought to an end. It is further informed that the aggrieved employees have either availed of the appellate remedies or have knocked the doors of this Court and the matters presented by such of those employees are stated to be pending.

5) It is also informed by the counsel appearing for Respondent/institution that the action taken by N.C.T.E. of withdrawal of recognition was at the request of the concerned institution since it was not economically feasible for the institution to operate the courses. It is further stated that after collecting required finances from various donors, the institution presented an appeal, and on consideration of the contentions by the institution, the Appellate Authority set aside the order of withdrawal of recognition. It is pointed out that there was no blot put on the institution while withdrawing the recognition of the courses.

6) One more important aspect touching bonafides of the petitioner in presenting instant P.I.L needs consideration. The petitioner is former employee of the institution and his services were brought to an end prematurely. The action of termination of services of the petitioner was subjected to challenge before various forums, at the instance of petitioner, however, he failed in challenge and order of termination of his services has attained finality. Although the action of termination of services of the petitioner is stated to be an act referable to 20-25 years back, fact remains that the petitioner has animus to lodge complaint against the Respondent/institution. The instant litigation cannot be termed as Public Interest Litigation, but a litigation initiated by interested party, who is having grudge against the institution. Even otherwise, on consideration of the merits and the contentions, we do not find any force in the petition.

7) In view of the reasons, set out above,

no action needs to be taken against the respondent/institution. The writ petition stands dismissed.

8) The amount deposited by the petitioner in pursuance to the orders of this Court, shall stand forfeited.

9) Pending Civil Applications, if any, do not survive and the same stand disposed of.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/