

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9749 OF 2015

Gautam Educational Trust

...

...Petitioner

v/s.

State of Maharashtra & ors.

...Respondents

...

Mr.Surel Shah for the Petitioner.

Mr.C.P.Yadav, AGP for State.

Mr.R.A.Rodrigues for Respondent No.2.

Mr.A.D.Sale for Respondent No.3.

Mr.Rajendra Aubhale i/b Mr.Sudam Kale for Respondent No.4.

...

CORAM : ANOOP V. MOHTA &

A.A.SAYED, JJ.

DATED : 29 OCTOBER 2015

ORDER:

Rule. Returnable forthwith. Heard finally by consent of parties.

2. Pursuant to the advertisement inviting application for starting law and degree courses under the control of Respondent No.2, the Petitioner on 29 October 2014 had applied for opening of a new Law College. Respondent No.2 after receipt of the Application Form called upon the Petitioner to submit attested documents as per Annexure 'B' thereto in the Affiliation Section and further informed that scrutiny of the Petitioner's Application has been fixed at the Respondent No.2's Fort Campus. Accordingly the Petitioner attended Scrutiny alongwith all original documents.

3. Since Academic Council had recommended proposal of the Petitioner for starting of new College, the Petitioner was busy in making preparation of the new college. However, in view of Government Circular dated 29-04-2015, Respondent No.1 decided not to grant permission for any new college and additional courses in the State of Maharashtra for the Academic Year 2015-16. Thereafter, Respondent No.1 issued two Government Resolutions dated 15-05-2015 and 25-05-2015 whereby inspite of G.R.dated 29-04-2015 certain institutions were granted permission by Respondent No.1 for grant of new as well as additional courses. Another G.R. was promulgated by Respondent No.1 on 20-07-2015 whereby it was resolved that Committee has been established to streamline procedure for grant of approval to new colleges/courses.

4. Although, four Government Resolutions are subsequent to the Application filed by the Petitioner and cannot have retrospective effect and at the most could be prospective is the contention of the Petitioner. The Petitioner states that the Petitioner was awaiting the decision of Respondent No.1 pursuant to the proposal made by Respondent No.2, the Petitioner received a communication dated 21 August 2015 refusing to grant proposal for starting new college on account of Government Resolution dated 29 April 2015. Hence, this Writ Petition.

5. Learned Counsel appearing for parties concede to the position that the issues raised in this Petition are covered by the judgment dated 8 September 2015 of this Court in Writ Petition No.6002 of 2015 (**Habib Educational & Welfare Society's v/s. The State of Maharashtra & ors.**).

4. Hence, the following order :

(i) Respondent-State to forthwith consider the Petitioner's Application for starting a new Law College (3 and 5 year courses) at Ulhasnagar as provided under Section 82(5) of the Maharashtra Universities Act, without taking into consideration Government Resolution dated 29-04-2015 and Government Resolution dated 20-07-2015 issued by Respondent No.1 in accordance with law.

(ii) Respondent-University to forthwith take appropriate action u/s 83 of the Maharashtra Universities Act, 1994 and consider granting necessary affiliation to the Petitioner's new Law College (3 and 5 year courses) at Ulhasnagar in accordance with law.

(iii) Rule made absolute accordingly. No costs.

(A.A. SAYED, J.)

(ANOOP V. MOHTA J.)