

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10397 OF 2014

Shriram Education Society, Kargani
Shri Tanajirao Patil Education (B.Ed. And
M. Ed.) College, Through its
President Shri Tanajirao Bhagwan Patil,
At post Atpadi, Tq. Atpadi, Dist. Sangli Petitioner

VS

- 1 Shivaji University, Kolhapur
Through its Director Board of
Colleges & University Development,
having office at Kolhapur 416 004
- 2 National Council of Teacher Education,
Through its Regional Director-
Western Region, Manas Bhavan,
Shymala Hills, Bhopal-662 002
- 3 The State of Maharashtra,
Higher & Technical Department,
Through its Principal Secretary
Mantralaya, Mumbai.
(notice to be served on the
A.G.P. High Court, Mumbai) Respondents

Mr. A. A. Kumbhakoni, Senior Advocate with Mr. Umesh R. Mankapure for the petitioner.

Mr. Rajeev Suresh Khadapkar for respondent No.1.

Mr. Siddhesh Pilankar I/by Mr. U. P. Warunjikar for respondent No.2.

Ms. S.S. Bane, AGP: for respondent No.3.

**CORAM: ANOOP V. MOHTA AND
K. R. SHRIRAM, JJ.**

DATE : March 20, 2015

ORAL JUDGMENT (Per Anoop V. Mohta, J.):

Rule. Rule made returnable forthwith. By consent of parties the petition is heard finally in view of the narrow controversy involved herein.

2 The Petitioner has established an educational institute for Teachers' Education at village Atpadi, District Sangli. The institution has been duly approved not only by the State but also by the 2nd Respondent, the National Council of Teacher Education. The approved intake capacity of the institution is 100 seats for B.Ed course and 25 seats for M.Ed. Course.

3 The institution was granted provisional affiliation *albeit* conditionally by the 1st Respondent University for the academic year 2012-2013. The University withdrew the affiliation vide its order dated 6th June 2013. This decision of the University not to continue the affiliation is basically in issue.

4 This petition was preceded by two petitions in which orders have been passed. Suffice it to say that by last order passed in W.P. 711 of 2013 dated 30th April 2014 this court prescribed a time bound program for appointment of teachers at the petitioner institution through a local selection committee, there being no dispute as to the availability of other infrastructure etc. The Academic Council of the University was directed to consider the proposal of the petitioner for continuation for affiliation in its meeting dated 15th May 2014.

5 The Petitioner has complied with the order in as much as the petitioner has filled in all posts of its academic staff by appointing/selecting eligible and qualified persons. The process of appointment has been scrutinized by a committee appointed by the University and the report of the committee was placed before the University. When the issue was placed before the Academic Council of the University on 15th May 2014 the Academic Council refused to continue the affiliation by 16:14 votes, 4 members abstaining. This decision of the Academic Council is impugned by the present petition.

6 A careful perusal of the minutes of the meeting of the Academic Council show that no reasons at all are recorded therein for refusing to continue the affiliation of the petitioner institute. It is settled law that such decisions must contain reasons in support thereof {2010(9) SCC 496 : Paragraphs 12, 14, 15 }. On this ground alone the impugned decision of the Academic Council is liable to be quashed and set aside.

7 The learned counsel appearing for the University sought to rely on the affidavit filed by the university which provides some reasons. However, it is also settled law that such reasons cannot be supplied by way of affidavits. {1978(1) SCC 405 : Paragraph 8 }

8 The learned counsel for the university also relied on General Statutes framed by the university u/s 29 and 30 of the Maharashtra Universities Act 1994 (hereinafter referred to as 'the said Act' for the brevity), particularly statute no. 500 thereof. A perusal of the statutes itself makes it clear that the deliberations and discussions that may take place in the meetings of the Academic

Council are not required to be recorded in the minutes of the meeting the Council. However, that does not mean that even the reasons in support of the ultimate decisions that the Council may take also are not to be recorded. The “decision” ought to have been with supporting reasons specifically when the “decision” was taken pursuant to the orders passed by this Court.

9 In the circumstances, based upon the earlier orders also and as the period is short, and in the interest of justice and the students, so that institution's name can be listed on the State website and the brochures within time with endorsement, if any, therefore, the following further course of action to be followed by the parties.

10 Therefore, the following order :

O R D E R

a) The Impugned decision of the Academic Council dated 15th May 2014 (**Exhibit “P”**) is quashed and set aside.

b) Order dated 6th June 2013 (**Exhibit “C”**) is stayed for the limited purpose of conducting the following procedure. It is

clarified that the provisional affiliation of the petitioner institution shall continue for the limited purpose of conducting the following procedure.

c) The university shall appoint appropriate selection committee in terms of Section 79(3) of the said Act r/w Statute 195 for conducting the following process.

d) The Petitioner shall apply to the University within one week from today with the draft of the advertisement to be published in the local new papers for the appointment of the teaching staff in issue.

e) The University shall approve the draft appropriately within one week of the receipt of the aforesaid draft.

f) The petitioner shall get the advertisement so approved by the university within one week of receipt of such approval, granting four weeks time to the candidates to apply for the posts that will be advertised.

- g) The applications so received shall be scrutinized within two weeks of the last date of application so advertised.
- h) The selection committee so appointed by the university shall conduct the selection process and complete the same within three weeks of conducting of interviews.
- i) The Academic Council of the university shall take appropriate decision as to continuation of affiliation of the petitioner institution on or before 30th June 2015.
- j) The petitioner shall not enroll the students until the university grants continuation of affiliation.
- k) Rule is made absolute accordingly.
- l) There shall be no order as to costs.

(K. R. SHRIRAM, J.)

(ANOOP V. MOHTA, J.)