

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3714/2014.

Shree Jan Jagruti Shikshan Prasarak Mandal and another.

VERSUS

State of Maharashtra and another.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B. P. DHARMADHIKARI
& A.S. CHANDURKAR, JJ.

DATED : JANUARY 30, 2015.

Heard Shri C.S. Kaptan, learned Senior Counsel with Shri K.V. Deshmukh, learned Counsel for petitioners, Shri A.S. Fulzele, learned A.G.P. for respondent no. 1 and Shri B.G. Kulkarni, learned Counsel for respondent no. 2.

Proposal submitted by the petitioner to start Arts Faculty in a Science College in the year 2013-14, has been rejected by a communication dated

23.05.2014. That rejection was questioned in Writ Petition filed on 25.06.2014.

Submission of learned Senior Counsel appearing on behalf of the petitioners is, defects pointed out are not substantial in nature and there is no application of mind. He states that an undertaking or declaration to disburse salary as per the University Rules, cannot be registered under Section 17 of the Registration Act, and hence, rejection on that count is unsustainable. Though necessary land is available and the college is already functioning, there is no N.A. Permission. However, violation of Land Revenue Code according to him is also not a defect substantive in nature, in so far as running of college is concerned. The F.D.R. of Rs.5 lacs was shown and hence, funds necessary to purchase furniture were available. Contrary finding is, therefore, misconceived.

The lack accreditation of Science College is not relevant, as Arts faculty is being opened for the first time. He also states that after due permission of the University, efforts were made to fill in the posts of

Lecturer and Principal, but, as the college is in tribal area and without any grant-in-aid, there was no response. Hence, management had appointed lecturer on adhoc basis. Those appointments are also approved by the University. Thus according to the petitioner, rejection was for non existent reasons. He also by way of abundant precaution submits that if the fresh proposal is submitted today, it can be processed only for the academic year 2016-17, and requests the Court to waive the requirement of time stipulation in Section 82 of the Maharashtra Universities Act.

Shri Kulkarni, learned counsel appearing on behalf of respondent no.2 and Shri Fulzele, learned A.G.P. for respondent no.1 oppose the petition. They submit that all defects have got material bearing on the permission to be granted, and if petitioners have made any amends subsequently, petitioners could have pointed the same to the University. Shri Kulkarni, learned counsel submits that without prejudice to the petition pending before this Court, petitioners could have submitted a fresh proposal before 31.10.2014.

Respective counsel for respondents submit that time frame is inbuilt in the scheme of Section 82, and therefore, it cannot be relaxed or waived.

The contention that declaration or undertaking about payment of salary as per the Rules cannot be registered, cannot be accepted. The document required is a registered undertaking or bond. Similarly, the fact that at the time of rejection of permission, there was no compliance with the requirement of appointing lecturers or principal, is not in dispute. The adhoc lecturers have been appointed subsequently and grant of approval in their favour is still later in point of time. In view of these findings, we do not find it necessary to consider the rival contentions on other alleged defects or amends made to the same.

Time bound program in Section 82 of Maharashtra Universities Act, is with a particular purpose. The facts here do not permit us to consider whether that time period can be either relaxed or waived. However, petitioners can apply a fresh within

time and show their readiness and willingness as also all compliances. If such application is made, it is apparent that present rejection cannot come in their way and respondent no.2 University is duty bound to evaluate such proposal independently on its own merits. Hence, with said liberty to the present petitioners, we dispose of Writ Petition. No costs.

JUDGE

JUDGE

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