

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

WRIT PETITION NO. 1275 OF 2013

Mahatma Jyotiba Phule Bahhuddeshiya
Sevabhavi Sanstha, Navandi,
Through its Secretary,
Ashok S/o Bhimrao Birajdar,
Age : 46 Years, Occu. : Agril.,
R/o Nalegaon, Tq. Chakur,
Dist. Latur.

.. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai.
2. The Joint Director,
Higher and Technical Education,
Nanded Region, Nanded.
3. The Director,
Board of College and University
Development, Swami Ramanand
Teerth Marathwada University,
Nanded.
4. Swami Ramanand Teerth
Marathwada University,
Vishnupuri, Nanded,
Through its Registrar.

.. Respondents

Shri V. J. Dixit, Senior Advocate i/by Shri Hanmant V. Patil,
Advocate for the Petitioner.

Shri V. H. Dighe, A.G.P. for Respondent Nos. 1 and 2.

Shri V. P. Latange, Advocate for Respondent Nos. 3 and 4.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 26TH AUGUST, 2016.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. Mr. Dixit, the learned senior advocate for the petitioner states that, the petitioner is a registered society and is imparting education in the region of Marathwada. The respondent No. 4 issued an advertisement in the year 2009-2010, calling proposals for starting new senior colleges at various places within the jurisdiction of the respondent No. 4. The petitioner had submitted proposal for grant of permission for opening new college in Arts faculty at village Nalegaon under the name and style as Marathwada Arts College, Gharni Road, Nalegaon. The petitioner complied with all conditions and criteria provided by the master plan and the norms of the Government. The respondent No. 4 forwarded the proposal of the petitioner to the respondent No. 1 with positive recommendations, as the petitioner was fulfilling all the requisite preconditions.

3. By letter dated 16.09.2009 the Government did not grant permission to the petitioner. The learned senior advocate submits that, the petitioner approached this Court by filing Writ Petition No. 2873 of 2011 challenging communication dated 16.09.2009. The writ petition was disposed of with directions to the State Government to communicate the petitioner decision taken by the State Government with reasons. Thereafter inspection was carried out by the respondent No. 2. Again it was directed to the petitioner to submit detailed report/proposal. The petitioner complied the same on 20th March, 2012. The proposal was rejected on the ground that, the petitioner is not having the land within the area of Gram Panchayat and the copy of registered lease deed is not produced, so also there is no facility of health care and library. The learned senior counsel submits that, the petitioner complied with all conditions, still the said order was passed.

4. During the pendency of this writ petition various orders are passed by this Court. Vide order dated May 07, 2014, the respondent No. 2 was directed to inspect the proposed college site and to submit the report. The report was submitted in July 2014. Though there were deficiencies pointed out in the said report, the petitioner showed its willingness to remove the said deficiencies. The learned senior advocate submits that, this Court by order dated April 28, 2015 had observed that, the petitioner has shown

its willingness to remove the deficiencies as pointed out in inspection report of July 2014. This Court again vide order dated April 28, 2015 directed the respondent No. 2 to inspect the proposed college site. The learned senior advocate submits that, pursuance to the said order, inspection was carried out and the inspection report dated 24th August, 2015 is submitted, wherein the report was favourable to the petitioner in all respects except the objection of lease deed not been registered. The learned senior advocate submits that, the said lease deed is also now registered on 12th August, 2016.

5. According to the learned senior advocate, now not a single deficiency exists. All conditions are complied with, as such there would not be any impediment for the respondents to accord permission to the petitioner. It is submitted that, even as per the master plan the senior college is permissible in the said village and there is no other proposal received for start of senior college in the said area.

6. Mr. Latange, the learned advocate for respondent Nos. 3 and 4 accepts that, as per the master plan senior college is permissible at village Nalegaon and as on the date no other proposal is received for starting senior college at village Nalegaon in Arts faculty.

7. The learned Assistant Government Pleader states that, considering the deficiencies as existed, the decision has been rightly taken by the State.

8. As observed earlier, this Court vide various orders passed in the present petition had given opportunity to the petitioner to remove the deficiencies and also directed the respondent No. 2 to carry out the inspection. The last inspection report states that, the petitioner has necessary infrastructure and only the petitioner does not have registered lease deed. It is submitted that, the petitioner has got executed the registered lease deed of the said land, where the proposed college is to function. The same is registered on 12.08.2016. It will be for the authorities now to consider the said aspect of the petitioner. The petitioner may produce the copy of registered lease deed with the authorities.

9. In the light of the above, we pass following order.

10. The impugned order dated 30th June, 2016 is quashed and set aside. The respondent authorities shall reconsider the proposal of the petitioner for start of new senior college in Arts faculty at village Nalegaon, Tq. Chakur, considering its inspection report and the fact that, now the petitioner has also cured defect of non registration of the lease deed. The petitioner

shall submit the copy of the said lease deed with the authorities. The authorities shall thereafter take decision on the said proposal expeditiously and preferably by the end of December 2016, as it is even if authority comes to the conclusion to grant permission, the same would be from the next academic year.

Rule accordingly is made absolute in above terms. No costs.

Sd/-

[K. L. WADANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/August 16