

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9607 OF 2015

Adarash Shikshan Prasarak Mandal's
K.T. Patil College of Computer
Science **...PETITIONER.**

VERSUS

The State of Maharashtra
and others. **...RESPONDENTS.**

...

Mr. P.R. Katneshwarkar h/f Mr. V.S. Undre,
Advocate for petitioner.
Mr.A.G. Magre, AGP for the Respondent/State.
Mr. M.A. Deshmukh h/f Mr. S. G. Chapalgaonkar,
Advocate for Respondent Nos. 2 and 3.

...

CORAM: S.S.SHINDE &
SANGITRAO S. PATIL, JJ.
Dated: JUNE 27, 2016

PER COURT :

Rule. Rule made returnable forthwith.
Heard finally with the consent of the learned
counsel appearing for the parties.

2. This Petition is filed with the
following prayers :-

"A) By issuing a writ of mandamus, or any other writ in the like nature, this Hon'ble Court may kindly be pleased to direct the respondent No.1 to grant the approval/permission to start the M.Sc. computer science course in the petitioner institution for the academic year 2015-2016 forthwith."

B) By issuing a writ of mandamus, or any other writ in the like nature, this Hon'ble Court may kindly be pleased to direct the Respondent No.1 to consider and decide the claim of the petitioner institute for opening the M.Sc. Computer Science Course without considering the Government Resolution dated 29/04/2015 issued by the Respondent No.1.

B-1) By issuing the writ of mandamus or any other writ in the like nature, this Hon'ble Court may kindly be pleased to quash and set aside the impugned order/Communication bearing No. NGC-2015/(156/15) Ma shi-4 dated 04/09/2015 issued by the Desk Officer, Higher and Technical Education Department, Mantralaya, Mumbai and

further be pleased to direct the respondents to grant the permission/approval to the petitioner institution to start the M.Sc. Computer Science course."

3. It is the case of the petitioner that the petitioner institution is running several educational institutions in Osmanabad town. Considering the need of education of computer science, the institution started B.Sc. Computer Science in the year 2006-2007. Further considering the need of education of the students, who have already completed the bachelor degree of computer science, the petitioner / institution already submitted the proposal for opening new college of Master of Computer Science (M.Sc.) in the year 2011-2012. The State Government pointed out some deficiencies in the said proposal. The said deficiencies were removed and thereafter the University favaourably recommended the proposal of the petitioner. The Respondent – State kept the said proposal pending for

considerable period. Therefore, the petitioner filed Writ Petition No. 6875 of 2011 (Adarsh Shikshan Prasarak Mandal's K.T. Patil College of Computer Science V/s The State of Maharashtra and others) before the Division Bench of this Court. The said Writ Petition was disposed of by the Division bench of this Court, observing that the petitioner shall file a fresh proposal and the State Government shall consider it, keeping in view the relevant policy of the State Government existing then and communicate the said decision to the petitioner. However, by the impugned communication, the Respondent – State Government, instead of deciding the proposal of the petitioner for opening M.Sc. Computer course, rejected the same on the ground that the State Government has issued circular dated 29th April, 2015, thereby disposing of the proposals submitted for the academic year 2015-2016 on the ground that the Government has decided that for the said academic year, the Government will not grant permission to

any institution for opening new college or any particular course or division.

4. It is the submission of the learned counsel appearing for the petitioner that the proposal of the petitioner is complete in all sense, the University has also recommended the said proposal, all the deficiencies have been cured and keeping in view the need of the said course in Osmanabad city, the proposal of the petitioner ought to have been considered on its own merits, in the light of the directions issued by the Division Bench of this Court in Writ Petition No. 6875 of 2011 dated 17th July, 2014.

5. The learned Counsel appearing for the petitioner relies on an unreported judgment of this Court in the case of **Kai. Annasaheb Patil Shevabhavi Sanstha Vs. The State of Maharashtra and ors.** in Writ Petition No.10515 of 2015 delivered on 25.04.2016. Relying on the said judgment, the learned

Counsel submits that considering the effect of the said Government Circular dated 29.04.2015, this Court, in that case, has taken a view that the proposal submitted by the petitioner therein should not have been rejected on the ground that the Government has decided not to consider any new proposal for the academic year 2015-2016. Therefore, he submits that in this petition also, similar directions may be issued.

6. On the other hand, the learned A.G.P. appearing for the Respondent-State, relying upon the averments in the reply filed on behalf of the State and State Authorities, has submitted that since the State Government on scrutiny of the proposal found as many as six deficiencies and the same was rejected. He further submits that the State Government had taken a policy decision not to grant permission to open the new college, new course or grant any divisions for the academic year 2015-2016, and therefore, keeping in view the

circular dated 29th April, 2015 issued by the State Government, the proposal of the petitioner was rejected.

7. We have carefully considered the submissions advanced by the learned counsel appearing for the petitioner and the learned A.G.P. appearing for the Respondent/State and State Authorities. With their able assistance, we have perused the pleadings in the Petition, annexures thereto, the order passed by the Division Bench in the case of **Kai Annasaheb Patil Shevabhavi Sanstha** (supra) and the order passed in Writ Petition No. 6875 of 2011. The para 2 of the order passed in Writ Petition No.6875 of 2011 reads thus :-

"2. In this view of the matter, this petition can be disposed of granting liberty to the Petitioner of tendering fresh proposal to appropriate authority seeking permission to operate M.Sc. computer course. If the Petitioner tenders an application to

the appropriate authority, the same be considered in accordance with the existing norms as well as the regulations governing such consideration expeditiously and the disposal of the instant petition shall not be an impediment for such consideration. Rule discharged. There shall be no order as to costs."

8. It is not in dispute that pursuant to the liberty granted to the petitioner, the petitioner tendered the fresh proposal to the appropriate authority and the University has favourably recommended the said proposal. It appear that while rejecting the proposal of the petitioner, first time the State Government pointed out six deficiencies, which appears to have been cured by the petitioner and thereafter the Respondent – University has given favourable recommendation to consider the proposal of the petitioner. In that view of the matter and keeping in view the observations made in para 2 of the Division Bench in the case of Adarsh Shikshan Prasarak

Mandal's K.T. Patil College of Computer Science V/s The State of Maharashtra and others in Writ Petition No. 6875 of 2011 and the order passed by the Division bench of this Court in the case **Kai. Annasaheb Patil Shevabhavi Sanstha (supra)**, it was incumbent upon the Respondent – State Government to consider the proposal of the petitioner, on its own merits and not to reject the same on the ground that the State Government has decided not to grant permission to any new course for the academic year 2015-2016. The Division Bench while disposing of the Writ Petition No. 6875 of 2011 with Civil Application No. 5444 of 2014 has specifically observed that the proposal of the petitioner should be considered in accordance with the existing norms as well as the regulations governing such consideration.

9. In that view of the matter, the impugned communication stands quashed and set aside. The Respondent/State is directed to

consider the proposal of the petitioner, without insisting for filing fresh proposal or additional fees, keeping in view the recommendation of the University, as expeditiously as possible, and preferably within four weeks from today.

10. The Petition is disposed of in the above terms.

11. The parties shall act upon authenticated copy of this order.

(SANGITRAO S.PATIL, J) (S.S. SHINDE, J)

sga/