

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 10433 OF 2012**

AMAR SHIKSHAN VA AAROGAYA SEVABHAVI SANSTHA
VERSUS
THE STATE OF MAH AND ORS

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Advocate for Petitioner : Mr. Talekar S.B.
AGP for Respondent/State : Mr. B.V. Virdhe
Advocate for Respondent no.4 : Mr. G.V.
Mohekar

Advocate for Respondent no.5 : Mr. D.R. Irale
Patil

Advocate for Respondent No.6 : Mr. S.S. Tope
Advocate for Respondent no.8 : Mr. S.B.
Choudhari h/f Mr. M.B. Kolpe

Advocate for Respondent no.9 : Mr. S.S.
Deshmukh

Advocate for Respondent No.10 : Mr. M.S.
Indani

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CORAM : S.S. SHINDE & SANGITRAO S. PATIL, JJ.

Dated: April 28, 2016

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PER COURT :-

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respective Respondents.

2. It is the case of the petitioner that the petitioner is a minority educational institution duly registered under the Bombay

Public Trust Act, 1950. The petitioner — society had applied for permission to open new college of Arts and Science at Chaklamba, Tq. Georai, Dist. Beed for the academic years 2010-2011, 2011-2012 and 2012-2013. It is the case of the petitioner that the proposal submitted by the petitioner on 31st October, 2011 was complete in every respect and Respondent No.2 University also referred the said proposal to Local Inspection Committee. Thereafter, the inspection committee recommended the proposal of the petitioner society to the Management Council, as well as to the Government. It is the specific case of the petitioner that Respondent No.2 — University had recommended the proposal of the petitioner society for grant of permission to open new college at Chaklamba as a special case for the academic year 2010-2011. Thereafter again Respondent No.2 — University recommended the proposal of the petitioner society for grant of permission for the academic year 2011-2012.

3. It is the case of the petitioner that the Academic Council, as well as, the Director, B.C.U.D. recommended the proposal of the petitioner society, however, the

Management Council of respondent No.2 University refused the permission pursuant to the letter dated 8th May, 2012. It is the case of the petitioner that the Director, B.C.U.D. forwarded the proposal of the petitioner society for grant of permission as a special case, in the light of the judgment of the Hon'ble Supreme Court to the Principal Secretary, Higher Technical Education, vide its communication dated 23rd May, 2012. Thereafter, the Director, B.C.U.D. informed that the proposal was forwarded with necessary recommendations for grant of permission to open new college to the Government, vide its communication dated 10th July, 2012 along with recommendations of the Management Council.

4. It is further the case of the petitioner that though the Government of Maharashtra granted permission to open about 150 colleges in Maharashtra including 8 colleges under Respondent No.2 – University, vide order dated 15th June, 2012, the proposal of the petitioner was not considered. According to the petitioner none of the eight educational institutions, which have received permission to open colleges under Respondent

No.2 – University own land for their respective colleges.

5. Therefore, being aggrieved by the order dated 15th June, 2012 granting permission to open new college to Respondent Nos. 3 to 10 and the order dated 6th October, 2012 granting permission to open 7 new colleges as a special case, both issued by the Desk Officer, Higher and Technical Education Department, Mantralaya, Mumbai and at the same time the inaction on the part of respondent No.1 to grant permission to open new college at Chaklamba by the petitioner society, the petitioner has filed the present Petition.

6. The learned counsel appearing for the petitioner, on instructions, submits that the petitioner does not wish to press the prayers against Respondent No.3 to 10, however, only seeks directions to Respondent No.1 to consider the proposal of the petitioner dated 31st October, 2011 and recommended by the University, for the academic year 2016-2017, without insisting for submitting the fresh proposal with fresh deposits.

7. The learned counsel appearing for Respondent Nos. 4 to 10 fairly submit that they have no objection if the petitioner's proposal is considered for the academic year 2016-2017 by respondent No.1. The learned A.G.P. appearing for the Respondent/State submits that this Court may pass appropriate orders.

8. Upon hearing the learned counsel appearing for the parties and upon perusal of the documents placed on record, we are of the opinion that the proposal submitted by the petitioner dated 31st October, 2011, which is recommended by the University, deserves to be considered on its own merits by Respondent No.1 for the academic year 2016-2017, without insisting for fresh proposal and fresh deposits. This Court has already passed the similar order in **Writ Petition No. 1772 of 2016 (Phoenix Foundation Sanstha Through its Treasurer Amarpasha Patel V/s The State of Maharashtra and others)** decided on 20th April, 2016.

9. In that view of the matter, we direct Respondent No.1 to consider the

proposal dated 31st October, 2011 submitted by the petitioner for grant of permission to open new college for the academic year 2012-2013 and recommended by the Respondent – University, treating it to be proposal for the academic year 2016-2017, without insisting for filing fresh proposal with fresh deposits, as expeditiously as possible, and preferably on or before 5th June, 2016 and communicate the said decision to the petitioner.

10. The Petition is allowed to the above extent and same stands disposed of.

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

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

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