

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10468 OF 2016

Sahyadri Institute of Management and
Research, Sawarde and Others ...Petitioners

vs.

State of Maharashtra and Others ...Respondents

Mr. S.M. Gorwadkar, Senior Advocate a/w. Mr. N.A. Mogre and Mr. M.S. Chhabra, for the Petitioners.

Mr. L.M. Acharya, Special counsel a/w. Mr. P.P. Kakade, AGP for the Respondents-State.

CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.

DATE : **SEPTEMBER 23, 2016**

PC.:

. Heard the learned counsel for the parties on the question of admission.

2. By filing this Petition under Article 226 of the Constitution of India, the Petitioners are seeking extension of last date for admission as fixed by Respondent No. 2 for admitting the students for M.B.A. course.

3. According to the Petitioners, a large number of M.B.A course seats are still lying vacant in respect of admission through Centralized Admission Process round (CAP) in the private unaided

professional institutes of the State. According to the Petitioners on account of heavy rains and floods in Konkan area of Maharashtra where the Petitioner's institute is situated, the students could not participate in the admission process, as such extension of the last date for admission is sought for through this Petition. The learned senior counsel for the Petitioners has placed reliance on the observation made by the Hon'ble Supreme Court in para 65 of the judgment passed in “**Association of Management of Private Colleges vs. All India Council for Technical Education and Others**”¹ Para 65 of the said judgment reads thus:

“As per the definition of “technical education” under Section 2(g) of the AICTE Act and non-production of any material by AICTE to show that MBA course is a technical education, we hold that MBA course is not a technical course within the definition of the AICTE Act and insofar as reasons assigned for MCA course being “technical education” are concerned, the same does not hold for MBA course. Therefore, for the reasons assigned while answering the points which are framed insofar as the MCA course is concerned, the approval from AICTE is not required for obtaining permission and running MBA course by the appellant Colleges.”

4. The learned senior counsel for the Petitioners submits that the schedule fixed in the case of “**Parshvanath Charitable Trust and Others vs. All India Council for Technical Education and Others**”²

¹ (2013) 8 Supreme Court Cases 271.

² (2013) 3 Supreme Court Cases 385.

fixing the last date up to which the students can be admitted against vacancies arising due to any reason is 15th August is not applicable to M.B.A. course as the Hon'ble Supreme Court in the case of **Association of Management of Private Colleges** (supra) had observed that the M.B.A. course is not a technical course within the definition of the AICTE Act.

5. The learned senior counsel for the Petitioners has also placed reliance on the All India Council for Technical Education Act, 1987 and submitted that after passing of the order by the Supreme Court in the case of **“Parshvanath Charitable Trust”** (supra) the Maharashtra Government has enacted the “Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015” (for short “*the Act*”) and have also framed the rules thereunder and in these circumstances, the judgment in **“Parshvanath Charitable Trust”** (supra) may not be applicable. He submits that in terms of the said Act of 2015, the Competent Authority is empowered under Section 4(c) to supervise and guide the entire Centralized Admission Process in the manner that may be specified with a view to ensuring that the process is fair, transparent,

merit-based and non-exploitative. He therefore submits that since the Competent Authority is empowered under Section 4(c) of the said Act to grant the admission, the Competent Authority is also empowered to relax the last date.

6. On the other hand, the Special counsel appearing for the State has argued that the contention of the Petitioners is wholly misconceived in view of the fact that the Supreme Court in the case of **“Orrisa Technical Colleges Association vs. AICTE and Another”**¹ made clarification as follows :

“The order dated 17.4.2014 passed by this Court is clarified and it is directed that prior approval of All India Council for Technical Education (AICTE) is compulsory and mandatory for conduct of a technical course including the MBA/ Management Course by an existing affiliated Technical College and also new Technical College which will require affiliation by a University for conduct of its Technical Courses/Programmes for the academic year 2014-2015. The time given in the order dated 17.4.2015 is extended by 10.6.2014. I.A.Nos. 2 & 3 of 2014 stand disposed of as above.

7 He also submits that thereafter the said interim order was continued from time to time vide various orders including order dated 6th January, 2016. In the circumstances, according to him since the observation made in the case of “Association of Management of

¹ Special Leave to Appeal (Civil) No. 7277 of 2014 dated 9th May, 2014.

Private Colleges” (supra) is not final as the matter is pending before the Supreme Court in the case of “**Orrisa Technical Colleges Association**” (supra) in view of the judgment of the Supreme Court in the case of “**Parshvanath Charitable Trust**” (supra) the time is sacrosanct.

8. Having considered the submissions made by both the learned counsel for the parties and having gone through the judgments as referred above, we are of the view that in view of the law laid down in the case of “**Parshvanath Charitable Trust**” (supra) and in view of the order passed from time to time by the Supreme Court in the case of “**Orrisa Technical Colleges Association**” (supra) no extension of cut off date for admission as prayed for can be allowed by this Court. We are also of the considered view that the powers conferred on the authority under Section 4(c) of the Act cannot be invoked to extend the last date for admission. As a result, the Petition fails and is accordingly disposed of.

(MAKARAND KARNIK, J.)

(SHANTANU KEMKAR, J.)