

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

WRIT PETITION NO.1722 OF 2015

**Shri Saibaba Shaikshanik Bahuuddeshiya Sanstha, through its Secretary,
Desaiganj (Wadsa), Taluka Desaiganj, District Gadchiroli and anr**

..vs..

**State of Maharashtra, through its Secretary, Higher and Technical Education,
Mantralaya, Mumbai and ors**

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

Court's or Judge's Order

**Shri A.S. Kilor, Counsel for the Petitioners.
Shri F.T. Mirza, Counsel for R-4 & 5.**

**CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.**

DATED : FEBRUARY 16, 2016.

1. Heard learned counsel for the petitioners
Shri A.S. Kilor, learned counsel for respondent Nos.4
and 5 Shri F.T. Mirza, and learned Assistant
Government Pleader for respondent Nos.1 to 3.

2. The controversy is considered in the
background of order dated 29.6.2011 in Writ Petition
No.5105 of 2010 to which one of us (Hon'ble Shri
Justice B.P. Dharmadhikari) is party. That order was

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assailed unsuccessfully in SLP before the Honourable Apex Court.

3. In Writ Petition No.5105 of 2010, the petitioners-Colleges, which came into existence subsequent to advertisement dated 17.8.2010, had questioned decision to release grants in favour of respondent No.4-College in that petition on the ground that application submitted by respondent No.4-College, in response to advertisement, was found deficient and, therefore, already turned down.

4. This Court, therefore, found that the said application could not have been revived and respondent No.4-College could not have been arbitrarily selected for release of grants. This Court found that, in that situation, claim of all eligible colleges, including that of the petitioners, needed to be considered.

5. Here, advertisement is same i.e. advertisement dated 17.10.2008. Respondent Nos.4 and 5-Colleges submitted their applications within stipulated time, in response thereto, and claimed grants. Their applications remained pending for about two years and grants have been sanctioned for the first time by impugned Government Resolution dated 5.8.2010. The grants are being released for Academic Year 2010-2011.

6. In this background, learned counsel for the petitioners Shri A.S. Kilor submits that the College of petitioner i.e. petitioner No.2 has come into existence in the year 2009 and, therefore, its eligibility to the grants ought to have been considered. As that has not been done, the release of grants to respondent Nos.4 and 5-Colleges is unsustainable. He has invited our attention to the relevant Clauses of Government Resolution dated 4.2.2008 to urge that that the Colleges

are to be selected only on merits and only one College in Tahsil is to be given grants. He contends that petitioner No.2-College and respondent No.5-College function in very same Tahsil. Therefore, act of releasing grants in favour of respondent No.5-College, without considering entitlement of petitioner No.2-College, is in violation of Article 14 of the Constitution of India.

7. Learned counsel for respondent Nos.4 and 5 Shri F.T. Mirza and learned Assistant Government Pleader submit that eligibility, in terms of Government Resolution dated 4.2.2008 and advertisement dated 17.10.2008, has been considered belatedly by the State Government. Events, subsequent thereto, have got no bearing and as petitioner No.2-College was not in existence on that day, its claim could not have been looked into.

8. It is apparent that in Writ Petition No.5105

of 2010 decided on 29.6.2011 this Court has found that eligibility of those, who were found not qualified, was re-examined. This act of re-examining was, therefore, not sustained as it has been found that it was necessary for the State Government to examine eligibility of all Colleges in existence on the date on which such re-consideration was being undertaken. Here, that is not the position. Initially, eligibility of respondent No.5-College itself has been examined in the Year 2010. As the eligibility has been examined in the Year 2010, grants are also sanctioned for the Year 2010-2011 onwards. No grants are sanctioned for the period between the date of application till the date of passing orders i.e. 5.8.2010.

9. Our attention has also been invited to the fact that by subsequent policy decision, the Government had decided to cancel the process of re-consideration on such applications and decision of the Government was

questioned by respondent Nos.4 and 5-Colleges in Writ Petition No.1931 of 2014. We find that writ petition has been allowed by this Court on 12.8.2014. It is apparent that respondent Nos.4 and 5-College were never reconsidered in terms of policy decision dated 4.2.2008 and advertisement dated 17.8.2010. Their initial or first consideration is itself in Year 2010.

10. As such, we do not find anything wrong in the matter. No case is made out warranting interference. The writ petition is dismissed accordingly. No order as to costs.

JUDGE

JUDGE

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