

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

WRIT PETITION NO. 3602 OF 2017

Vishwa Bahuuddeshiya Sevabhavi
Sanstha's India Fire Service Engineering
and Safety Management College
Through its Secretary .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri A. M. Karad, Advocate h/f Shri Ameya N. Sabnis, Advocate
for the Petitioner.

Shri M. B. Bharaswadkar, A.G.P. for the Respondent No. 1.
Shri S. S. Jadhavar, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : 17TH MARCH, 2017.

PER COURT :

. Mr. Karad, learned Counsel, submits that initially on 2nd of July, 2016, respondent no. 2 passed an order prohibiting the petitioner from admitting the students. The petitioner filed writ petition before this Court. This Court on 31st of August, 2016, passed an interim order, directing inspection. Thereafter, this Court on February 10th, 2017, allowed the said writ petition and directed the respondents to allow the students to appear for the examination and, for that purpose, it is to be presumed that affiliations are continued for the academic year 2016-2017.

2. Mr. Karad, learned Counsel submits that, the intake capacity of the petitioner institution, for Advance Diploma in Industrial Safety Course, is 40 students. The petitioners had submitted the examination forms of the students, however, respondent no. 2, refused to accept the examination forms in respect of some of the students.

3. Learned Counsel submits that the writ petition filed by the petitioner against the order dated 2nd of July, 2016, was pending in this Court wherein interim orders were passed and the matter was under active consideration of the Court. Even, the Court, in its final order, has observed that the students be allowed to fill in the examination forms and appear for examination and, for that purpose, the affiliation is deemed to be continued for the academic year 2016-2017. In view of that, it is not open for the respondents to refuse to accept the examination forms of the students. Learned Counsel submits that all the students are admitted prior to 30th of September, 2016, and these students have attended the Courses.

4. Mr. Jadhavar, learned Counsel, submits that upon admission being given to the petitioner's students, the petitioner institution is required to submit list of the students to the respondent Board. The petitioner institution did not submit the list of the students to the respondent Board and, for the first time, on 4th of March, 2017, at the time of filling in the

examination forms, had submitted the list. The same, certainly, could not have been accepted by the Board. The students, as enlisted in the the list, which was annexed with the writ petition filed earlier by the petitioner, are allowed to appear for the examination, however, the students whose examination forms are not accepted, their names did not appear in the list annexed to the earlier writ petition nor the names of the said students were communicated to respondent no.2 on their admission. The petitioner is required to follow the set procedure.

5. We have considered the submissions canvassed by the learned Counsel for the respective parties. There is nothing on record to show that the petitioners have forwarded the list containing the names of the students whose examination forms are not received to respondent no.4 Board prior to 4th of March, 2017. The petitioner ought to have forwarded the said list.

6. This Court has already passed an order to the effect that the students of the petitioner institution be allowed to appear for the examination and, for that purpose, it is to be presumed that affiliations are continued for the academic year 2016-2017. The said order has become final. The students who have been admitted on or before 30th September, 2016, are required to be allowed to appear for the examination, if otherwise they are eligible. It is for the respondents to verify the factum of admission of the students prior to 30th September, 2016. Because

of the procedural lapses on the part of the petitioner, those students who are legitimately admitted on or before the cut off date ought not to suffer. The petitioner ought to have been more diligent in forwarding the said list.

7. Considering the fact that the affiliation of the petitioner is deemed to be continued for the academic year 2016-2017, it would be appropriate for the respondents to accept the examination forms, however, for the delay and procedural lapses on the part of the petitioner, the petitioner also deserves to be mulct.

8. In the result, we pass the following order:

ORDER

i. The petitioner shall submit the examination forms of the students as enlisted in Exh. R on or before 21st of March, 2017.

ii. The respondents shall verify the record of the petitioner institution regarding their admission and, after having satisfied that all these students are properly admitted, shall accept the examination forms.

iii. For the lapses on the part of the petitioner, and that the students should not suffer, the petitioner shall pay penalty of Rs. 50,000/- (Rs. Fifty Thousands only) to respondent no.2.

iv) The writ petition stands allowed in above terms.

9. Authenticated copy of this order be issued to the requesting parties.

[SANGITRAO S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 17