

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

**WRIT PETITION NO. 6061 OF 2016**

Shri Durgamata Bahuuddeshiya  
Sports and Educational Sanstha's  
Uttamrao Deshmukh Institute of Pharmacy  
(Diploma in Pharmacy) at Balsond  
Tq. and District Hingoli  
Through its authorized Officer  
Shri Umakant s/o Sureshrao Deshmukh  
Age:34 years, Occ. Service  
R/o. Antulenagar, Hingoli,  
District Hingoli.

**...PETITIONER**

**VERSUS**

1. The State of Maharashtra  
Through the Secretary for Technical  
Education department,  
Mantralaya, Mumbai,
2. The All India Council for Technical  
Education, 7th floor,  
Chandralok building, Janpath  
New Delhi  
Through its Member Secretary
3. The Regional Officer  
The All India council for Technical  
Education, Western Region,  
L.I.C. Building, Churchgate,  
Mumbai
4. The Director of Technical Educational  
Maharashtra State Board of Technical  
Education, 3, Mahapalika Marg, Mumbai.
5. The Joint Director,  
Technical Education,  
Osmanpura, Aurangabad  
District Aurangabad (M.S.)

**...RESPONDENTS**

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Mr. V.D. Hon, Senior Advocate h/f. Mr. Ashwin V.Hon,  
Advocate for Petitioner.

Mr. S.V. Advant, Advocate for Respondent Nos. 2 & 3  
Ms R.P. Gour, A.G.P. for Respondent/State.

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**CORAM: R.M.BORDE & P.R. BORA, JJ.**

**DATE : APRIL 26th, 2017**

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Date of reserving the  
order: **20/03/2017**

Date of pronouncing  
the order: **26/04/2017**

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**P.C.:**

1. The petitioner institution is praying for issuance of a Writ of Certiorari or order in the nature of Writ of Certiorari to quash and set aside the communication dated 30.4.2016, issued by the Member Secretary of All India Council for Technical Education, New Delhi (hereinafter referred to as AICTE ). The petitioner is also praying for issuance of directions to respondent nos. 2 and 3 to reconsider the proposal of the petitioner for starting D.Pharmacy Course on consideration of the documents submitted by the institution on 26.4.2016 and to grant necessary permission for operating D.Pharmacy

Course. The petitioner is also praying for directions to respondent nos. 2 and 3 to reconsider the proposal of the petitioner submitted on 28.2.2016, and to permit the petitioner to set up new technical institution for conducting D.Pharmacy course.

2. The petitioner institution tendered an application to AICTE in the prescribed format for grant of approval to set up a new technical education institution for conducting D.Pharmacy course. Along with the application, the petitioner deposited a sum of Rs.7,00,000/- ( Rs. seven lacs) as prescribed under the Rules. The application tendered by the petitioner was scrutinized by the AICTE and, in its report dated 13.3.2016 certain deficiencies were pointed out. The petitioner contends that he had taken steps for removal of the deficiencies and submitted a report accordingly. The AICTE, again, conducted re-scrutiny of the documents and prepared a report. The Expert Committee constituted by the AICTE visited the institution and inspected the set up established by the institution. The petitioner was called upon to appear before the Committee i.e. Standing

Appellate committee on 26.4.2016. The petitioner appeared before the Committee and submitted necessary documents, pointing out that the deficiencies have been removed. The AICTE, however, refused to accept the evidence produced by the petitioner in support of his claim of removal of deficiencies and, vide communication dated 30.4.2016, communicated to the petitioner that the proposal tendered by the petitioner institution for setting up new technical institution for conducting D.Pharmacy course has been turned down.

3. It must be noted that in the final letter of rejection by the Council, certain deficiencies are pointed out. The petitioner contends that, in fact, those deficiencies have been removed. In a rejoinder affidavit tendered by the petitioner, it is urged to direct the respondent to conduct re-inspection and to confirm the contentions of the petitioner in respect of removal of the deficiencies. It is contended that it is the responsibility of the AICTE to conduct re-inspection and confirm as regards compliances made by the petitioner, however, the visiting team did not conduct verification and refused to

accept the compliance report tendered by the petitioner institution.

4. It is also stated in the rejoinder affidavit that, as per the Approval Process Hand Book, the petitioner would be required to repeat the exercise of tendering an application and depositing the amount to the tune of Rs.7,00,000/- ( Rs. seven lacs) and further a sum of Rs.30,000/- ( Rs. thirty thousand) to the Regional Board of Technical Education, Aurangabad. It is contended that during the preceding year also, the amount is deposited but the respondents have not bothered to conduct an inspection. It is contended that the procedure prescribed by the AICTE puts an unnecessary additional burden on the institutions who have to comply the conditions every year for grant of approval for commencing technical courses.

5. Learned Counsel appearing for the AICTE contends that since there are deficiencies noticed, a conscious decision has been taken not to grant approval, as requested by the petitioner. It is contended that the

team consisting of experts has paid visit to the petitioner institution and have recorded certain deficiencies which have been communicated to the petitioner. It is contended that, as provided under the Regulations framed by the AICTE, it is mandatory for the applicant to tender an application for according approval to operate new technical education every year. The Approval Process Handbook prepared by the AICTE lays down the procedure for tendering an application. For according approval for the academic year 2017-2018, an Approval Process Handbook has been prescribed laying down necessary procedure. It is further contended that the AICTE has published a public notice for approval process during the year 2017-2018. The last date prescribed for tendering applications under the notification was 10th of April, 2017, and it would be difficult for the AICTE to entertain the application of the petitioner after the aforesaid date. It is also contended that as the applications are required to be tendered on-line, as well as a hard copy of the application shall have to be transmitted to the AICTE, it would be impermissible for the Court to issue directions for acceptance of the application beyond the prescribed date

and to further direct the AICTE to process such application.

6. The Counsel appearing for the petitioner contends that since the instant petition tendered by the petitioner, objecting to the order passed by the AICTE, refusing to grant permission to conduct technical courses during the year 2016-2017, remained pending for consideration, the petitioner did not tender application in response to the notification issued by the AICTE.

7. It is contended that a prayer is also made during the course of hearing of the instant petition to consider the amount deposited by the petitioner institution during the preceding year, as requisite fees / deposit for consideration of the application that would be tendered by the petitioner for the next academic year. It is contended that there is no intentional lapse on the part of the petitioner in not tendering the application within the prescribed time frame. It is also urged that this Court may direct the respondent AICTE to entertain the application which would be tendered by the petitioner, exercising the liberty that may be granted by this Court.

8. The prayer made by the petitioner for quashment of the order passed by the AICTE on 30.4.2016, refusing to grant approval for establishing a new technical institution, does not deserve consideration and the request made in that regard stands rejected. However, taking into consideration the facts and circumstances of this case, it would be open for the petitioner to tender an application to the AICTE seeking approval to start new technical institution in physical form / hard copy of the application. The AICTE, in the facts and circumstances of this case, may consider the application and process the same as permissible under the relevant Regulations.

With liberty as aforesaid, the writ petition stands disposed of. It is needless to mention that, if directed by the AICTE, it would be obligatory for the petitioner to deposit the amount as mandated under the Rules.

(P.R.BORA)  
JUDGE

(R.M.BORDE)  
JUDGE

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