

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 7433 OF 2016
WITH
CIVIL APPLICATION NO. 11722 OF 2016

Chandralop Shikshan Prasarak
Mandal's College of Fire
Engineering & Safety Management,
Gat No. 52, Harsul Sawangi,
Jalgaon Road, Aurangabad
Tq. & Dist. Aurangabad
Through its Secretary :-
Chandrashekhar s/o. Bhanudas
Lokhande, Age 37 years,
Occu. Service, R/o. Plot No. 3,
N-7, Sector-M, CIDCO, Aurangabad. **...Petitioner.**

Versus

1. The State of Maharashtra,
through Principal Secretary,
Higher & Technical Education,
Mantralaya, Mumbai
Maharashtra State.
2. The Regional Officer,
Maharashtra State Board for
Technical Education,
Govt. Polytechnic premises,
Osmanpura, Aurangabad.
3. Director of Technical Education,
Maharashtra State, Mumbai
3, Mahapalika Marg, Mumbai. **...Respondents.**

WITH
WRIT PETITION NO. 7533 OF 2016
WITH
CIVIL APPLICATION NO. 11302 OF 2016

Vishwa Bahuudeshiya Sevabhavi
Sanstha's
Indian Fire Service Engineering &
Safety Management College,
Gut No. 45, Plot No. 25, 26, 27, 28,
Kumbhephal, Tq. & Dist. Aurangabad
through its Secretary :-
Rajendra Kaduba Khandelwal
Age 39 years, Occu. Service,
R/o. Vidya Nagar, Jalna Road,
Aurangabad,
Tq. & Dist. Aurangabad. **...Petitioner.**

Versus

1. The State of Maharashtra,
through Principal Secretary,
Higher & Technical Education,
Mantralaya, Mumbai
Maharashtra State.
2. The Regional Officer,
Maharashtra State Board for
Technical Education,
Govt. Polytechnic premises,
Osmanpura, Aurangabad.
3. Director of Technical Education,
Maharashtra State, Mumbai
3, Mahapalika Marg, Mumbai. **...Respondents.**

WITH
WRIT PETITION NO. 7558 OF 2016
WITH
CIVIL APPLICATION NO. 11300 OF 2016

Kailaswasi D.R.H. Shikshan Prasarak
Sanstha Kalwan's
Sahyadri College of Fire and Safety
Management, Nashik
through its President :-
Sagar P. Deore,

Age 38 years, Occu. Service,
R/o. Nashik.

...Petitioner.

Versus

1. The State of Maharashtra,
through Principal Secretary,
Higher & Technical Education,
Mantralaya, Mumbai
Maharashtra State.
2. The Regional Officer,
Maharashtra State Board for
Technical Education,
Govt. Polytechnic premises,
Osmanpura, Aurangabad.
3. Director of Technical Education,
Maharashtra State, Mumbai
3, Mahapalika Marg, Mumbai. **...Respondents.**

Mr. Atul M. Karad, Advocate for petitioners.

Mr. S.B. Joshi, A.G.P. for respondent Nos. 1 & 3.

Mr. S.S. Jadhavar, Advocate for respondent No.2.

Mr. A.N. Nagargoje, Advocate for applicant in
civil applications.

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : February 10, 2017.

ORAL JUDGMENT : [Per T.V. NALAWADE, J.]

Rule. Rule made returnable forthwith. By
consent, heard both the sides for final disposal.

2) The petitioners are running educational institutions of courses like Advance Diploma in Industrial Safety and in Fire Services etc. as per the approval granted by Maharashtra State Board of Technical Education for these courses. Initially all the three institutions were running the courses at the places which were taken on rent basis by them. The courses were started from the years 2005, 2008 and 2009 by the three institutions and the affiliation of these institutions was continued after their inspection done every year. These institutions shifted the courses to their new buildings and it appears that applications for permission to shift the courses at other place were made subsequent to the actual shifting of the courses to new buildings. The new buildings belong to the institutions.

3) To all the three institutions show cause notices were issued on the same day i.e. 30.5.2016. In the show cause notices, it was

expressed that for changing the location of the institutions, no permission of the State Government was taken and there were other deficiencies in the functioning of the institutions.

4) To the institution in the first proceeding, it was informed in the show cause notice that it was not having area for faculty as per the requirement and also the area for laboratory as per the requirement. It was also informed that the building furniture as required by MSBTE norms worth Rs.25 lakh was required to be kept, but the value of furniture available was around Rs.11.67 lakh.

5) To the institution from the second proceeding, it was informed in the show cause notice that the faculty area was not as per the norms. It was also informed that the furniture as per the norms was not available and the furniture

worth around Rs.2 lakh was not available as per the norms, though the furniture worth Rs.23 lakh was there.

6) To the petitioner from the third proceeding, it was informed in the show cause notice that there were deficiencies and further, without permission of the State Government the courses were shifted at other place.

7) It appears that due to the complaint made by the applicant from civil applications namely Shri. A.M. Tripathi, a Committee was constituted by the Board and after that show cause notices were issued and then to the three institutions by letter dated 2.7.2017 it was informed that their link, affiliation with the Board was suspended and the institutions were not to give admission to the students for the academic year 2016-2017. In all the three proceedings, the last communication of 2.7.2016 of the respondent Board is challenged.

The submission was made for the institutions that the proceedings were filed in the month of July 2016, but the students were already admitted. By the order dated 31.8.2016 this Court directed the petitioners to submit fresh applications for seeking permission for change of place. After that the Government was expected to pass the necessary instructions to the Board for conducting the inspection and on the basis of inspection, the Government was expected to take the decision.

8) The submissions made and the record show that even prior to filing of the proceedings in this Court, the Committee had made inspection of the courses run by the three institutions and there are reports to show that on most of the points, the Committee was satisfied and the remarks in respect of the quality were either 'very good' or 'good'. The record shows that the Committee was constituted by the Board with regard to the circumstance of change of place on

30.9.2016 and this Committee also gave report that deficiencies were removed. The Committee recommended for continuation of affiliation by the Board. Thus, by shifting to the new place the deficiencies in respect of area of faculty and area of laboratory was apparently removed. It is not disputed that the proposals for continuation for affiliation, extension were also given by these institutions to the Board.

9) The learned counsel for intervenor submitted that when the admissions were to be given in the month of September, false contention was made in this Court that some admissions were already given for seeking some kind of protection. The learned counsel submitted that when permission ought to have been taken before shifting the place of institute and it was not taken, the affiliation could not have been continued and so, no mistake is committed by the Board in suspending the link, in not continuing the affiliation. Though it can

be said that as per the Rules given in the Process Manual for these institutions, admissions could have been started and completed in the month of September, the fact remains that even in that month, the proceedings were pending in this Court and the applications for continuation of affiliation and for granting permission to change the place of institutes were pending with the proper authority.

10) The learned counsel for intervenor took this Court through the provision of section 27 (6) of the Maharashtra State Board of Technical Education Act, 1997 (hereinafter referred to as 'the Act' for short) and submitted that students could not have been admitted. This submission is not acceptable as it is with regard to the first time affiliation. It is true that the institutions like present petitioners are expected to adhere to the process given in the Act, but the fact that the present cases involves only continuation of

affiliation cannot be ignored and grievances of the intervenor, who made complaint are now addressed. The report of the Committee constituted by the Board is satisfactory and the decision needs to be taken by the State Government only in respect of point of change of place. Other deficiencies are removed as per the reports submitted by the Committee. Such matters involve career of students receiving education in such institutions. Considering the purpose behind seeking permission of the State Government for change of place, it can be said that if new place is more convenient and due to such change, the deficiencies are removed, ordinarily there will not be hurdle in granting such permission. However, it is up to the State Government to take decision in that regard. The submission was made by the learned counsel for petitioners that intervenor has adverse interest as he is involved in the Management of similar institution and he made complaint out of competition amongst such

institutions. There appears to be force in this submission. Otherwise the intervenor would not have got information against these institutions on the basis of which a complaint could have been made to the Board. The Board, the Government and this Court are expected to consider the interest of the students receiving education in such institutions. In view of the aforesaid circumstances, this Court holds that relief needs to be given to the petitioners atleast for the academic year 2016-17 as in all the three institutions, students are studying and the particulars of the approved strength are on the record. In the result, following order is made.

O R D E R

(i) All the Writ Petitions are allowed. The decision taken by the Maharashtra State Board of Technical Education communicated vide letter dated 02.07.2016, is hereby set aside.

(ii) The applications pending for permission to change the place of the institutions are to be

decided by the State Government within a period of three months from today and if the State Government does not approve change of place, further orders can be made by the State Government.

(iii) The students are to be allowed to appear for examinations and for that purpose, it is to be presumed that the affiliations are continued for the academic year 2016-2017.

(iv) Rule is made absolute in the above terms. Writ Petitions stand disposed of.

(v) Pending Civil Applications stand disposed of.

[SANGITRAO S. PATIL, J.] [T.V. NALAWADE, J.]

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