

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

WRIT PETITION NO.10185 OF 2017

1. The Jawaharlal Nehru Institution .. Petitioners
of Education, Science Technology,
Research Trust, Nanded
Through its Trustee
2. The Mahatma Gandhi Agricultural
Bio-technology College, Pokharni,
Post. Limgaon, Nanded Purna Road,
Dist. Nanded

Versus

1. The State of Maharashtra .. Respondents
Through Secretary Agricultural
Department Maharashtra State,
Mantralaya, Mumbai-32
2. The Maharashtra Agricultural,
Education & Research Council,
130/B, Bhamburda, Bhoslenagar,
Pune-441007
through its Director (Education)
3. The Vasantrao Naik Marathwada
Agricultural University,
Parbhani-431 402
Through its Registrar

Mr.V.D.Salunke, Advocate for the petitioner
Mr.S.B.Pulkundwar, AGP for the respondent/State
S.K. Kadam, Advocate for respondent No.2
Mr.M.N. Navandar, Advocate for respondent No.3

**CORAM : R.M. BORDE &
S.M. GAVHANE, JJ.
DATED : 16.08.2017**

ORAL JUDGMENT [PER: R.M. BORDE, J.] :-

. Heard.

2. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the respective parties.

3. The petitioner is an education institution, imparting training to students in Bio-technology since 2004. The college is situated at village Pokharni, Dist. Nanded. The intake capacity of the college is 64 students, since academic year 2004-2005. According to the petitioner institution is permitted two student divisions since 2012-2013 and according to the petitioner, academic standards maintained by the institution is up to the desired level. The college has got necessary infrastructure for imparting training to the students. It is further noticed that during the inspection conducted, the College has been awarded "D" grade during the academic year 2015-2016. The evaluation Committee visited the college on 30.07.2017 and conducted inspection and the said committee has awarded "D" grade for the year 2017-2018 also. The petitioner contends that the

evaluation done by the committee is improper and the marks those have been awarded are disputable. The petitioner institution was issued a show-cause notice by the Registrar of respondent No.3-University calling upon the institution to show-cause as to why the college shall not be prohibited from admitting the students in one division during the academic year 2017-2018. The notice has been issued in view of the recommendation made by committee. The petitioner institution is called upon to tender the reply within fifteen days from the date of receipt of the notice and it is further informed that in the event of failure to comply with the deficiency, appropriate action would be taken. Notice is issued on 01.08.2017. The petitioner submits that before completion of the period prescribed under the notice, the impugned adverse action has been taken by respondent No.2 and the petitioner institution has been prohibited from admitting the students during the academic year 2017-2018. The order has been issued in that regard by respondent No.2 on 07.08.2017 which order is impugned in writ petition. According to respondent No.2 since the respondent No.3 University by issuing communication on 02.08.2016 informed to prohibit petitioner education institution from admitting students, acting upon said communication both the names of petitioner institutions have been deleted from broacher. The respondent No.2 is not anyway

concerned with procedure relating to grant of permission or affiliation to agricultural college, but has been entrusted to regulate admission procedure. The petitioner institution has been prohibited to admit students at the instance of University/respondent No.3

4. The petitioner contends that the online admission process initiated by respondent No.2 has already commenced and the first round of admission is over on 10.08.2017. The second round of admission is to commence from today i.e. 16.08.2017 and the last date of reporting by students is 18.08.2017. The third round of admission prescribed under the admission programme declared by respondent No.3 is to commence from 22.08.2017 and the date prescribed for reporting by the students is 24.08.2017. The admission notification further prescribes option for institution to conduct spot admission after completion of the third round. The petitioner contends that since the adverse order has been issued by respondent No.2 prohibiting institution from admitting students, there are no students allotted to the petitioner institution.

5. The petitioner submits that during the inspection, the institution has been awarded 51 marks and as such it is categorized in D-class. The institution

securing 75 and more marks are awarded "A" grade whereas the institution securing marks between 65 to 74.9 are awarded "B" grade, whereas the institution securing 55 to 64.9 marks are awarded "C" grade. Since the petitioner has been awarded "D" grade during last academic year, as well as current year, adverse action has been taken. The action has been taken against the college before completion of the period prescribed for tendering reply to the show cause notice issued by respondent No.3 University. The petitioner further submits that, in fact, the institution has removed most of the deficiencies and as such is entitled to claim upgradation and the adverse action that has been taken, apart from being unwarranted, is also violative of the principles of natural justice, since the petitioner institution has not been extended an opportunity to show-cause, in respect of the proposed adverse action.

6. Learned counsel appearing for respondent No.3 University has placed before us the minutes of the meeting convened by Hon'ble Governor of Maharashtra to discuss the issues relating to functioning and improvement of standards of agricultural Universities in the State. The Hon'ble Chancellor in the meeting of the Vice-Chancellors of the Agricultural Universities has instructed to take suitable steps against the affiliated

colleges which have been awarded "D" grade. The Hon'ble Governor expressed serious displeasure on account of failure of Universities to take action against such colleges and warned that this kind of omission results in compromising the quality of the education and thereby put at peril the careers of numerous students. It is, therefore, instructed to take corrective measures immediately. Respondent No.3 in pursuance to the directions issued by Hon'ble Governor convened a meeting of the Deans of the four agricultural Universities and the Registrars of Agricultural Universities on 27.06.2017 under the Chairmanship of Director General of respondent No.2. The modality of taking action against the affiliated colleges which have been classified in "D" category has been prescribed in the meeting. It is resolved that affiliated colleges which have been classified in "D" category shall be inspected every year. It is also further decided that the copies of the inspection reports shall be transmitted to the concerned college and it shall be called upon to tender explanation within period of fifteen days from the date of receipt of the notice. Show cause notice shall be issued calling upon the concerned affiliated college to tender reply as to why the admission process of the said college shall not be stopped or the college shall not be directed to be closed down. If the reply tendered by college is found to

be unsatisfactory, the notice, together with the explanation tendered by college and the requisite proposal shall be placed before the Academic Counsel and Executive Counsel of the University. The concerned college shall be issued second show cause notice together with the copies of resolution of the Academic Counsel and the Executive Counsel calling upon the affiliated college to tender its explanation. The concerned affiliated college can be extended an opportunity of hearing. After hearing the concerned institution and on perusal of the relevant material, appropriate action in the nature of issuance of directions to stop the admission process of the affiliated college can be issued by the concerned Agricultural University. It is also further resolved in the meeting that the final order shall make a mention of the resolution adopted by the Academic Counsel and Executive Counsel the first show cause notice the reply tendered by the affiliated college, second show cause notice and the personal hearing extended to the affiliated college. The final order is expected to be issued by the Agricultural University. So far as the instant case matter is concerned the petitioner institution has been issued only one show-cause notice by the University calling upon the affiliated college to explain as to why the action of closer of one division of the college shall not be taken. It is surprising to note

that before completion of the fifteen days period provided under notice impugned action has been taken. It is obvious that the matter has not been placed before the Academic Counsel or the Executive Counsel of the University. The procedure prescribed in the meeting convened by respondent No.3 has not been adhered to. Even otherwise the order that has been issued by respondent No.2 is in breach of the principles of natural justice, and therefore deserves to be set aside.

7. In the circumstances the impugned action deserves to be quashed and set aside and the same is accordingly quashed and set aside. The order impugned in this petition dated 07.08.2017 issued by the Director (Education), Maharashtra Agricultural Education and Research Council to the extent of petitioner college shall stand quashed and set aside. The necessary consequences as a result of quashing of the order shall follow. It would be open for the respondents to take steps as permissible in law and in tune with procedure that have been prescribed.

8. Rule is accordingly made absolute to the extent as specified above. There shall be no order as to costs.

[S.M. GAVHANE, J.]

[R.M. BORDE, J.]