

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3793 OF 2016

Mahatma Gandhi Vidya Mandir and Anr. ...Petitioners
vs.
State of Maharashtra and Anr. ...Respondents

Mr. S.S. Patwardhan, for the Petitioners
Mr. V.N. Sagare, AGP for the Respondent-State.
Mr. Rajendra Anbhule, for Respondent No. 2.

CORAM : SHANTANU S. KEMKAR &
PRAKASH D. NAIK, JJ.

DATE : **MARCH 14, 2017**

P.C.:

- . Parties through their counsel.
2. Feeling aggrieved by the order dated 14th December, 2015 (Exhibit C) passed by the Respondent No. 1 - State rejecting the Petitioner No. 1's prayer for grant of permission to shift the location of Petitioner No. 2 – College from the village Soundane, Tal. Malegaon, Dist. Nashik to village Nimgaon, Tal. Malegaon, Dist. Nashik, the Petitioners have filed this Petition.
3. According to Petitioner No. 1, it had applied for shifting of the location of Petitioner No. 2 – College for the various reasons as

detailed in the application dated 20th February, 2013 (Exhibit “A”). The said application was duly processed by Respondent No. 2 – University and after the local inspection was conducted the proposal has been favourably recommended by the University as per Exhibit “B”. However, without taking note of various reasons assigned by the Petitioner No. 1 and the recommendation of the University, Respondent No. 1 – the State has rejected the application on the ground that the prayer made by the Petitioner No. 1 is not in conformity with the perspective plan and there is no provision for shifting of the College. It has also been stated that for transfer, shifting and renewal, a policy is to be framed the State Government and till the policy is formulated, the application cannot be allowed.

4. Having heard the learned counsel for the parties, we are of the view that the impugned order passed by Respondent No. 1 – State cannot be sustained. The Petitioner No. 1 had applied for permission to shift the College from village Soundane, Tal. Malegaon, Dist. Nashik to village Nimgaon, Tal. Malegaon, Dist. Nashik in the same Taluka. In the circumstances, there is no violation as stated by Respondent No. 1 of Section 82(1) of the Maharashtra Universities

Act, 1994. Even otherwise, in the impugned order the first Respondent has not taken into consideration the various reasons assigned for the shifting of the Petitioner No. 2 – College. It has also not been taken into consideration that the Respondent No. 2-University had favourably recommended the shifting.

5. Having regard to the aforesaid, as we find that the impugned order is a non-speaking order, we have no option but to set aside the same and remit the matter back to Respondent No. 1-State for passing a fresh speaking order keeping in view the aforesaid observations and the various reasons assigned by the Petitioner No. 1 for change of the site of its College. The Respondent No. 1 shall also take into consideration the favourable recommendation of the University and pass a reasoned order within six weeks from the date of appearance of the representative of the Petitioners before him. Needless to say that the non framing of the policy in this regard will not be ground to keep the Petitioners' application pending. The Petitioners' representative to appear before Respondent No. 1-State of with all the relevant documents on 20th March, 2017 at 11.00 a.m.

6. The Petition stands disposed of as such.

(PRAKASH D. NAIK, J.)

(SHANTANU S. KEMKAR, J.)