

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11446 OF 2016

Habib Educational and Welfare Societies,
M.S. College of Law, Arts, Science,
Commerce and BMS

...Petitioner

vs.

State of Maharashtra and Others

...Respondents

Mr. Rafique Dada, Senior Advocate a/w. Mr. C.K. Thomas i/b. M/s.
C.K. Thomas & Associates, for the Petitioner.

Mr. Tukaram Shedge i/b. Mr. A.D. Sale, for Respondent No. 1.

Mr. L.M. Acharya, Special Counsel a/w. Mr. V.N. Sagare, AGP for
Respondent Nos. 2 and 3.

Mr. Rui Rodrigues a/w. Mr. Asad Ullah Shaikh for Respdt. No. 4

Mr. Rukaram Shedge i/b. Mr. A.D. Sale, for Respondent No. 5.

ORDER RESERVED ON : 4th APRIL, 2017

ORDER PRONOUNCED ON : 10th APRIL, 2017

CORAM : **SHANTANU KEMKAR &
B.P. COLABAWALLA, JJ.**

ORAL ORDER: (Per Shantanu Kemkar, J.)

. By this Petition filed under Article 226 of the
Constitution of India, the Petitioner is seeking the following reliefs.

- (i) *To quash and set aside the impugned order dated 2nd September, 2016 and 3rd August, 2016 issued by Respondent Nos. 1, 2 and 4 (being Exhibits N-1 and N-2 hereto) thereby cancelling the permission granted to the Petitioner College from the academic year 2016-17 at Deoghar, Khanivali P.O., Kudus, Tal. Wada, Dist. Palghar.*

(ii) *To direct Respondent Nos. 1, 2 and 4 to restore the permission and affiliation granted on 13th May, 2016 and 9th June, 2016 to the Petitioner for starting new M.S. College of Law and M.S. College of Arts, Commerce, Science and BMS courses at from the academic year 2016-17.*

(iii) *To approve the admission carried out with the Petitioner College for the academic year 2016-17 as per the admission process of the Respondents.*

2. The case of the Petitioner is that the permission and affiliation to start a new Law college and degree courses from the academic year 2016-17 at village Deoghar, Post Khanivali, Tal. Wada, Dist. Palghar was Renewal of Certificate of Registration under Class 1A” is penduly granted to the Petitioner after necessary inspection of the site offered by the Petitioner being carried out by Respondent Nos. 4 and 5 and in the circumstances the issuance of the impugned order dated 3rd August, 2016 cancelling the permission and the affiliation cannot be sustained.

3. The matter was heard at length. From the perusal of the averments made in the reply and the rejoinder as also the fact that during the course of hearing it has not been disputed by learned counsel for the Petitioner that the Petitioner was not having requisite land and infrastructure for running of the M.S. College of Law, Arts, Science, Commerce and BMS courses even at the time the site inspection initially carried out by the Respondent No. 4

and 5 and thereafter even when the State authorities carried out the inspection before passing the impugned order. In the circumstances it is clear that when there was and there is still no requisite infrastructure for starting the aforesaid courses, the impugned order passed by the State cannot be said to be illegal so as to warrant our interference in writ jurisdiction under Article 226 of the Constitution of India.

4. However since the students were admitted by the Petitioner prior to passing of the impugned order of cancellation of permission on the basis of earlier permission and affiliation granted to the Petitioner, we have asked the learned counsel for the State and the University as to whether those students can be accommodated in any other college.

5. On this query being made, the learned counsel appearing for the State as also the learned counsel for the University fairly stated that they will verify the list of the students and if they are found eligible and found to be admitted prior to the cut off date, those students will be accommodated in any other college, within four weeks.

6. With the aforesaid, the Petition is disposed of.

(B.P. COLABAWALLA, J.)

(SHANTANU S. KEMKAR, J.)