

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2530 of 2017**

1. Bhilai Agrasen Education Society Through Its President Rajendra Kumar Agrawal, S/o Late Shri A. K. Agrawal, Aged About 58 Years, R/o E W S-306, Vaishali Nagar Bhilai District Durg, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Higher Education, Mahanadi Mantralaya, Naya Raipur, Post Office And Police Station Naya Raipur, District Raipur, Chhattisgarh., Chhattisgarh
2. Commissioner, Department Of Higher Education, Block C- 30, 2nd/3rd Floor, Indrawati Bhawan, Naya Raipur, Post Office And Police Station Naya Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

For Petitioner	Shri Malay Shrivastava, Advocate
For Respondent/State	Shri A.S. Kachhawaha, Addl. Adv. General

Order On Board**By****Prashant Kumar Mishra, J.****29/08/2018**

1. Petitioner's application for opening of a new Non-Government College at village Daganiya, Tahsil Gunderdehi, District Balod has been rejected for the reason that the District has got 11 Government colleges and 6 private colleges and during the last 5 years sufficient increase in the intake capacity of students in the private college has not improved, therefore, there is no need of opening of a new private college.

2. Referring to page 11 of the return, which is a note sheet written by the OSD, it is argued that the inspection committee had recommended in favour of the petitioner as per Section 11 of the Chhattisgarh Non-Government Colleges & Institutions in Higher Education (Establishment & Regulation) Act, 2006, therefore, the impugned order being contrary to the recommendation, it is not only illegal, but is also arbitrary.
3. It is further argued that the State Government has considered number of Government and private colleges in the entire district without specifically considering that within Tahsil Gunderdehi there are only 3 colleges, therefore, there may be need of more colleges in the Tahsil.
4. A plain reading of Annexure – P/1 would demonstrate that the authority has assigned reasons while rejecting the petitioner's application for opening of new college. When grant of permission to new college is regulated under certain statutory provision, the same does not remain in the realm of any fundamental right, therefore, if the authority competent to take decision in the matter has assigned reasons, which are germane to the subject matter, this Court sitting under Article 226 of the Constitution of India is not entitled to interfere in the matter, as if it is hearing an appeal against the decision of the State Government.
5. The factual basis of the impugned order has not been disputed. Even if there are only 3 colleges within Gunderdehi Tahsil, the

statute nowhere prescribes for determining the necessity of opening of new college. Balod is a very small district and as per petitioner's own showing 3 colleges are already operative within Gunderdehi Tahsil, therefore, if the authorities are of the opinion that there is no need to open any more private colleges within Gunderdehi Tahsil and there is no error in the procedure adopted to arrive at the impugned decision, no interference would be permissible under Article 226 of the Constitution of India.

6. As an upshot, the writ petition, being bereft of merit, is liable to be and is hereby dismissed. No order as to cost(s).

Sd/-

Judge

Prashant Kumar Mishra

Gowri