

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

WRIT PETITION NO. 5883 OF 2017

Walmiki Sevabhavi Trust Bhokar
Through Secretary .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Shailendra S. Gangakhedkar, Advocate for the Petitioner.
Mrs. Vaishali N. Jadhav-Patil, A.G.P. for Respondent Nos. 1 & 2.

**CORAM : S. V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.**

DATE : 15TH MARCH, 2018.

FINAL ORDER :

. Mr. Gangakhedkar, the learned advocate for the petitioner submits that, the proposal was given by the petitioner/institution to run Arts and Science College for the academic year 2015-2016 at Bhokar, Tq. Bhokar, Dist. Nanded in the name and style as Kalawati Mahila Mahavidyalaya, Bhokar. The proposal was rejected initially without hearing the petitioner. Under the directions of this Court, the respondents were directed to hear the petitioner. After hearing the petitioner again same has been rejected on erroneous grounds. One of the grounds stated by respondents in rejecting the proposal is that, construction was only 17,100 square feet, whereas certificate issued by the

competent authority shows that the construction is more than 17,500 square feet. The learned counsel submits that, even the non agricultural permission has been issued to the petitioner by the competent authority U/Sec. 44 of the Maharashtra Land Revenue Code on 24.11.2017. At the relevant time when the proposal was given the file was pending in the office of Collector for grant of N.A. permission. The learned counsel submits that, even the certificate of bank showing the petitioner has balance of Rs. 5,00,000/- was given, however, the same is also not considered. The learned counsel submits that, even in the perspective plan for the year 2018-2019 Arts and Science college at Bhokar is permissible.

2. The learned Assistant Government Pleader submits that, the proposal of the petitioner was for the academic year 2015-2016. The petitioner has to comply with each and every facet of the matter before the permission can be accorded. There were deficiencies as pointed out in the order itself. On account of the deficiencies, the petitioner could not have been accorded permission to open and run Arts and Science college.

3. The permission to open and run Arts and Science college can be granted only if party applying scrupulously complies with the conditions.

4. It is submitted that, at the relevant time file of the petitioner was pending in the office of the Collector seeking N.A. permission. It has been stated that, the Collector Office has granted N.A. permission to the petitioner on 24th November, 2017 and certified that, it can use the said premises for non agricultural use. The dispute is about quantum of construction. According to the petitioner, the construction is more than 17,500 square feet and same is certified by the certificate issued by the competent authority. Whereas according to the respondents the construction is only 17,100 square feet. To resolve the issue, it could be appropriate for the respondents to carry out measurement through its competent persons in presence of the petitioner. As far as deposit of Rs. 5,00,000/- is concerned, it appears that, the petitioner has given certificate to that effect. Same is required to be considered by the authority and more importantly the proposal of the petitioner for the ensuing academic year can only be considered, if as per the perspective plan Arts and Science college is permissible at Bhokar, Tq. Bhokar.

5. Considering the above, we pass following order.

6. The respondents shall consider the proposal submitted by the petitioner and recommended by the university in 2015, for the academic year 2018-2019 afresh. The respondents may carry

out the measurement through its competent person in the presence of the petitioner. The petitioner may produce the N.A. certificate issued to it by the Collector with the respondent authority within a period of three weeks from today. The petitioner may also produce fresh certificate of the financial institution showing the minimum balance required as per the condition. The respondent authority shall consider the said proposal of the petitioner afresh for academic year 2018-2019, if as per the perspective plan the Arts and Science college is permissible at Bhokar, Tq. Bhokar, Dist. Nanded for academic year 2018-2019. The same shall be considered expeditiously and preferably by the end of May 2018. The writ petition is accordingly disposed of. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 18