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

**WRIT PETITION NO. 6623 OF 2018**

Sai Sakal Shiksan Prasarak Mandal,  
Having its registered address  
At Plot No.33, Swatantrya Sainik  
Colony, Tq. and Dist. Aurangabad,  
Through its President  
Dnyaneshwar Walmikrao Dalvi ..PETITIONER

VERSUS

1. The State of Maharashtra,  
Through it's Secretary,  
Higher and Technical School  
Department, Mantralaya  
Extension Building,  
Mumbai, Maharashtra  
Pin 400 001
2. The Desk Officer,  
Maharashtra Government,  
Higher and Technical School  
Department, Mantralaya  
Extension Building,  
Mumbai, Maharashtra  
Pin 400 001
3. Dr Babasaheb Ambedkar  
Marathwada University,  
Through its Deputy Registrar,  
(Education Department),  
Tq. and Dist. Aurangabad ..RESPONDENTS

Mr S.R. Kolhare, Advocate for petitioner;  
Mr C.S. Kulkarni, A.G.P. for respondent Nos.1 and  
2;  
Mr V.U. Pawar, Advocate h/f Mr S.S. Tope, Advocate  
for respondent No.3

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**CORAM : PRASANNA B. VARALE &  
S. M. GAVHANE, JJ.**

**DATE : 31st JULY, 2018**

**ORAL ORDER :**

This petition is urgently circulated by learned Counsel appearing for the petitioner. Learned Counsel appearing for the petitioner submitted that by referring to the grievance raised by the petitioner in the petition, this Court issued notice by order dated 28<sup>th</sup> June, 2018. The petition was due for consideration/final disposal on 19<sup>th</sup> July, 2018 but for certain technical difficulties, the matter could not be listed before this Court on the due date.

2. The petitioner is an educational institute and is desirous of opening new college in the faculty of Arts, Commerce and Science. The petitioner being, thus interested and desirous, submitted proposal to the competent authorities namely State of Maharashtra and Dr. Babasaheb Ambedkar Marathwada University, Aurangabad. It is submitted that the petitioner institute complied all the required conditions mentioned in the

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Government notification dated 28<sup>th</sup> February and the proposal was submitted before respondent No.3 University on 23<sup>rd</sup> April, 2018. Learned Counsel appearing for the petitioner submitted that respondent No.3 University forwarded the said proposal to the State Government with its positive recommendation.

3. Learned Counsel appearing for the petitioner then submitted that though in the petition, the petitioner raised ground that some other institutes which are similarly circumstanced and submitted their proposals, these proposals were allowed, whereas, the petitioner's proposal is kept pending, this ground is not pressed in to service. He further submitted that the petitioner institute. He then submitted that the petitioner institute is before this Court with a very limited grievance that the proposal of the petitioner institute is pending before the State for considerable long period and delay may affect adversely to the interest of the petitioner institute.

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4. Learned Counsel appearing for the petitioner, by inviting our attention to the provisions of the Maharashtra Public Universities Act, 2016, (hereinafter referred to as 'the Act' for sake of brevity) submitted that a time frame is fixed by these provisions. He then by inviting our attention to Section 109(3)(g) and 109(8) of the Act submitted that after receiving the proposal from University, the State Government by considering the proposal on its merit is to grant final approval on or before 15<sup>th</sup> June of the year, in which, such new colleges or institutions who are proposed to be started. Learned Counsel then states that by Section 109 (8) of the Act, the State Government can exercise its powers to deal the cases of extraordinary situation and in case of extraordinary situation, the State Government shall assess the proposal on its merit and considering norms and procedure and pass appropriate orders not later than 31<sup>st</sup> August of the academic year. He then submits that State Government by Section 109(8) of the Act is to pass order with reasons. He

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further submitted that in the case of petitioner institute, it was not fault of the petitioner institute but it is only the situation hazard i.e. proposal of the petitioner institute is pending before the State Government for its decision, as such, the State Government be directed to take a decision on the proposal forthwith.

5. Though learned A.G.P. appearing for respondent Nos. 1 and 2 and learned Counsel appearing for respondent No.3 University submitted that they could not file reply to the petition for want of instructions, they do not dispute the procedural aspect and time frame as submitted by learned Counsel appearing for the petitioner under the Maharashtra Public Universities Act, 2016.

6. Considering the grievance which is limited in nature raised by the petitioner and considering the provisions of the above referred Act, to which our attention was invited, we are of the opinion that the petition can be disposed of by giving certain directions to respondent No.1.

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7. It is not in dispute that the proposal is pending before the State Government. The requisite documents are also placed on record in the form of copy of proposal and necessary material annexed to the proposal. Though learned Counsel appearing for the petitioner prayed for directions to respondent No.1 to decide the proposal forthwith, in our opinion, such directions could not be possible. But, considering the grievance of the petitioner, we direct respondent No.1 to decide the proposal of the petitioner institute as expeditiously as possible and not later than 31<sup>st</sup> August, 2018. We further make it clear that if the petitioner institute's proposal is allowed by the State Government, the petitioner institute would be permitted to admit the students for academic year 2019-2020.

8. With these directions, the petition is disposed of.

**(S. M. GAVHANE)**  
**JUDGE**

**(PRASANNA B. VARALE)**  
**JUDGE**