

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

WRIT PETITION NO. 7795 OF 2018

**MAHESH GRAMIN BAHU UDDESHIRYA SHIKSHAN SANSTHA ASHTI
THROUGH ITS PRESIDENT
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY HIGHER AND
TECHNICAL EDUCATION DEP**

Mr. Bhaginath T. Bodkhe, Advocate for the petitioner
Mr. A. S. Shinde, AGP for the respondent/State

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

DATED : 17.07.2018

P.C. :-

. Heard learned counsel appearing for the petitioner. The petitioner is an education institute and being aggrieved by the communication dated 15.03.2018 the petitioner is before this Court.

2. Mr. Bodkhe, learned counsel vehemently submitted that the order impugned is unsustainable on the ground that the petitioner institute is complying with all the requisite formalities and in spite of requisite compliance, the proposal submitted by the petitioner institute for opening a new college is turned down by the State Government, thereby causing serious prejudice to the petitioner institute. Learned counsel appearing

for the petitioner invited our attention to the various documents. Per contra, learned AGP by inviting our attention to the order impugned in the communication for rejection of the proposal and on justifiable reasons the proposal is rejected.

3. This being the limited controversy, with the consent of the parties, we have taken up the petition for hearing and final disposal.

4. It is submissions of the learned counsel appearing for the petitioner, the petitioner's proposal was complete in all respect. We have perused the documents placed on record. Dr. Babasaheb Ambedkar Marathwada University, Aurangabad (hereinafter referred to as 'the University' for the sake of gravity) published a perspective plan for the year 2018-2019 so as to call for the proposals from the desirous institutes for opening new colleges in the different streams of Arts, Science faculty and Commerce faculty, Engineer faculty as well as new courses which can be loosely translated as Analytical Study of Saint Literature and social science. The perspective plan published by the University is placed on record and it reveals that for Patoda taluka, Dist. Beed and at place namely Pargaon the University

referred to the college for newly open course i.e. Saint Literature and social science college. The petitioner institute was desirous of opening a new college and to run the said college for the academic year 2018-2019. The documents which are placed on record by the petitioner institute further show that by communication dated 26.10.2017 the petitioner institute requested the Deputy Registrar of the University to forward its proposal to the State Government for grant of college. It is submitted in the communication that the proposal is submitted by the petitioner institute on 30.09.2017. The University on assessment of the proposal found certain deficiencies in the proposal and these deficiencies are now removed by the petitioner institute. It is stated that as the petitioner institute removed all the deficiencies before date, the proposal of the petitioner institute be forwarded to the State Government. The copy of the proposal of the petitioner institute with information submitted by the petitioner is placed on record. While submitting the proposal the petitioner submits that the petitioner institute is having fixed deposits for opening new college and it is also submitted that the petitioner institute is having sufficient place to accommodate the Teaching Staff, Non-Teaching Staff, Laboratories, Administrative Building. It is also

submitted that there are other facilities available with the petitioner institute. It is submitted by the learned counsel Mr. Bodkhe by inviting our attention to the documents placed on record at Exh.C that the Deputy Registrar of the University informed the petitioner institute that the proposal of the petitioner institute is forwarded to the State of Maharashtra with a positive recommendation.

5. The communication impugned states that the petitioner institute failed to comply pre-requisite in clause-8. Learned counsel appearing for the petitioner submitted that clause-8 in the proposal is about submitting an undertaking that the petitioner institute would not withdraw the amount in fixed deposit without prior sanction of the University. Learned counsel vehemently submitted that such undertaking was submitted now and he invited our attention to the undertaking which is at Exh.H. Learned counsel then submitted that as the undertaking is already submitted the decision of the State Government rejecting the proposal of the petitioner is unsustainable. Though the submissions of the learned counsel looks attractive at the first blush, on perusal of the material, we find that though as undertaking is submitted, it is not complying with the object as per

condition framed for opening a new college.

6. Learned AGP invited our attention to the Government Circular dated 15.09.2017. The said circular refers detailed procedure and the moralities for grant of sanction to the proposal received by the State Government for opening a new college. Clause-8 of Schedule-B of the Government circular refers to an undertaking clearly shows that the fixed deposit amount must have been entrusted with either nationalized bank or scheduled bank. Now if the receipts placed on record and on which learned counsel appearing for the petitioner placed heavy reliance are perused, it reveals that first receipt is of Maharashtra Gramin Bank. It shows that the amount is deposited with bank on 29.01.2015 and this amount is Rs.5,00,000/-. The maturity date is 29.01.2020. It was rightly submitted by the learned AGP that as per the Government resolution an amount ought to have been submitted while submitting the proposal and it should be the period of five years of the maturity from the year of submitting the proposal. In this case the amount is deposited in the year 2015 and it will be matured on 29.01.2020. As such there is considerable merit in the submissions of the learned AGP that this receipt cannot be treated as compliance of Government Resolution dated

15.09.2017. Secondly, learned AGP was also justified in submitting that the pre-requisite is of fixed deposit to the tune of Rs.7,00,000/- for all the other college except law college. The petitioner submitted proposal with two receipts, one of Rs.5,00,000/- with Maharashtra Gramin Bank and second receipt is of Rs.3,00,000/- and the amount is deposited in the credit society namely Mahesh Multistate Co-operative Bank Rural Credit Society, Ltd. Aashti. Learned AGP was justified in submitting that the amount of Rs.3,00,000/- is invested by way of fixed deposit in credit society. In our opinion, the credit society by no stretch of imagination can be considered either a Nationalized Bank or a Scheduled Bank. Thus, on perusal of these particular documents, we find that the petitioner institute fails to comply with the requisite criteria as stated in the Government Resolution. In view of this fact, we are of the opinion that the petition is devoid of merits and deserves to be dismissed at the threshold. Accordingly the petition stands dismissed. The petitioner is at liberty to submit afresh proposal for the next academic year 2019-2020.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]