

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

WRIT PETITION NO. 7767 OF 2018

SHRI CHATRAPATI SHAHU EDUCATION SOCIETY ASHTI THORUGHITS
PRESIDENT
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY HIGHERAND
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 inspite 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. Now with these submissions the challenge is raised to communication dated 15.03.2018, as such, it would be necessary to refer to the said communication. Perusal of the communication shows that the State Government informed the Registrar of the University that it is the decision on the proposals received by the State Government. It would be useful to state that the communication referred to list of institutes and then it states that certain institute's proposal is granted by the State Government and certain proposals are rejected by the State Government. On perusal of the communication it further reveals that the State Government with a cautionary note stated that as the institutes approached to the Court challenging the rejection of the proposal and normally the ground is raised before the Court that there are no reasons assigned for rejection, the proposals which are rejected by the State Government also referred with the reasons of rejection. Now on these backdrop if the impugned communication is perused the petitioner institute's name finds place at Sr. No.12. In the tabular form the reasons are assigned and these are

of non-compliance of clause-7- No-It further stated FD operate till 09.04.2018 then clause 13- No-It is stated that the rent deed of the building is not registered one and no other documents are made available so as to submit that the petitioner institute is having sufficient land. Learned counsel appearing for the petitioner vehemently submits that these grounds are unsustainable and invited our attention to the copies of the fixed deposit receipts placed on record. First copy is against an amount of Rs.10,00,000/- and it is of one Maharashtra Gramin Bank. The first receipt shows that this amount was kept in fixed deposit in the year 2013 and the said amount is matured on 19.04.2018 whereas the copy of the second receipt shows that an amount of Rs.7,50,000/- is kept in the fixed deposit on 15.09.2017 and the amount would mature on 15.09.2022. As it is stated in the rejection order that the fixed deposit receipt shows that the amount matures in the year 2018 and other receipt shows that the amount would mature in the year 2022; whereas the requirement is the petitioner institute to submit such fixed deposit amount receipts which would be operative for five years from the date of proposal, on that backdrop if both the receipts are seen, at the cost of repetition, we say that first receipt shows that the fixed deposit amount matures in the year 2018 whereas other will be matured in the year 2022. Thus, if the

petitioner institute fails to comply with the prayer, the requisite condition no fault can be found with the reasons assigned in the rejection order. The second reason is about non availability of the sufficient land. It is submitted by the petitioner that the petitioner alongwith the proposal submitted the documents to show that the petitioner institute is having adequate land available. Our attention was also invited to the documents which is placed on record at Exh.H. Learned counsel then also invited our attention to the another documents which is titled as Challan MTR Form Number-6. Now first documents on which the learned counsel appearing for the petitioner placed heavy reliance is rent agreement. Very interestingly there is no reference of the area of the constructed building. The documents clearly show that wherein there is reference to the area that part is kept blank and it only refers to area of two wash rooms. If the State Government placed no reliance on such a document to consider the proposal of the petitioner institute positively in our opinion that no error is committed by the State Government. Even the second set of documents, copies of challan and then there is registered agreement it is only referred to in this documents with area of the land is to the extent of 1-Hector 35-R. Again if the Government, if could not find any document issued by a competent authority to show the

area of the land and it is only if the copy of some Challan which shows that certain amount is deposited in the treasury and rent deed, the State Government committed no error in stating that no requisite material is made available for the satisfaction of the State Government to consider the proposal positively.

6. Considering all these ground, we are of the opinion that the rejection order is well reasoned and even the documents which are placed on record and even on perusal of the documents placed on record, we could not find any favour with the petitioner institute. Resultantly, this being the position, we are of the opinion that the petition is devoid of any merits and deserves to be dismissed at the threshold. Accordingly, the petition is dismissed.

7. We further observe that if advised and if the petitioner is willing and desirous, he may submit afresh proposal for the next academic years i.e. 2019-2020.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]