

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

WRIT PETITION NO. 6863 OF 2016

Akole Taluka Education Society,
Akole,
Tq. Akole, Dist. Ahmednagar
Through its Secretary,
Yeshwant s/o. Dashrath Abhale,
Age : 49 years, Occ. Secretary,
r/o. Akole, Tq. Akole,
Dist. Ahmednagar ..Petitioner

Vs.

The State of Maharashtra,
through the Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai and ors. ..Respondents

Mr.R.D.Bhalerao, Advocate for petitioner
Mr.S.B.Joshi, AGP for respondent nos.1 to 3
Mr.S.K.Shinde, Advocate for respondent no.5

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.
DATE : OCTOBER 23, 2018**

ORAL JUDGMENT (Per S.V.Gangapurwala, J.) :

Rule. Rule made returnable forthwith. Heard
finally by consent of the parties.

2. The petitioner – Institution was granted permission under the order dated 06.10.2012 to run Arts and Commerce college at village Samsherpur, Tq. Akole, Dist. Ahmednagar, on permanent no-grant basis. The petitioner's contention is that the University issued affiliation to the petitioner's college on 06.08.2013, thereby permitting the petitioner to admit the students. Since then, the petitioner is running the college with all infrastructural facilities. However, on 06.05.2014, respondent no.1 cancelled the permission granted to the petitioner. The petitioner filed Writ Petition No.5278 of 2014, wherein this Court under order dated 30.06.2014, allowed the petition and set aside the order cancelling the permission. Subsequently, by order dated 13.06.2016, respondent no.1 cancelled the permission granted to the petitioner to run Arts and Commerce College. Pursuant to that order, respondent no.4 also cancelled permission of the petitioner to run senior college of Arts and Commerce.

3. According to Mr.Bhalerao, learned Counsel for the petitioner, one college in Akole Taluka, Dist. Ahmednagar for Arts and Commerce is permissible as per the perspective plan prepared by the University for the academic year 2019-2020. He submits that pursuant to the interim order passed by this Court, the impugned Government Resolution is stayed and the petitioner is running the College continuously since 2012. He submits that all the norms have been complied with. He, therefore, submits that it was erroneous on the part of the respondents to cancel the permission of the petitioner's college.

4. Learned AGP submits that the proposal of the petitioner was neither recommended by the University nor Akole Taluka finds place in the perspective plan for the relevant academic year. In view of that, the permission of the petitioner's college was cancelled. Against that order, the petitioner approached this Court and this Court has set aside the order passed by the State Government, cancelling permission,

however, allowed the State Government to take fresh decision. Learned Counsel submits that at the relevant time, when the permission was granted, Akole Taluka did not find place in perspective plan. The permission granted was erroneous and the same has been rightly cancelled.

5. Mr.Shinde, learned Counsel for respondent no.5 submits that respondent no.5 is running a senior college in Science faculty as per the permission given to it on 15.06.2012. He submits that the present petitioner seeks permission to run Arts and Commerce College and as such, permission granted to the petitioner has no concern with respondent no.5.

6. Mr.Bhalerao, learned Counsel submits that for academic year 2012-2013, Akole Taluka finds place in the perspective plan. The only reason given in the order cancelling the permission is that village Samsherpur did not find place in the perspective plan.

7. It is a matter of fact that the petitioner is running Arts and Commerce College at village Samsherpur, Tq.Akole, Dist. Ahmednagar as per the earlier permission granted to it. The order passed by respondent no.1 cancelling permission granted to the petitioner in the year 2014, has been set aside by the interim order passed by this Court and pursuant thereto, the petitioner continued to run the college.

8. The impugned order nowhere remotely suggest that there were deficiencies in the proposal of the petitioner or that the petitioner does not possess the necessary infrastructure. The only reason mentioned is that at the relevant time, the place where the petitioner started the college, did not find place in the perspective plan.

9. The petitioner has placed on record the perspective plan for the academic year 2019-2020

prepared by Savitribai Phule Pune University, Pune. In the said plan, Akole taluka finds place and one Arts and Commerce college is shown for the academic year 2019-2020. The petitioner is running Arts and Commerce college, whereas respondent no.5 is running senior college for Science. In view of this, one Arts and Commerce college is available in Akole Taluka. The petitioner is running Arts and Commerce College.

10. As there are no other deficiencies pointed out in the impugned order so also in the affidavit filed by the respondents, in our view, the impugned order deserves to be quashed and set aside.

11. It has been pointed out that for the academic year 2012-2013, one college was proposed for Arts and Commerce. Respondent no.5 is granted permission to run science senior college at Akole. The petitioner was permitted to run Arts and Commerce College in Akole Taluka at village Samsherpur. In

view of the above, it cannot be said that the senior college of the petitioner for Arts and Commerce faculties was not permissible in Akole Taluka.

12. In the circumstances, the impugned communication/order is quashed and set aside. The Writ Petition is accordingly disposed of.

13. Rule is accordingly made absolute. No costs.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]

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