

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

WRIT PETITION NO. 4614 OF 2017

Shikshan Prasarak Mandal,
Jalkotwadi (Nal) Tq. Tuljapur,
Dist. Osmanabad, Through its Secretary,
Gahininath Shivaji Kale
Age : 45 years Occ : Service,
R/o. At Post Jalkotwadi Post Jalkot,
Tq. Tuljapur, Dist. Osmanabad.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Department of Higher and Technical
Education, Mantralaya, Mumbai.
2. The Registrar,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad 431 004
3. The Deputy Registrar,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad 431 004
4. The Director,
College & University Development Board,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad 431 004. ...Respondents

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Mr. A.S. Bayas, Advocate for Petitioner
Mr. G.O. Wattamwar, AGP for Respondent No.1
Mr. S.G. Chapalgaonkar, Advocate for Respondent No. 2 to 4.

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**CORAM : PRASANNA B. VARALE AND
MANISH PITALE, JJ.**

DATE: 21st SEPTEMBER, 2018

ORAL JUDGMENT (PER PRASANNA B. VARALE, J.)

1. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

2. Rule. Rule returnable forthwith. With the consent of the parties, the Writ Petition is taken up for final hearing/disposal.

3. Mr. Bayas, the learned Counsel appearing for the petitioner submitted that, in the second round of litigation, the petitioner was before this Court and the grievance of the petitioner was non-decision of a proposal submitted by the petitioner for opening a new college at the place namely, Jalkotwadi (Nal), Tq. Tuljapur, Dist. Osmanabad. The learned Counsel submitted that, the petitioner's proposal was complete in all respects. He further submitted that, there were certain orders passed by this Court on 8th September, 2015 and 22nd January, 2016. The learned Counsel then submitted that, as per the policy prevailing at the relevant time, respondent No.2 - University namely, Dr. Babasaheb Ambedkar Marathwada University, Aurangabad was to forward a positive recommendation, and the University forwarded a positive

recommendation in favour of the petitioner's proposal. The learned Counsel then inviting our attention to the order dated 21st September, 2016 placed on record at page 79, submitted that the proposal of the petitioner is rejected on the ground that there are five deficiencies in the proposal. The learned Counsel then made an attempt to submit before us that most of these deficiencies are already cured by the petitioner and other deficiencies are minor in nature, which were at the time of filing of the Writ Petition and subsequently, even those deficiencies are removed. The learned Counsel submitted that all the past audit reports are available with the petitioner and the petitioner is having the sufficient land with the infrastructural facilities, and completion certificate is also issued in favour of the petitioner. The learned Counsel, Mr. Bayas invited our attention to a copy of the completion certificate placed on record at page 91. Though the certificate refers to the owner's name i.e. the petitioner-institute and the area wherein the property is situated as well the person, who had issued the completion certificate, there is no reference to the date of certificate. Be that as it may. The learned Counsel submits that as of now, all the deficiencies are removed by the petitioner and the respondent-authorities of the State Government be directed to decide the proposal of the petitioner. If the petitioner's proposal is decided favourably, the

petitioner may start its college at the earliest.

4. The learned Counsel Mr. S.G. Chapalgaonkar, appearing for respondent Nos.2 to 4 submits that, the policy of grant of proposals to open new colleges has undergone changes and there are certain criteria added in the policy. One of the criteria is having the name of the area in the prospective plan so as to permit the institute to open a new college in that area.

5. The learned Assistant Government Pleader Mr. Wattamwar also submits that though, the petitioner submits that deficiencies are removed, but the necessary documents are not placed on record.

6. Considering the submissions of the learned Counsel for the petitioner, Mr. Bayas, the learned Assistant Government Pleader Mr. Wattamwar, as well as the learned Counsel Mr. Chapalgaonkar for the respondent-University, we are of the opinion that the Writ Petition can be disposed of with the directions firstly to the petitioner to submit a fresh proposal to the State Government within one week from today along with all requisite material and the documents. On receipt of such proposal within one week from today, the State Government to decide the proposal on its merits on or before 31st October, 2018.

7. We further make it clear that the petitioner will have to comply with the condition namely, having name of the area in the prospective plan for the academic year 2019-2020. We further make it clear that if the proposal of the petitioner-Institute is considered by the State Government, the petitioner be permitted to start the classes only from the next academic year 2019-2020.

8. Rule is made absolute in above terms. With these directions, the Writ Petition is disposed of.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

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