

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 11326 OF 2011

Mauli Mahavidyalaya

... Petitioner

Vs

1 State of Maharashtra & Ors.

... Respondents

Mr. S.S. Patwardhan with Mr. I.M. Khairadi for the Petitioner.

Mrs. S.D. Vyas, 'B' Panel Counsel for the Respondent No.1-State.

Mr. Sanjay D. Thekade for the Respondent Nos.2 & 3.

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

MONDAY, 03RD DECEMBER, 2018

P.C. :

1 The only contention raised on behalf of the petitioners is that on 14th July, 2010, the Government / the authorities granted permission to the petitioner to set up a college and, so far so good, there is no difficulty and no challenge to that permission or recognition, but the impugned order says that such college would be on permanent unaided basis and this term "permanent unaided basis" before the permission or recognition presents its

own difficulty and that is contrary to the Government policy in the field.

2 Reliance is placed upon the Government policy enunciated in the Government Resolution, copy of which is annexed to the writ petition at Exhibit K, page 13.

3 We have, with the assistance of Mr. Patwardhan, carefully perused this policy. The Government, in this Policy, enunciates that the earlier decisions were to the effect that all such permanently aided or unaided institutions would be able to obtain aid or grant-in-aid step by step and there was a policy framed in that behalf. The aided or unaided colleges, particularly women colleges or those meant for Adivasis or in backward areas are also allowed to establish new faculties, commence new academic courses and add to their subjects or divisions and for such initiatives as well, the Government provides aid. However, the Government reviewed this policy and came to the conclusion that if in one Taluka of a District, there is at least one aided college, then, it is not necessary that other colleges established in that District would be necessarily aided. Mr. Patwardhan,

however, reads this policy as not prohibiting granting aid to the other college and, therefore, submits that at least one should be aided, may be the policy, but there is no prohibition or restriction in having more than one aided colleges in that Taluka.

4 If we are considering the issue of interpretation of this policy, then, we ought to be satisfied that the interpretation by the Government, but contrary to the understanding of Mr. Patwardhan, is palpably unreasonable and arbitrary that it would violate the mandate of Article 14 of the Constitution of India and we can interfere therewith. The Government has understood its policy to mean that the Schedule to this policy contains the Talukas and where there are institutions or colleges imparting education in Arts, Commerce and Science but on unaided basis, then, grant can be sanctioned or the aid released on the conditions mentioned in paragraph 2 of the Government Resolution. However, the Government understands it to mean that if in the same college there are additional faculties none of which enjoy the grant-in-aid, then, to them the hundred percent grant can be released on the terms and conditions set out in paragraph 2. However, if there is already such faculty or any

such college in that Taluka enjoying grant-in-aid, then, the Government may not release the grant in favour of the other. There may not be any prohibition or restriction in establishing another college in that very Taluka or in that District, but in another Taluka. That is how Solapur Taluka seems to be divided in terms of Schedule A. But, when we are considering the grievance that there is no grant-in-aid and the term “permanent unaided” is inserted arbitrarily, then, we have to carefully scrutinize the policy.

5 The understanding and interpretation of the policy by the Government. as found in the affidavit-in-reply of the Regional Joint District Solapur Region, Solapur, is exactly as stated above. The Government says that on 4th February, 2008, it enunciated this policy and based on that in each Taluka there will be unaided colleges. Since the petitioner’s college falls within the territorial jurisdiction of North Solapur Taluka and that college already has Arts faculty on grant-in-aid basis, then, vide the impugned Resolution, permission was granted to the petitioner to add the Science faculty, but that faculty is on permanent unaided basis. To our mind, no mandamus can be issued so as to enable the

petitioner to obtain grant-in-aid also in relation to this Science faculty. The contention may be that their college having Science faculty is the only college in Rural area, but North Solapur Taluka consists of Rural and Urban area and in the Urban area, there are already three colleges having Science faculty on grant-in-aid basis. Hence one-Taluka-one-grant-in-aid college being the policy enunciated by the Government and grant being released on that basis, we do not find any merit in the grievance raised in the writ petition. There is no vested or legal right to obtain aid from the Government. A grant as it is, it must be extended by the Government not arbitrarily or selectively, but in terms of a defined policy. We cannot carve out another policy in the garb of the allegation that the Government's interpretation of its own policy is faulty or defective. So long as that interpretation of the Government is not palpably or demonstrably perverse, arbitrary, unreasonable and unfair, then, we cannot hold that it violates the mandate of Article 14 of the Constitution of India. We cannot, therefore, interfere therewith. We cannot remove the term "permanent unaided basis" before the permission granted in favour of the petitioner vide the impugned Resolution.

6 We see no merit in the writ petition and it is dismissed, but without any order as to costs.

SMT. BHARATI H. DANGRE, J.

S.C. DHARMADHIKARI, J.