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IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4016/2016

(Rayat Bahuuddeshiya Shikshan Sanstha vs. State of Maharashtra and others)

AND

WRIT PETITION NO. 4017/2016

(Saibaba Shetkari Shikshan Sanstha vs. State of Maharashtra and others)

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Mr. Anand Parchure, Advocate for petitioner/s
Miss N.P Mehta, AGP for respondent nos.1 & 2
Mr. B.G.Kulkarni, Adv. for respondent no.3

CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.

DATED : 23rd February, 2018.

This is second round of litigation in which we find that authorities have either deliberately or then negligently conducted the hearing and passed orders.

2. Colleges of petitioners are functioning and as approval given to them was cancelled on 6th May 2014, they approached this Court in Writ Petition (WP) Nos. 2692/2014 and 2691/2014 respectively. The petitions have been allowed on 6th July 2015, with direction to authorities to hear petitioners and to pass fresh orders.

3. Fresh orders have been accordingly passed on 13th June 2016 and that order has been questioned in present matters. Communication informing the petitioners/parties about said order dated 20th June, 2016 is also independently challenged.

4. Perusal of order dated 13th June, 2016 shows four reasons for cancellation. First reason is, Government decision dated 6.10.2012 granting approval was contrary to the decision taken for according approval in academic year 2012-13. Second reason is, approval was accorded though there was no provision in Perspective Plan of University. Third reason is, the petitioner in WP No.4017/2016 was placed at Sr. No.4 and still approval was given to it which was contrary to Government decision for academic year 2012-13. Fourth reason is, one Rahul Shikshan Mahila Mandal, Khaparkheda did not start College.

5. It is not in dispute that second reason pertains to some College under Puna University and, therefore, has got no bearing on facts of present matters. Similarly, import of Rahul Shikshan Mahila Mandal, Khaparkheda not starting college of present dispute is also not apparent.

6. Not only this, but very first reason itself did not make any sense to us and hence we wanted to understand exact meaning thereof. Learned AGP, therefore, has invited our attention to orders dated 1st August, 2016 filed as Annexure R-2D with affidavit of respondent no.2-Joint Director. In that Annexure, in first three paragraphs, only previous history has been mentioned and in paragraph thereafter the provision created in Perspective Plan by Gondwana University for academic year 2012-13 have been pointed out. Then, it is mentioned that the points available have been used on 15th June 2012 for granting approval. Therefore, while granting approval to petitioner in WP No.4016/2016 only one position in Science and one position in Home Science was only vacant as per Perspective Plan. This order therefore observes that hence

the approval given to Arts and Commerce Faculties of petitioner in WP No.4016/2016 cannot be sustained. The approval or permission granted for Science faculty only has been maintained.

7. Surprisingly, the order dated 1st August, 2016 does not carry any reference of earlier order dated 13th June, 2016. It is apparent that if order dated 13th June, 2016 is to operate against the petitioner in WP No.4016/2016, said order and later order dated 1st August, 2016 cannot stand together.

8. In WP No.4017/2016 the very same orders dated 13th June, 2016 and communication dated 20th June, 2016 have been questioned. However, there is no other order like order dated 1st August, 2016 in WP No.4016/2016 in this Writ Petition.

9. The order dated 13th June, 2016 in both matters, therefore, is apparently unsustainable. The order dated 1.8.2016 has not been assailed by petitioners and it appears that it has seen the light of day only when it came to be filed as an Annexure along with its reply-affidavit, by office of respondent no.2. The said order dated 1st August, 2016 does not show that it is forwarded to petitioners.

10. We, therefore, find both the orders unsustainable. Accordingly, we quash and set aside the same.

11. We direct respondents to reconsider the controversy and pass fresh orders as per law within next four months. However as this is second round and as we see negligence on part of respondent no.2, we direct respondent no.2 to pay costs of Rs. 2,000/- to each petitioner

and to deposit equal amount with Legal Services Sub-Committee
Nagpur Bench.

12. Petitions are thus partly allowed and disposed of.

JUDGE

JUDGE

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