

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO.4015 OF 2014**

NATIONAL EDUCATION SOCEITY
LABOUR COLONY, LATUR

...PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Higher Education Department,
Mantralaya, Mumbai.
2. The Director of Higher Education,
Pune.
3. The Joint Director of Higher Education,
Nanded.
4. Swami Ramanand Tirth Marathwada
University, Vishnupuri,
Nanded.

..RESPONDENTS

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Advocate for Petitioner : Mr. Syed Masood Chand

AGP for Respondents: Mr. A. B. Chate

Advocate for Respondent Nos. 1 to 3 : Mr. V. P. Latange

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**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ**

DATE : 28th FEBRUARUY, 2019.

JUDGMENT :-

Rule. Rule made returnable forthwith. By consent heard both the sides for final disposal.

2. The petition is filed for setting-aside the communication made by the respondent dated 21.08.2013, by which it is informed that

the proposal made for starting new Urdu Medium Senior College is rejected. The relief is also claimed for giving direction to grant permission on the basis of proposal made on 30.10.2009 by the petitioner for starting such College.

3. The submissions made show that the application of proposal made by the petitioner was forwarded by the University with recommendation to give such permission on 28.01.2010. The decision was communicated by the respondent-Government on 21.08.2013. In the decision there is reference of one Government Resolution dated 30.10.2010 in which additional conditions were prescribed for getting such permission. The University had forwarded proposal on the basis of condition which were there prior to 30.10.2010 and the proposal was to be considered for the academic year 2010-2011. Government Resolution dated 30.10.2010 itself shows that it was to operate and apply in respect of the proposals which were to be made for the year 2011-2012. Thus, the reasoning given by the Government in the communication dated 21.08.2013 cannot sustain in law. This Court can read between the lines on the basis of reasoning and also on the basis of date of decision. There is some mischievousness and for that the Government needs to pay the costs to the petitioner. The Government is hereby directed to pay cost of Rs. 50,000/- (Rupees Fifty Thousand) to the petitioner for doing such mischief.

4. The submissions made show that as yet no Senior College for Urdu Medium is sanctioned in Latur district. As it was there in perspective plan prepared for the year 2010-2011, it can be said that the necessity still survives. However, as per the procedure respondent is expected to publish the perspective plan after every five years and so it can be said that the University may take such steps in the future. This Court hopes that if it is the necessity, the University will include one Senior College for Urdu Medium in the future prospective plan. In that case the petitioner can apply and this time the condition given in Government Resolution dated 30.10.2010 will be applicable and if subsequent to 30.10.2010 any more Government Resolution is issued prescribing more conditions or reducing some conditions those conditions would apply.

5. The learned Additional Government Pleader submitted that the inspection was done for verification of the things as per the order made by this Court in Writ Petition No. 1168 of 2010 and while doing inspection it was noticed that the conditions given in Government Resolution dated 30.10.2010 were not fulfilled. This Court feels that this is the mischievousness of the concerned as the proposal was recommended by the University by letter dated 28.01.2010 and the conditions which were in existence prior to 30.10.2010, at the relevant time, ought to have been considered but that was not done. Initially

cost amount is to be paid by the Government within 30 days from the date of this order, and there is liberty to the Government to recover the said cost amount from the concerned staff member after fixing the responsibility for using Government Resolution dated 30.10.2010 for rejection of the proposal.

6. In the aforesaid terms rule is made absolute.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

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