

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

38 WRIT PETITION NO.3008 OF 2019

SHANTI PRATISHTHAN KINGAON THROUGH SECRETARY
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Pandav Suresh P.
AGP for Respondents/State : Mr. P.K. Lakhotiya
Advocate for Respondents : Mr. Navandar Mehul Vikas for R/2

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**CORAM : S.V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**
DATE : 05.12.2019

PC. :-

Mr. Pandav the learned counsel submits that as per the perspective plan the petitioner had applied for permission to open and run a new Arts, Commerce and Science College at Phulambri. Only because an existing college took an objection the proposal is rejected. The learned counsel submits that once the perspective plan is prepared that binds the Government also. The learned counsel relies on the judgment Apex Court in the case of **The State of Maharashtra V/s. Indian Medical Association and Others** dated **06.12.2001**.

2. According to the learned counsel once the location finds place in the perspective plan the respondents do not have right to cancel the said

location. No provision exists under the Maharashtra Public Universities Act, 2016 or the statute empowering the respondents to cancel the location that was in the perspective plan. The perspective plan has to be prepared for five years. As the applications / proposal of the petitioner has been wrongly rejected the same is required to be considered for the ensuing academic year. The learned counsel submits that the copy of the complaint pursuant to which the proposal of the petitioner was rejected was not issued to the present petitioner. The petitioner did not get the opportunity to go through the complaint and the same is rejected under the political pressure.

3. Mr. Nanvander the learned counsel for the respondents submits that for the academic year 2020-2021 the location where the petitioner had applied does not find place in the perspective plan.

4. The learned A.G.P submits within the periphery of 10 kms there are other four colleges and the existing college being run at Phulambri also does not get adequate students.

5. There cannot be any dispute with the proposition that the perspective plan has to be prepared for five years as per the provisions of the Maharashtra Public Universities Act but in the present case the University had prepared the perspective plan for only one year. We had called upon the

learned advocate for the University to clarify as to whether the location where the petitioner had applied finds place in the perspective plan for the academic year 2020-2021. On instructions the learned advocate submits that the location where the petitioner had applied for start of new college does not find place in the perspective plan for the academic year 2020-2021.

6. The reason it appears is about the feasibility and viability of the new college. Within a periphery of 10 kms four colleges are already existing for Arts, Commerce and Science faculty. It is further submitted that the existing college at Phulambri where the petitioner had applied for permission to open a new college itself does not have adequate students as the said place is a newly created Taluka.

7. This Court would not sit in appeal over the decision taken by the respondent-authorities about the feasibility and viability of the college. It is for the authorities to consider the same.

8. As in the perspective plan the said location where the petitioner has applied does not find place for the academic year 2020-2021 cause of the petitioner cannot be considered.

9. In case the University prepares a perspective plan and the

location finds place the petitioner is at liberty to apply afresh.

10. With these observations the Writ Petition stands disposed of. No costs.

[AVINASH G. GHAROTE, J.]

[S.V. GANGAPURWALA, J.]