

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

913 WRIT PETITION NO.6574 OF 2019

JAWAHARLAL NEHRU INSTITUTE OF EDUCATION
THROUGH ITS TRUSTEE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. V.D.Salunke, Advocate for Petitioners.
Mr. S.N.Morampalle, AGP for Respondent-State.
Mr. M.N.Nawandar, Advocate for Respondent No.3.
Mr. S.G.Karlekar, Advocate for Respondent No.4.

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**CORAM : S.V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 2nd July, 2019

PER COURT :-

1. The petitioners assail the letter dated 18.05.2019 reducing the intake capacity of the petitioner's college to 40 students instead of 80 for the first year of Bio-Technology Course.

2. Mr. Salunkhe, the learned counsel for the petitioners submits that the petitioner No.2-college is being run from the year 2004 and consistently it is running the said institute. The intake capacity was increased to 80 students in the year 2010-11. The petitioners have all the necessary

infrastructure. The Inspection Committee had shown the deficiencies. The petitioners replied to the said deficiencies. It had brought to the notice about the land holding of the petitioner and so also the facilities for irrigation and all other facilities. The reply given by the petitioners has not been considered by the authority and straight way the order is passed reducing the intake capacity. The *post facto* sanction was given to the order passed of deduction of intake capacity. In fact it is the Academic Council who ought to have taken a decision with regard to the intake capacity. However, the decision was taken earlier by the Local Inspection Committee and thereafter, the *post facto* sanction was given by the Academic Council. The due procedure is not followed. Last year also when on account of improper procedure, the intake capacity is reduced, this Court had set aside the order. The petitioners was also not supplied with the copy of the report giving the marks to individual items and for the first time it is produced before this Court. Mr. Nawandar, the learned counsel submits that the petitioners, as per the points allotted are placed in "D" category. The intake capacity in such case is reduced to 40 students.

3. Initially the inspection was made in March 2018 and

after the order passed by this Court in earlier Writ Petition, after six months the inspection is again made and the Inspection Committee noticed the deficiencies, the marks are given. The Academic Council and the Executive Council had thereafter taken the decision. No error has been committed. The petitioners have, in their reply, given the details of the compliance made and has tried to suggest that the deficiencies do not exist with regard to the infrastructure and the faculties. It appears that the reply given by the petitioners to the deficiencies pointed out are not considered while passing the order.

4. It is not disputed that the petitioners were never given the evaluation report i.e. the methodology of the marks given. Certainly, the petitioners would have been handicapped in filing reply, in absence of the same. The petitioners, now during the course of the hearing of the petition, has been given the evaluation of the marks for each item.

5. Considering the aforesaid, we direct the Executive Council to reconsider the issue and consider the reply given by the petitioners thread bare. The petitioners if so desires may also place on record before the Executive Council with

regard to the evaluation of the marks given to every item within two days and the decision shall be taken by the Executive Council afresh with regard to the intake capacity of the petitioners by the next Monday i.e. on 15.07.2019.

6. The Writ Petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

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vmk/-