

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

104 WRIT PETITION NO.8623 OF 2018

THE NEW INDIA MAGASAVYA EDUCATION SOCIETY
THROUGH ITS CHAIRMAN TUSHAR ANANDA GAVALI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Ms. P.S.Talekar, Advocate for Petitioner.
Mr. P.K.Lakhotiya, AGP for Respondents-State.
Mr. A.P.Nikam, Advocate for Respondent No.4.

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

DATE : 24th June, 2019

PER COURT :-

1. The petitioner assails the Government order dated 15.06.2018 to the extent of non-inclusion of the college run by the petitioner-society for granting approval to the second year of additional division of B.Sc. Course, by issuing writ.

2. Ms. Talekar, the learned counsel submits that the name of the petitioner has not been included on technical ground. The petitioner had already submitted the audit report for the financial year ending March-2017. However, on the ground that fresh proposal was not submitted it appears that the respondents have rejected the same. The learned

counsel submits that the proposal was submitted for grant of additional division in science stream and the same documents which were forwarded for grant of additional division for 2017-18, were processed by the University and forwarded to the State Government. In respect of other colleges of the same University, the Government has considered their case and included their names for the continuation of the additional division for the year 2018-19 also.

3. Mr. Lakhotiya, the learned AGP submits that the petitioner did not comply the requirement as per Government Order dated 15.06.2018 and Government Resolution dated 13.09.2017. The fresh proposals were to be submitted, which were to be considered and thereafter a decision would be taken about granting final permission to the division granted for the year 2017-18. The petitioner did not submit fresh audit report of the financial statement ending March-2017. On that count, the State has rightly rejected it.

4. We have considered the submissions canvassed by the learned advocates.

5. It appears that the whole debate has arisen because of

the various Government Resolutions issued from time to time and the interpretations made to it even by the University.

6. It is the contention of the University that the proposals which were received earlier and pursuant to which additional divisions were granted for the year 2017-18, the same proposals were again processed and forwarded for the year 2018-19. However, as per the State, fresh proposals were required for the year 2018-19 for the same additional divisions, which were granted earlier. Paragraph No.7 of the affidavit filed by the University reads thus :

*“7. It is humbly submitted that the Petitioner society submitted the proposal for grant of approval for additional division in science stream for academic year 2018-2019. The said proposal was duly processed by the University and it was forwarded to the State Government, as it is. However, as per Government Resolution dated 15.06.2018, the State of Maharashtra rejected the said proposal. Accordingly, the University has informed the concerned colleges. The copy of the Government Resolution dated 15.06.2018, the copy of communication made to Coordinator, MKCl, regarding the ratio of admissions of the students and action to be taken are annexed herewith and marked as **Exhibit-R-3.**”*

7. If the said paragraph is read, then the same would run counter to what is submitted by the State Government.

8. It is not disputed that the audit report for the financial year 2016-17 i.e. ending March 2017 was already submitted. The audit report was also submitted along with the proposals for grant of additional division for the year 2017-18. The University has stated that the same was again processed and forwarded it to the Government.

9. We may not rely on the stand of the petitioner, however, as the same is the stand taken by the University, we are constrained to accept it.

10. Considering the above, it would not be now open to debate about the petitioner submitting the audit report for the financial year ending March-2017. It appears that petitioner could not admit the students for the last year. They could not have admitted unless the permission was granted by the State.

11. Be that as it may, considering the fact that the audit report for the financial year ending March 2017 was already processed and forwarded by the University as contended by the University in their affidavit, the respondent-State was

required to consider the same.

12. The respondent-State shall consider the said proposal forwarded by the University as contended by the University along with the audit report for the financial year ending March-2017 and take decision with regard to the grant of permission of additional division which was already granted for the year 2017-18, within a period of 15 days.

13. Writ Petition is accordingly disposed of. No costs.

(MANGESH S. PATIL, J.) (S.V. GANGAPURWALA, J.)

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vmk/-