

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

WRIT PETITION NO.106 OF 2019

Kisan Medical Foundatiuon, Kandhar
Tq. Kandhar, District Nanded
Vs

The State of Maharashtra and another

Mr.V.D.Hon, Senior Advocate I/b Mr.A.V.Hon, Advocate
for the petitioner

Mr.R.P.Gaur, AGP for the respondent/State

Smt.N.D.Borade, Advocate for respondent No.2

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 21.01.2019

P.C. :-

. Heard learned Senior counsel for the
petitioner.

2. Petition is taken up for hearing by consent
of the parties.

3. The petitioner is an institute registered
under the Societies Registration Act and undertakes
various activities in the field of education in
Marathwada region. As there is no law college in
Hingoli District, the petitioner institute was
desirous of opening a new law college and

accordingly submitted a proposal to respondent No.2 Swami Ramanand Teerth Marathwada University, Nanded (hereinafter referred to as 'the University' for the sake of brevity). The resolution to that effect dated 29.09.2018 is also placed on record. The petitioner institute also submitted an undertaking that in view of the policy of the State Government the petitioner institute is ready to open and operate a law college on permanent no-grant basis. An undertaking was also submitted to the State that in the initial period the institute would start the law college in a premises of hire basis and subsequently i.e. after affiliation within five years the institute would be shifted in the premises owned and possessed by the institute. This undertaking is also placed on record. There were certain deficiencies in the proposal. On 30.10.2018 the petitioner institute submitted the proposal to the Deputy Registrar of the University. The petitioner institute would comply all the deficiencies.

4. On 20.11.2018 the petitioner institute submitted a communication to the Deputy Registrar of the University informing that the deficiencies are

removed. Learned senior counsel submitted that on 02.11.2018 the Management council of the University informed the petitioner that the proposal submitted by the petitioner institute is rejected and the petitioner can avail remedy of appeal before the Hon'ble Vice Chancellor. It was then submitted by the learned senior counsel for the petitioner institute that the petitioner institute assured the University of compliance of all deficiencies and the petitioner was desirous of complying all the deficiencies before 20.11.2018. But, for the reasons which were beyond the control of the petitioner institute, the petitioner institute was unable to comply all the deficiencies before 20.11.2018. It is submitted in the petition in paragraph No.9 that the petitioner approached the bank authorities for getting the fixed deposit receipts which was the deficiency pointed out. Accordingly, the petitioner on 20.11.2018 has kept two fixed deposits for Rs.5,00,000/- each of the Axis Bank. However, the receipt was issued by the bank on 22.11.2018. On 22.11.2018 an amount of Rs.5,00,000/- was also deposited for getting the fixed deposit. Accordingly, the petitioner has kept fixed deposit of total amount of Rs.15,00,000/-. It is then

submitted that due to Eid-A-Milad holiday was declared on the next day i.e. 21.11.2018 and again on 23.11.2018 there was national holiday on account of Gurunanak Jayanti and University office was closed. Thereafter, the petitioner immediately on 24.11.2018 which was Saturday entire compliance was submitted. In so far as the other objections regarding copy of constitution of the trust the same was already submitted, letter of the National and Scheduled Bank that the trust is operating its account so also the project report of minimum five years were also submitted. Thus, it is the submission of the learned senior counsel for the petitioner that the delay of four days caused submitting the compliance of the deficiencies. Deficiencies were unseen deficiencies which were beyond the control of the petitioner. Learned senior counsel submitted that as there is no other law college in the Hingoli District the petitioner institute is desirous to open new law college and impart the knowledge in legal field to the desirous students of the area who are in large number and are equally desirous of having a law college in the area. Learned Senior counsel submitted that the University ought to have seen the compliance of the

deficiencies and should have forwarded the proposal to the State Government for its decision as Section 109 of the Maharashtra Public University Act, 2016 provides the ultimate powers to the State Government. Learned Senior counsel submitted that Section 109 deals with a detail procedure of permission for opening a new law college or new course, subject, faculties or divisions. The learned senior counsel also submitted that Section 109 (3) (d) empowers the State Government to approve the proposal in exceptional cases where the University has not recommended the proposal. Thus, the University without accepting a very mechanical and technical approach ought to have forwarded proposal to the State Government. The learned senior counsel emphasis the power with the State Government invited our attention to the recent order of this Court in bunch of petitions dated 16.01.2019 namely writ petition No.13870/2018 and other connected petitions.

5. Learned counsel appearing for the University submitted that as there were deficiencies, the University was left with no choice to take a decision of not forwarding the proposal to

the State Government. Learned counsel appearing for the University admits that major compliance is already submitted by the petitioner institute.

6. The learned counsel appearing for the respective parties admitted that last date for the decision by the State Government on the proposal for opening a new law college is 31.01.2019 and if for technical reasons the proposal is not submitted to the State Government then the learned senior counsel appearing for the petitioner institute submitted that if the proposal is not submitted to the State Government before 30.01.2019 the entire exercise of the petitioner institute for opening a new law college would render in futility.

7. Considering the above referred facts and considering that now the petitioner institute has submitted a compliance report to the University though belatedly and also considering the provision under Section 109 and as there is no dispute that the State Government is possessing ultimate powers to grant or reject the proposal submitted to it by allowing the petition partly, we direct respondent No.2 Swami Ramanand Teerth Marathwada University,

Nanded to forward the proposal of the petitioner institute for opening a new law college at Hingoli to the State Government on or before 24.01.2019 and on receipt of the said proposal respondent No.1/State to take appropriate decision, needless to state on merits of the proposal within scheduled prescription of the time.

8. With this direction, the petition is partly allowed and disposed of in above terms.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]