

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13870 OF 2018

WITH

CA/15142/2018 IN WP/13870/2018

MITRA SADHANA SHIKSHAN PRASARAK MANDAL VILLAGE
PATHRITHROUGH PRESIDENT/SECRETARY

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Choukidar S.R.
AGP for Respondent No. 1: Mr. S. G. Karlekar
Advocate for Respondent No. 2 : S S Thombre

...

WRIT PETITION NO.14175 OF 2018

SAI SAKAL SHIKSHAN PRASARAK MANDAL THROUGH PRESIDENT
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioners : Mr. Choukidar S.R.
AGP for Respondent No. 1: Mr. S. G. Karlekar
Advocate for Respondent No. 2 : Mr. S S Tope

...

WRIT PETITION NO.14223 OF 2018

WITH

WP/14226/2018

PRERNA BAHU UDDESHIYA SHIKSHAN SANSTHA TANJAPUR
THROUGH SECRETARY GANESH ABARAO K

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Solanke Shrikrashna B.
AGP for Respondent No. 1: Mr. S. G. Karlekar
Advocate for Respondent No. 2 : Mr. D M Mane

...

...

WRIT PETITION NO.14227 OF 2018

MAVALA BAHUDESHIYA SEVABHAVI SANSTHA THROUGH PRESIDENT
/SECRETARY

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Choukidar S.R.
AGP for Respondent No. 1: Mr. S. G. Karlekar
Advocate for Respondent No. 2 : Mr. Nikam Amol P.

...

WRIT PETITION NO.14243 OF 2018

GURUKUL BAHU UDDESHIYA SEVABHAVI PRATISHTHAN
WAGHALGAON THROUGH PRESIDENT

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Solanke Shrikrashna B.
AGP for Respondents:
Advocate for Respondent No. 1 : Mr. S. G. Karlekar
Advocate for Respondent No. 2 : Mr. V D Patnoorkar

...

**CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE: 16th JANUARY, 2019

PER COURT :

1. Heard.

2. In all these matters, the petitioners gave applications to the University to open the degree

colleges in the respective streams as detailed in the applications. It is not disputed that the applications were given by all these petitioners well within time.

3. It is not disputed by either of the parties that the places where the applications were given to start the colleges find place in the perspective / master plan prepared by the University. However, on or about 29.11.2018, the University did not give any negative or positive recommendation and forwarded the proposals of these petitioners with a remark that these proposals are not eligible / disqualified. In fact, the University ought to have forwarded the proposals with negative / positive recommendation. Subsequently, on or about 14.12.2018, the University again forwarded the proposals of these petitioners with positive recommendation to the State Government, however, the same was after the cut off date on 30.11.2018.

4. It appears that anomalous situation has arisen because of the mistake on the part of the University. The proposals of the petitioners were not found deficient in any other respect, except the University considered that it would be a case of unhealthy competition. However, subsequently the University found these proposals to be in order and gave a positive recommendation. The delay was caused at the behest of the University.

5. Today, we are not entering into the debate with regard to the clauses in Government Resolution dated 15.09.2017, as is sought to be relied by the learned Assistant Government Pleader. Considering the peculiar facts of the present case, the fact remains that the proposals of these petitioners were not suffering from any deficiencies since inception and the places where the petitioners are proposed to start the degree colleges find place in the perspective / master plan.

6. Section 109 (3)(d) of the Maharashtra Public

Universities Act, 2016 with its proviso empowers the State Government to grant the Letter of Intent to college even if the same is not recommended by the University, of course, in exceptional cases. When the proposals were forwarded by the University before cut off date initially, the State did not even reject the proposals but it returned back the proposals. The State ought to have passed some orders upon it and ought not to have simply returned it back without applying its mind. However, as stated above, subsequently the University has recommended the proposals the same have again not being accepted on the ground it is after the cut off date and the same were returned back to the University.

7. The cut off date mentioned under Section 109 of the Maharashtra Public Universities Act, 2016 is sacrosanct. The cut off date has to be respected. It is not a matter of debate that before the cut off date the University had already forwarded the proposals to the State Government, however, the

State Government did not accept the proposals and returned it back. If the State Government would have passed some orders upon it, then, certainly we may not have exercised our jurisdiction. As the State Government failed to pass orders on the proposals forwarded before the cut off date, we are exercising our jurisdiction under Article 226 of the Constitution of India and pass following order.

8. The proposals returned back by the State Government shall be forwarded by the University as was subsequently forwarded in December-2018 in respect of the petitioners within a period of two days from today. The State Government shall take decision upon these proposals before the cut off date as provided under Section 109 of the Maharashtra Public Universities Act, 2016. In case, if, the decision is already taken by the State Government with regard to any proposals in respect of the places where these petitioners are desirous of starting the colleges, the said

decision shall not be affected. If no such decision has been taken the proposals for starting the new colleges at the places where the petitioners have given the proposals, then the State Government shall take decision upon them before the cut off date on its own merits.

9. We have passed this order considering the fact as narrated above and the same is not a precedent.

10. The writ petitions accordingly stand disposed of. No costs.

11. In view of disposal of the writ petition, the civil application also stands disposed of.

12. Authenticated copy be provided.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

marathe