

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

**71 WRIT PETITION NO.3065 OF 2019  
WITH  
CA/6460/2019 IN WP/3065/2019**

**YASH BAHUUDDESHIYA SHIKSHAN SANSTHA,  
BIDKIN, TQ. PAITHAN, DIST. AURANGABAD,  
THROUGH PRESIDENT  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Kadam S. K.  
AGP for Respondent No. 1 : Mrs. V. S. Chaudhary  
Advocate for Respondent No. 2 : Mr. S. S. Tope  
Advocate for Respondent No. 3 : Mr. S. G. Dodya

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**CORAM: S. V. GANGAPURWALA &  
SHRIKANT D. KULKARNI, JJ.**

**DATE: 18<sup>th</sup> FEBRUARY, 2020**

**PER COURT:**

1. The petitioner is challenging the Government Resolution dated 31.01.2019 granting Letter of Intent to respondent no. 3. The petitioner is further seeking directions to grant Letter of Intent to the petitioner.

2. The applications were invited for starting Arts, Commerce and Science womens' college at Bidkin, Taluka Paithan, District Aurangabad. The petitioner as well as respondent no. 3 applied.

Respondent no. 3 applied to start Commerce and Science faculty. Respondent no. 3 did not apply for Arts faculty. The petitioner applied for Arts, Science and Commerce faculty. The Letter of Intent is issued to respondent no. 3 for starting Arts, Commerce and Science faculty. By the corrigendum, the said permission was modified and was restricted to Commerce and Science faculty. The petitioner has assailed the same.

3. We have heard Mr. Kadam, learned counsel for the petitioner and Mr. Dodya, learned counsel for respondent no. 3.

4. The contention of Mr. Kadam, the learned counsel assailing the Letter of Intent in favour of respondent no. 3 can be culled out as under:

[A] Respondent no. 3 did not apply to start womens' college. The location was to start the womens' college.

[B] Respondent no. 3 did not submit the registered lease deed for 3 Acres of the land. The minimum required area is 3 Acres.

[C] Respondent no. 3 did not submit the fixed deposit receipt of the Nationalised Bank. It submitted the fixed deposit receipt of a Co-operative Bank.

[D] Though application was given by the respondent to start Commerce and Science faculty, fees was also paid for Commerce and Science faculty, the permission was granted to run Arts, Commerce and Science faculty.

[E] The learned counsel submits that the rejection of the petitioner's proposal was erroneous. The petitioner had submitted 5 years account statement and certified copy of the building plan map that has not been considered by the State.

5. Mr. Dodya, the learned counsel submits that by respondent no. 3 had applied for Commerce and Science faculty. Respondent no. 3 never claimed Arts faculty. The Government by mistake granted permission for Arts, Commerce and Science faculty. The same has been rectified by issuing corrigendum restricting the permission to Commerce and Science

faculty. The learned counsel further submits that respondent no. 3 could comply the deficiencies by 31.01.2020. Respondent no. 3 submitted the copy of the registered lease deed before 31.01.2020. The adjacent land is also shown of which the lease deed is notarised. The learned counsel submits that the petitioner's application also does not mention that the application is for starting womens' college. The location was meant for womens' college only. The learned counsel relies on the judgment of the Apex Court in case of ***Directorate of Education and others Vs. Educomp Datamatics Ltd. and others*** reported in ***AIR 2004 S.C. 1962*** to contend that the decision of the State Government would not be open to judicial scrutiny. The learned counsel submits that the proposal of respondent no. 3 was recommended by the University as it was complete in all respects.

6. Mr. Dodya, the learned counsel further submits that as per Government Resolution dated 15.09.2017 Clause 2.7 the Government can extend the time for complying the deficiencies.

7. Mr. Tope, learned counsel for the University submits that the University considered the report of the expert committee specially appointed. Upon the report of the expert committee, the proposals of the petitioner and respondent no. 3 were recommended. In applications of the petitioner as well as respondent no. 3 it was not clarified that the proposals are for starting womens' Arts, Commerce and Science college.

8. We have considered the submissions canvassed by the learned counsel for the respective parties.

9. The statutory compliances are required to be made. We would also not sit as an appellate authority over the decision taken by the State Government but would be more concerned with the due adherence to the provisions of the statute and the executive instructions.

10. Annexure-B of the Government Resolution dated 15.09.2017 details the requirements for issuance of Letter of Intent. For professional colleges fixed deposit of Rs.7,00,000/- is mandatory. The

same has to be in the Nationalised / Scheduled Bank. Clauses 7 and 8 of the Annexure-B to the said Government Resolution mandates it. As per Clause 13(2)(D) of the Annexure-B of the Government Resolution dated 15.09.2017, the minimum area required is 3 Acres of land either owned under registered lease deed. These are the conditions for issuance of Letter of Intent.

11. Respondent no. 3 had submitted fixed deposit kept with the Ajanta Urban Co-operative Bank. We asked the learned counsel for respondent no. 3 the status of the said bank i.e. whether said bank is a scheduled bank. The learned counsel, on instructions, submits that the Ajanta Urban Co-operative Bank is not a scheduled bank. The same is a Co-operative Bank.

12. At the time of issuance of Letter of Intent, respondent no. 3 was not possessing the registered lease deed. Subsequently, respondent no. 3 has got the lease deed registered on or about 30.07.2019 i.e. after issuance of Letter of Intent. The said

registered lease deed is also for an area on 81 R. The minimum area required would be of 120 R. (3 Acres).

13. We would ignore the non mentioning of womens' college in the application. The location was meant for womens' college. We would presume that the applications by the petitioner and respondent no. 3 are made for womens' college.

14. Section 109(3)(b) of the Maharashtra Public Universities Act, 2016 specifies that only those applications complying with the requirements and received within the prescribed time limit shall be accepted and considered by the University. U/Sec. 109(3)(c) the University shall submit with the application, its recommendation, duly supported by relevant reasons, as are deemed appropriate by the Management Council. Section 109(3)(d) gives powers to the State Government to grant Letter of Intent. The Letter of Intent is valid up to 31<sup>st</sup> January of the next following year. The management has to comply with the conditions mentioned in the Letter

of Intent within such period and submit the compliance report to the University. Proviso to Sub clause 'f' of Section 109 (3) provides that if the management fails to comply all conditions of Letter of Intent within the time specified the Letter of Intent shall be deemed to have lapsed. It is in exceptional cases and for the reasons to be recorded in writing, the State Government may extend the time.

15. In the present matter, the Letter of Intent has been granted to respondent no. 3 on 31.01.2019 on terms and conditions mentioned therein. The same refers to the Government Resolution dated 15.09.2017.

16. Even if we accept the arguments of respondent no. 3 that subsequently also up to 31.01.2020 respondent no. 3 could remove the deficiencies, still the same falls short of the requirements. Registered lease deed is required for an area of 3 Acres. Respondent no. 3 has submitted registered lease deed of only 81 R. land. The minimum

required land is also not taken on lease under a registered instrument by respondent no. 3. The fixed deposit is also not of the scheduled / nationalised bank. The requirements for Letter of Intent are also not complied. These are the conditions in Annexure-B. The fulfillment of these requirements for issuance of Letter of Intent are lacking. In light of that, it was improper for the respondent to issue Letter of Intent. As the deficiencies are not removed even till 31.01.2020, the Letter of Intent certainly cannot be considered for further issuance of permission.

17. In light that, the Letter of Intent in favour of the present respondent no. 3 stands set aside.

18. As far as the petitioner is concerned, the time period within which the Letter of Intent has to be issued has also lapsed. There is no question of the same being processed by the State Government. In light of that, we are not going into the details of the deficiencies of the proposal.

19. Before parting with the judgment, we cannot resist but observe about the casual approach on the part of the University. The University is given a responsible task to scrutinise the applications scrupulously and only those applications complying with the requirements and received within the prescribed time limit shall be accepted and considered by the University. The University is required to form the committee. The University has to submit along with the application, its recommendation, duly supported by relevant reasons, as are deemed appropriate by the Management Council. In large number of matters we have come across the irresponsible approach of the University. In a casual manner University recommends positively the proposals in spite of large scale deficiencies. In the present matter also, although, the deficiencies were writ large such as the fixed deposit receipt of the Nationalised / Scheduled Bank was not attached, lease deed was not of the required area nor it was registered as required under Annexure-B of the

Government Resolution dated 15.09.2017, still the University positively recommended the proposals of the petitioner as well as respondent no. 3. The University while it recommends the proposal is endowed with the responsible task. The Educational Institution that lacks the minimum requirements cannot be encouraged to submit the application. The University is required to meticulously and scrupulously scan the documents. It cannot act as a mere postman. It has duty to see that all the compliances are made as are required for issuance of Letter of Intent and then only recommend the proposals.

20. We hope and trust that the University henceforth would act with sense of responsibility and exercise diligence while positively recommending the proposal complete in all respects.

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

22. In view of disposal of the writ petition, the civil application is also disposed of.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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