

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

WRIT PETITION NO. 6299 OF 2020

Adarsh Education Society,
Aurangabad
Through its President,
Maksud Khan S/o anwar Khan ... Petitioner.

Versus

The State of Maharashtra
and others ... Respondents.

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Mr. S.S. Kazi, Advocate for the Petitioner.
Mr. S.G. Karlekar, A.G.P. for Respondent No.1
Mr. S.S. Tope, Advocate for Respondent Nos. 2 and 3.

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

DATE : 21st SEPTEMBER, 2020

PER COURT:-

. Mr. Kazi, the learned Advocate for the petitioner submits that the petitioner is a minority institution. It had applied to the University for grant of permission to open new senior college at village Ladsavangi, Taluka and District Aurangabad for the academic year 2014-2015. Though the University recommended the proposal to the State Government with positive recommendation, the State did not consider it. The petitioner filed writ petition No.10573 of 2014. The

Respondent No.1 took the plea that because of non-fulfillment of norms, the letter of intent was not issued in favour of the petitioner. Thereafter, on 07.06.2015, the respondent No.2 forwarded the proposal of the petitioner. This Court had directed the respondent no.1 to consider the proposal recommended by the respondent No.2 for the academic year 2015-2016. It was further ordered by this Court that the proposals submitted by the petitioner and recommended by the respondent No.2 for the academic year 2014-2015, 2015-2016 to be the proposals submitted for the academic year 2016-2017 without asking the petitioner to submit the fresh proposals. Despite the orders of this Court, the respondent No.1 failed to consider the same, hence the contempt petition was filed by the petitioner. The learned counsel submits that the respondent – State Government on 31.07.2020 granted permission to other persons to start new colleges. The approach of the Government towards the petitioner is discriminatory. The learned counsel for the petitioner relies upon the order passed by the this Court in writ petition No.10753 of 2014, writ petition No.2788 of 2014 and writ petition no.1452 of 2016. It is contended that this Court can direct the State to consider the proposal for the succeeding year. The learned counsel also relies upon the judgment and order of this Court in writ petition No. 4477 of 2015 dated

06.02.2019. The learned counsel for the petitioner states that petitioner is not at fault. It is because of the fault of respondent No.1 in not taking the decision, the petitioner is deprived of the permission to open new college. For the fault of the respondent No.1, the petitioner should not be penalized.

2. We have heard the learned A.G.P.

3. The University Act has been amended and the Maharashtra Public Universities Act, 2016 has come into force from 01.03.2017. The proposal of the petitioner is of the year 2014.

4. Be that as it may, Section 109 of the Maharashtra Public Universities Act, 2016 gives the procedure and time frame for making the application by the institute, processing the application by the University and recommending it to the State Government before the November, and thereafter, the State Government issues the letter of intent by the end of January. The consideration of the proposal is also depends upon the master plan for the particular academic year. Much water has flown from the year 2014 i.e. the year the petitioner had made the proposal for starting new college. It would not be appropriate for this Court to direct the State Government to consider the proposal submitted by the petitioner in the year 2014 for the academic year 2021-2022.

5. The petitioner may, if it so desires, submit the proposal for starting of the new college for the academic year 2021-2022 provided the site where the petitioner seeks to apply finds place in the master plan and within time frame stated under Section 109 of the Maharashtra Public Universities Act, 2016. The respondents shall consider the proposal submitted by the petitioner in accordance with law, Section 109 of the Maharashtra Public Universities Act and the master plan.

6. The writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P. Rane