

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

WRIT PETITION NO. 6591 OF 2020

Mahatma Gandhi College of Agricultural
Biotechnology through its Vice President
Mr. Pandurang Madhavrao Jadhav

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Shailesh P. Brahme, Advocate for the Petitioner.
Mr. P. S. Patil, Addl. G. P for Respondent No. 1.
Mr. S. K. Kadam, Advocate for Respondent No. 2.
Mr. M. N. Nawandar, Advocate for Respondent No. 3.
Mr. S. G. Karlekar, Advocate for respondent No. 4.

**CORAM : S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.**

DATED : 06th NOVEMBER, 2020.

PER COURT:-

. The petitioner is assailing the order of the respondents thereby rejecting no objection certificate for admission of students.

2. The petitioner is a Agricultural college of Biotechnology. Initially, in the year 2004 the petitioner's college was given permission with intake capacity of 80 students to impart B.Tech (Biotechnology course). Initially, the petitioner was classified in B category, but since 2015-2016 the petitioner is assessed to category D. The petitioner applied for NOC for the academic year 2020-2021. The same was refused under

communication dated 01.07.2020. Aggrieved thereby, the petitioner filed Writ Petition No. 4812 of 2020. This Court under order dated 13.08.2020 directed the respondents to conduct fresh inspection and take decision afresh. Pursuant thereto, on 19.08.2020 the respondents inspected the petitioner institution and report was submitted on 27.08.2020. The petitioner was again classified in D category. The petitioner was denied NOC. Hence, the present writ petition.

3. During the pendency of this writ petition under order dated 21.10.2020 we had directed the respondents to evaluate the inspection report dated 27.08.2020 and give marks on the basis of the same and thereafter decide the category of the petitioner. Pursuant to the order dated 21.10.2020 the committee evaluated the inspection report dated 27.08.2020 and again placed the petitioner in D category.

4. Mr. Brahme, learned counsel for the petitioner strenuously contends that the marking of 49.75 pursuant to the inspection report dated 27.08.2020 is erroneous and exfacie illegal. On 20.02.2019, last marking of 52.10 was done. If the marking given on 20.02.2019 is compared with the instant marking given the fallacy would be writ large. The petitioner was entitled to be placed in category B or at least in C category. The learned counsel further submits that no

disqualification can be incurred even if the petitioner is placed in category D. Placement in category D has significance only so far as action of withdrawal, affiliation and recognition is concerned. It is further submitted that there are number of colleges working under the respondent No. 3 and they are permitted to admit the students despite classification in category D. There is violation of principles of equality. The petitioner is victim of discrimination. In the earlier Writ Petition No. 4812 of 2020 the aspect of discrimination was considered by this Court. It is further submitted that in the impugned order capital is made by the respondent No. 3 that there was no compliance report of Dr. S. N. Puri committee dated 24.07.2017. The compliance and the improvements made as demonstrated by the petitioner are not considered. Huge investments are made. Honest efforts are also made to remove the deficiencies. The respondent No. 3 is making capital of alleged, inadequate staff. According to the norms of 2017-2018 the requirement was of 53 teachers but those norms were not enforceable. Those norms are not approved as per the Government Resolution dated 01.07.2000. Even the last grading would show that staffing pattern was applied as per the norms prevailing before 2017-2018. The act of the respondent is arbitrary. The institute is run in rural area. The bonafide acts of the petitioner needs to be considered and opportunity needs to be given to admit the students and to further remove the remaining

deficiencies.

5. Mr. Nawandar, learned counsel for respondent No. 3 submits that in the year 2015-2016 the local inspection committee inspected the petitioner college for full validation and it was noticed that the petitioner college does not possess most of the educational facilities and since 2015-2016 is awarded D category. Dr. S. N. Puri committee was appointed to verify deficiencies of the petitioner college. Dr. S. N. Puri committee upon inspection submitted the report. The petitioner was awarded D category as there were various deficiencies. Since many years the petitioner failed to remove the deficiencies. As such, for the academic year 2020-2021 it was recommended that petitioner college must not be issued with no objection certificate. The learned counsel submits that based on the letter dated 01.12.2016 issued by the I.C.A.R., New Delhi, the State of Maharashtra under letter dated 14.03.2017 issued to M.C.A.E.R. and all four Agricultural Universities in the State of Maharashtra clarified that minimum criteria for setting up new colleges are presented and whenever proposals for new colleges are sent to the Government, the criteria as prescribed in those guidelines should be followed. The petitioner college failed to rectify the deficiencies. The University has not taken action as per Rule 17 (d) of the Rules and only admission process for the academic year 2020-2021 has been stopped. The allegations of the petitioner of

discrimination and arbitrariness are false. The evaluation of marks has been carried out by the committee on the basis of the inspection dated 19.08.2020 and the report dated 27.08.2020. The petitioner could secure only 49.75 marks. The marks are below 55. If the petitioner removes the deficiencies and improves the grading from D to C, then necessary steps will be taken for granting permission to the petitioner college for the next academic year 2021-2022.

6. We have also heard Mr. Kadam, learned counsel for the respondent No. 2.

7. In academic matters this Court would not sit as an appellate authority over the decision of experts. The respondents are manned by expert bodies. It appears from the record that the petitioner college since 2015-2016 was consistently placed in D category. Dr. Puri committee report also suggests that the petitioner was placed in D category in the year 2017-2018, still the petitioner was granted permission to admit the students. For five years the petitioner is in D category. For an institute to run graduate course from C category, minimum 55 marks are required.

8. When the permission to admit the students was refused, the petitioner had preferred Writ Petition No. 4812 of 2020. This Court

under order dated 13.08.2020 disposed of the writ petition by observing as under :

“6. As per the impugned order, the compliance is to be made till the start of the admission process of the academic year 2020-2021. It is submitted that, admission process for the academic year 2020-2021 commences from 31st July, 2020. The respondents were required to consider whether the petitioner has complied with the deficiencies. The petitioner tried to point out the compliances made, according to the petitioner in the month of May, June and July 2020. It is for the authorities to consider the same. It appears that, the said aspect has not been considered on its own merits.

7. In the light of that, we pass following order.

8. The respondents shall inspect the college of the petitioner within a period of ten (10) days from today. Upon inspection being made, fresh decision be taken after issuing notice to the petitioner within a period of seven (07) days from the date of inspection. The impugned order is quashed and set aside.”

9. Pursuant to the aforesaid order fresh inspection was made by the committee on 19.08.2020 and the report was submitted by the committee on 27.08.2020. However, it appears that while evaluating the grading of the petitioner, the inspection report dated 27.08.2020

was not considered. Under our order dated 21.10.2020, we had directed the respondents to evaluate the inspection report dated 27.08.2020 and give marks accordingly. Subsequently, the respondents evaluated the inspection report dated 27.08.2020 and gave marking. As per the said inspection report the petitioner has been given 49.75 marks.

10. We cannot allow compromise in academic standards. By no stretch, the norms provided by the respondents can be allowed to be diluted. If minor shortcomings exist that may not be fundamental and detrimental to academic standards, then we may consider the case of the petitioner but the Court would not step in, in case of large scale deficiencies and if the same affects the academic standards. Some photographs have been placed on record by the respondents to suggest that even the petitioner does not possess a complete building. Since the year 2015-2016 consistently the petitioner is awarded D category, meaning thereby the large scale deficiencies exist. The petitioner in all these five years could not upgrade to C category. It is not the case that only for a year deficiencies were observed and for further years the petitioner had improved and rectified the deficiencies. The inspection report has been evaluated. The marking has been given by the experts. No malafides are attributed to the inspection committee. In the light of

that, the marking given by the expert committee need not be doubted with.

11. Large scale deficiencies persist since the year 2015-2016. Each committee since the year 2015-2016 has evaluated the inspection report independently and observed deficiencies. Dr. Puri committee was appointed to look into the deficiencies. Dr. Puri committee also submitted the report showing large scale deficiencies.

12. The statement has been made by the petitioner that others in D category are given no objection certificate to admit the students. The same has been denied. The chart on record shows that many of these institutions are in C category. The equality as contemplated in Article 14 of the Constitution postulates positive equality and not negative equality.

13. In view of the aforesaid, we are not inclined to come to the aid of the petitioner. Writ petition, as such, is dismissed of. No costs.

(R. G. AVACHAT)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.