IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

WRIT PETITION NO. 6456 OF 2021

RAJKUNWAR BAHUUDDESHIYA SEVABHAVI SANSTHA, JALNA
THROUGH ITS PRESIDENT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

…

Advocate for Petitioner: Mr. S. S. Jadhavar
I/c. G.P. for Respondent No. 1: Mr. D. R. Kale
Advocate for Respondent No. 2: Mr. S. S. Tope
Advocate for Respondent No. 3: Mr. N. E. Deshmukh

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CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.

DATE: 31st AUGUST, 2021

PER COURT:

1. Mr. Jadhavar, learned Advocate for the petitioner submits that the petitioner is running Senior College in Arts, Commerce and Science faculty at Banoti. The population of the said village is about 3557. According to the learned Advocate, respondent no. 3 applied for permission to start new Arts, Commerce and Science college at Banoti. The University gave negative recommendation. The State Government still issued Letter of Intent in favour of respondent no. 3 against all the norms.

2. Amongst other submissions, Mr. Jadhavar, the learned Advocate submits that though respondent no. 3 had given fixed deposit receipt of Rs.7,00,000/-, the same was not with the Nationalized or Scheduled Bank. The Government Resolution dated 15.09.2017 requires the fixed deposit receipt of a Nationalized or Scheduled Bank. It is further submitted that respondent no. 3 pledged the said fixed deposit receipt and obtained loan of Rs.5,80,000/- over the said fixed deposit receipt without intimating the University. The learned Advocate further submits that respondent no. 3 has shown only 2 Acres of land and another 40 Are is shown subsequently, the same is not contiguous land. Moreover, on the same land respondent no. 3 is also running Higher Secondary School. This fact is also suppressed by respondent no. 3.

3. Mr. Tope, learned Advocate for respondent no. 2 submits that the University had given negative recommendation. The University had expressed that, if, permission is not granted to

respondent no. 3 to start new college the students of the said vicinity would not suffer or would not be deprived of the education. Respondent no. 3 lacks basic infrastructural facilities.

4. Mr. Deshmukh, learned Advocate for respondent no. 3 submits that respondent no. 3 was mislead by the Bank. Respondent no. 3 was made to believe that the Bank with which the fixed deposit receipt is kept is a Scheduled Bank. The learned Advocate submits that in the period of Covid-19 pandemic because of the exigency to pay the rent and the salaries the loan was obtained. Respondent no. 3 is ready to repay the loan and also to give a fresh fixed deposit receipt. The learned Advocate submits that land of 2 Acres and 40 Are is contiguous one. They are situated adjacent to each other. They are in Gut No. 130 and 131. The necessary infrastructural facilities are available with respondent no. 3 for running the College.

5. We have considered the submission canvassed by the learned Advocates for the parties.

6. Respondent no. 3’s proposal was negatively recommended by the University. It is true that the Government can grant Letter of Intent even after negative recommendation by the University in exceptional cases and for the reasons to be recorded.

7. Respondent no. 3 had given the fixed deposit receipt of Rs.7,00,000/- of Aurangabad District Central Co-operative Bank Ltd. The said Bank is not a Scheduled or a Nationalized Bank. The Government Resolution dated 15.09.2017 requires that the fixed deposit receipt should be of a Nationalized or Scheduled Bank.

8. Be that as it may, the very purpose of obtaining the fixed deposit receipt is that the college or institution possess the necessary financial resources so as to make out provisions

for its continued maintenance and working. The same is provided U/Section 108(1)(e) of the Maharashtra Public Universities Act, 2016.

9. The fixed deposit receipt was made by the Bank, however, on or about 03.03.2021 respondent no. 3 took a loan of Rs.5,80,000/- on the said fixed deposit receipt. In a way pledged the fixed deposit receipt with the Bank. The reason given in the *affidavit-in-reply* filed by respondent no. 3 is because of the financial constraints to pay the salary of the employees and the rent. The purpose mentioned for obtaining the loan defeats Section 108(1)(e) of the Act-2016. This would show that the institution does not possess the financial resources so as to make due provisions for it's continued maintenance and working.

10. The respondents have also not clarified the averments that on the land which is shown for the college for which Letter of Intent is issued the same land is being used to run the Higher Secondary School. The said school is functioning.

Respondent no. 3 has not denied the said averments of the petitioner.

11. At present, even if we do not consider the objection of the petitioner that the fixed deposit receipt is not deposited in the Scheduled or the Nationalized Bank though it is in the Co-operative Bank still from the fact that respondent no. 3 has obtained loan of Rs.5,80,000/- over the fixed deposit receipt even before the issuance of Letter of Intent would depict that respondent no. 3 does not possess that necessary financial resources for the continued maintenance and working of the institution for which permission is sought for. Respondent no. 3 has also given an undertaking to the University that they would not withdraw the fixed deposit receipt of Rs.7,00,000/- without the permission of the University. In the present case, though, the amount is not withdrawn loan has been obtained over the said fixed deposit receipt, thereby, the very purpose of keeping the fixed deposit receipt is frustrated.

12. For the aforesaid reasons, the Letter of Intent issued in favour of respondent no. 3 cannot be sustained. The impugned Letter of Intent as such is set aside.

13. Writ petition accordingly stands disposed of. No costs.

[R. N. LADDHA, J.] **[S. V. GANGAPURWALA, J.]**

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