

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
1034 WRIT PETITION NO.6740 OF 2021
WITH
CIVIL APPLICATION NO.7245 OF 2021
IN
WRIT PETITION NO.6740 OF 2021

SANJANU SHIKSHAN PRASARAK MANDAL ROHILAGAD THR ITS
SECRETARY, SANJAY ASHOK JADHAV ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

AND

WRIT PETITION NO.7610 OF 2021
CHATRAPTI SHAHU MAHARAJ BAHUUDDESHIYA SEVA SANSTHA,
AMBAD ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. Sandeep B. Rajebhosale, Advocate for the
Petitioners.

Mr. A. R. Kale, AGP for Respondents-State.

Mr. S. S. Tope, Advocate for Respondent No.4.

Mr. D. P. Palodkar, Advocate for Respondent No.5.

...

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

DATED : 21st SEPTEMBER, 2021.

PER COURT:-

1. We have heard learned counsel of
petitioners.

2. The petitioners assail the Letter of
Intent issued to respondent no.5-Kai. Tilokchand
Kuche Shikshan Prasarak Mandal for starting new
senior college in faculty of Arts, Science and
Commerce at village Kingaon Chafuli, Tq. Ambad,
Dist. Aurangabad.

3. The Letter of Intent is assailed on three grounds (i) respondent no.5 does not possess the required area of land, (ii) fixed deposit of Rs.7,00,000/- which is necessary as per the Government Resolution that was submitted at the time of issuance of proposal has been withdrawn on 27.04.2021 immediately upon issuance of Letter of Intent on 15.04.2021 and (iii) the University has negatively recommended the proposal.

4. Mr. Palodkar, learned counsel for respondent no.5 submits that, petitioners possess the required land. The registered sale deed to that effect is placed on record alongwith affidavit-in-reply. The fixed deposit was withdrawn inadvertently. The respondent no.5 had submitted the proposal to start new college at three locations. The permission was rejected for two locations. In view of that, due to confusion fixed deposit was withdrawn. Immediately upon being pointed out, the amount has been redeposited and the fixed deposit is created.

5. Mr. Tope, learned counsel for petitioners submits that, the University had given reasons for negatively recommending the proposals of petitioners as well as respondent no.5. The said negative recommendation ought to have been considered. The learned counsel further submits that, final permission has been refused to respondent no.5. Though, the final permission has

been refused, the State is silent in its affidavit-in-reply. The said fact in all fairness ought to have been stated in the affidavit-in-reply by the State Government.

6. We have also heard learned A.G.P.

7. It is not disputed that, the proposals of petitioners and respondent no.5 were negatively recommended by the University.

8. The State in exceptional circumstances and for the reasons to be recorded in writing can consider the proposals negatively recommended by the University. In the present cases, while issuing the Letter of Intent to respondent no.5, the State Government has not recorded the reasons in writing and has not carved out any exceptional circumstance. The State Government has considered the proposal negatively recommended by the University.

9. More over, immediately upon issuance of Letter of Intent, respondent no.5 has withdrawn the fixed deposit. The undertaking has been given by respondent no.5 at the time of submitting proposal that the fixed deposit would not be withdrawn. The fixed deposit is required to verify the availability of the financial resources of the College as required under Section 108(1)(e) of the Maharashtra Universities Act.

10. In the present case, now the final permission to respondent no.5 has been refused on the ground of the deficiencies not complied with. We find that, even Letter of Intent issued to respondent no.5 was not in accordance with the procedure laid down under Section 108(1)(e) of the Maharashtra Universities Act. The Letter of Intent issued to respondent no.5 is also set aside. The letter of intent issued to respondent no.5 would be inoperative. The final permission is also refused.

11. In light of the above, the Letter of Intent issued to respondent no.5 stands negated. The final permission also stands refused. In case, advertisement is issued in future for the locations in question, the parties may apply afresh.

12. Writ Petitions are disposed of. No costs.

13. In view of disposal of writ petition No.6740/2021, the Civil Application No.7245/2021 stands disposed of.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE