

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

WRIT PETITION NO. 1657 OF 2021

Renukadevi Shikshan Sanstha
Pimpalgaon (Renukai),
Taluka Bhokardan,
District Jalna, through its
Member namely
Amol s/o Vasantrya Deshmukh

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr A.N. Nagargoje, Advocate for petitioner
Mr K.N. Lokhande, A.G.P. for respondents no.1 to 3
Mr S.S. Tope, Advocate for respondent no.4

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

DATE : 5th April 2021

PER COURT :

1. The petitioner is running Senior College in Arts, Science and Commerce faculty since the year 2007.
2. The petitioner filed proposals for additional division of Science faculty in the year 2016, 2018 and lastly, in the year 2019. The University with negative recommendations forwarded it to the State Government. The State Government in the impugned communication stated that as the negative recommendation has been granted by the University, it is not granting permission. The same is assailed in the present Writ Petition.
3. Mr Nagargoje, learned Advocate for the petitioner submits that even if negative recommendation is given by the University, State Government has to consider the proposal on its own merits and can still grant permission for additional division. Reference is made to Section 109 (4) of the Maharashtra Public Universities Act, 2016. The learned Advocate further submits that in

exceptional circumstances though NAAC recommendation is not there, the proposal for additional division can be granted. The permission of NAAC accreditation is pending. Learned Advocate submits that the Circular that in extra-ordinary circumstances the case has to be considered even if NAAC application is pending, has been ignored. Learned Advocate for the petitioner also relies on sub-section (8) of Section 109 of the Maharashtra Public Universities Act, 2016. The learned Advocate submits that in some of the cases without NAAC accreditation also permission is granted.

4. Mr Tope, learned Advocate for respondent no.4 submits that it is the discretion of the State Government. The State Government has exercised discretion and negated the proposal of the petitioner.

5. We have considered the submissions. It is not disputed that the petitioner started Arts, Science and Commerce College in the year 2007. NAAC accreditation can be given after five years. The petitioner could have applied for NAAC accreditation. In the year 2016, the petitioner filed application for additional division in Science faculty. Admittedly, till the impugned order is passed by the State Government, the petitioner did not possess the NAAC accreditation though more than twelve years had passed, the petitioner had started the College. NAAC accreditation is necessary to judge the quality education imparted by the institution. Sub-section (8) of Section 109 is by exception. In extra-ordinary situation, the State Government with reasons to be recorded in writing shall have the authority to declare and adopt fast track system of grant of permission to start such new divisions.

6. The petitioner had applied in the year 2016 for additional division, the same is rejected in the year 2019. We are in the year 2021.

7. The State Government has not given any reason about the prevalent of the extra-ordinary situation. The University had given the negative recommendation. In extra-ordinary circumstances and in discretion of the State Government, the State Government can consider the proposal for grant of permission even after negative recommendation of the University. It is the discretion of the State Government. The Government certainly has to consider the negative recommendation of the University. The same will have its own importance.

8. We do not find any reason to interfere with the impugned order.

9. In case there are changed circumstances, the petitioner may apply afresh as per the stipulations of the provisions of the Maharashtra Public Universities Act. The said application naturally would be considered on the basis of the prevalent situation.

10. Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

vvr