

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

WRIT PETITION NO.6297 OF 2019
WITH
CIVIL APPLICATION NO.11806 OF 2019
IN
WRIT PETITION NO.6297 OF 2019

DR.BIYABANI SYED NAJEEBUDDIN
VERSUS
MILLENNIUM INSTITUTE OF MANAGEMENT THR
DIRECTOR AND OTHERS

AND
WRIT PETITION NO.8202 OF 2018
WITH
CIVIL APPLICATION NO.9358 OF 2019
IN WP/8202/2018

SAYED ZEESHAN SAYED NAEEM
VERSUS
MILLENNIUM INSTITUTION OF MANAGEMENT THR
DIRECTOR AND OTHERS

AND
WRIT PETITION NO.8378 OF 2018
WITH
CIVIL APPLICATION NO.7108 OF 2020
IN WP/8378/2018
WITH
CIVIL APPLICATION NO.14225 OF 2019
IN WP/8378/2018

MAULANA AZAD EDUCATIONAL TRUST
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND
WRIT PETITION NO.8809 OF 2018

DR.AKHTER ANWAR
VERSUS
MAULANA AZAD EDUCATIONAL TRUST AND OTHERS

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Shri V.J. Dixit, Senior Advocate h/f Shri Dixit Sushant V.,
Advocate for the Petitioners in WP/6297/2019, 8202/2018, .

Shri R.N.Dhorde, Senior Advocate h/f Shri A.C.Darandale,
Advocate for the Management i.e. Respondent Nos.1 and 2 in
WP/6297/2019, WP/8809/2018 and 8202/2018.

Shri Amol N. Kakade, Advocate for the petitioner in
WP/8378/2018.

Shri Sayyed Tauseef Yaseen, Advocate for the petitioner in
WP/8809/2018.

Shri S.S. Thombre, Advocate for the University i.e. Respondent
No.3 in WP/6297/2019, No.4 in 8202/2018, No.5 in
WP/8378/2018, No.6 in WP/8809/2018.

Shri C.V. Dharurkar, Advocate for the AICTE i.e. Respondent
No.4 in WP/6297/2019, No.6 in 8202/2018 and WP/8378/2018
and No.7 in WP/8809/2018.

Shri S.B. Yawalkar, AGP for the State Authorities i.e.
Respondent Nos.5 and 7 in WP/6297/2019, Nos.3 and 7 in
8202/2018, Nos.1 to 3 in WP/8378/2018, Nos.3 to 5 in
WP/8809/2018.

Shri S.G. Karlekar, Advocate for the Entrance Test Cell i.e.
Respondent No.6 in WP/6297/2019, No.5 in 8202/2018, No.4 in
WP/8378/2018.

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CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.

DATE :- 20th August, 2021

Per Court :-

1. We have heard the learned Senior Advocates for the respective sides, the learned AGP on behalf of the State and the learned advocates on behalf of the AICTE and the University, for quite some time. We have perused the order dated 06.03.2020 passed by this Court wherein, we have directed the University to cause an inspection on two counts viz. (i) continuation of affiliation and (ii) closure of the institution.

2. We are informed by the learned advocate for the University that there were two Committees that were constituted. One Committee, which was to inspect the Institution with reference to the continuation of affiliation, has submitted the report indicating that since the Institution has infrastructural facilities and no deficiencies, it deserves continuation of affiliation. The other Committee inspecting the Institution having regard to the desire of the Management to close down the Institution, has submitted the report observing that as there are no students admitted and there is no educational activity, closure of the Institution can be approved.

3. The debate as to whether, Section 121 of the

Maharashtra Public Universities Act, 2016 would be applicable to the process for approving closure of the Institution, still continues. The learned advocate for the University submits that as the AICTE is the nodal body, the University has a very little role to play, except to the extent of issuing a “No Objection Certificate” for closure of the Institution. Such NOC has already been submitted to the Government by the University.

4. The learned AGP submits on behalf of the Joint Director of Higher and Technical Education, Aurangabad, that they have received necessary papers from the Institution along with requisite documents, seeking NOC for closure. As the requisite fees were deposited on 03.08.2021, the Joint Director of Technical Education has forwarded the proposal to the State of Maharashtra on 06.08.2021.

5. The learned advocate for the AICTE has drawn our attention to the show cause notice dated 08.01.2020 issued by it to the Institute calling upon it to explain on the following three issues :-

“a) *As to why it should not be considered that the Institute has failed to disclose factual information as per AICTE Regulations regarding non-payment of salary/ arrears to its staff as per AICTE norms/ 6th CPC.*

- b) *As to why it should not be considered as violation of the terms and conditions contained in the letter of approval and AICTE Regulations.*
- c) *As to why appropriate disciplinary action should not be initiated against the institution for violation of the AICTE norms for non-compliance of the orders of the Hon'ble Court for payment of full salary/ arrears as per 6th CPC to the concerned staff by moving the State Government also for appropriate action in respect of other academic activities being conducted by the Management/ Institute."*

6. Shri Dhorde, the learned Senior Advocate, submits that the reply to the show cause notice dated 08.01.2020 has already been submitted to the AICTE.

7. Shri Dixit, the learned Senior Advocate, submits that many teaching and non-teaching employees have directly approached the AICTE alleging that the self declaration "no liability certificate" on an affidavit tendered by the Institute, is false since the salaries of teaching and non-teaching employees have not been paid till today keeping in view that there is no official severance of employee-employer relationship. He canvasses that the Institute cannot shirk its responsibility of payment of wages until all such employees are discharged from their employment. Shri Dixit further submits that because

salaries of teaching and non teaching staff have not been paid, the affidavit towards self declaration of no liability by the Institute, would contain incorrect statements.

8. Shri Dhorde responds by stating that as there were no students and the entire educational curriculum of the Institute came to halt for more than two years, there was no income to the Institute and since there was no work, the salaries have not been paid.

9. The learned advocate for the AICTE as well as Shri Dhorde, the learned Senior Advocate, agree that the words “proposal of respondent No.1 Institute has been rejected” appearing in paragraph 4 of the show cause notice dated 08.01.2020, are by inadvertence. The proposal is kept pending due to non submission of the documents like NOCs from the State Government and the University and no liability affidavit in respect of staff and students.

10. Considering the above, we dispose off Writ Petition Nos.6297/2019, 8378/2018 and 8809/2018 with the following directions :-

(a) The State Government shall take a decision as to whether, the “No Objection Certificate” (NOC) can be granted to

respondent No.1/ Management for closing down it's institute. Such decision shall be arrived at on or before 31.08.2021.

(b) If the NOC is granted by the State Government, the Management shall forward the same to AICTE, on or before 21.09.2021.

(c) As "No Liability Certificate" is already tendered to the AICTE, we expect the AICTE to consider as to whether, the No Liability Certificate, which is in the form of a declaration on oath by respondent No.1/ Management is a true statement.

(d) Needless to state, if the above statement of respondent No.1/ Management turns out to be false, the AICTE would proceed to pass such orders as may be permissible in law.

(e) Considering the statement made by the learned advocate on behalf of the AICTE that many teaching and non teaching employees have directly approached the AICTE with grievances towards unpaid salaries, such employees are at liberty to file individual affidavits before the AICTE setting forth their approximate legal dues.

(f) As these petitions are being disposed off in view of the consent of the parties, the AICTE would consider the proposal of respondent No.1/ Management for closure, on the

basis of the necessary documents.

(g) Grievance of any party as regards the decision of the AICTE, may be assailed by the aggrieved party by resorting to a remedy as may be permissible in law.

11. All the pending Civil Applications do not survive and stand disposed off.

12. Insofar as Writ Petition No.8202/2018 is concerned, the learned advocate for the petitioner submits that this petition has been filed by a prospective student, who desired admission for the MBA course with respondent No.1/ Institute. Pursuant to the order of this Court dated 25.07.2018, he secured admission to the MBA course and has been successful in acquiring the MBA degree. He is unaware as to whether, the degree certificate has been issued by the University or not, but he makes a statement, on instructions, that the petitioner was successful in the examination and has cleared the MBA course.

13. In view of the above, this Writ Petition No.8202/2018 is disposed off considering the order passed in other petitions as above. In the absence of any legal impediment, the degree certificate to be issued to the petitioner, would not be

withheld, if not yet issued. The pending Civil Application does not survive and stands disposed off.

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(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)