

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4493 OF 2018

Samarth Institute of Management

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

Ms. Pooja V. Thorat for the Petitioner.

Mrs. P. J. Gavhane, AGP for the Respondent Nos. 1 and 2.

Mrs. Anjali N. Helekar for the Respondent No.3.

**CORAM: R. D. DHANUKA AND
ABHAY AHUJA, JJ.**

DATE : 5th OCTOBER, 2021.

P.C. :-

. On 28th September, 2021, Ms. Thorat, learned counsel for the petitioner made a statement before this Court that her client has no objection to withdraw this petition provided an amount deposited by the petitioner towards the fees to the University is refunded in full and if the petitioner is allowed to file a fresh application for this academic year, if the said subject is included in the perspective plan for which the petitioner had applied for permission to start a new college.

2. Learned counsel for the petitioner states that since University is responsible in rejecting the proposal, under Note 1 in the perspective plan issued by the State of Maharashtra, her client be refunded 2/3rd amount of the affiliation fees except application form fees. The submission of the learned counsel for the petitioner is vehemently

opposed by the Mrs. Helekar, learned counsel for the respondent no.3 and Mrs. Gavhane, learned AGP for the respondent nos. 1 and 2.

3. In view of the rival contentions, we have perused the averment made in the petition filed by the petitioner. In paragraph 2(F) at pages 6 and 7 of the writ petition, it is averred by the petitioner that the proposal of petitioner was rejected due to non-compliance of the conditions/requirement of NAAC accreditation mentioned at Sr. No.12 by the respondent-State. The petitioner has also relied upon the letter dated 15th March, 2018 issued by the respondent-State rejecting the proposal of the petitioner-Institute. In our view, Ms. Anjali Helekar, learned counsel for the respondent no.3 and Mrs. Gavhane, learned AGP for the respondent nos. 1 and 2 are right in their contention that the petitioner would be entitled to 1/3rd refund of the affiliation fees except application form fees paid by the petitioner, in view of the proposal of the petitioner having been rejected by the Government of Maharashtra.

4. For the aforesaid reasons, we allow the petitioner to withdraw this petition with liberty to file a fresh application for the academic year, if the said subject is included in the perspective plan for which the petitioner had applied for permission to start a new college. If the said subject is not included in the perspective plan, it is for the petitioner to decide the further course of action.

5. The University is directed to refund 1/3rd amount as directed aforesaid within two weeks from today.

6. Writ petition is disposed off as withdrawn with liberty mentioned in paragraph (4) of this order. There shall be no order as to costs.
7. Parties to act on the authenticated copy of this order.

[ABHAY AHUJA, J.]

[R. D. DHANUKA, J.]