

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3563 OF 2021

Dhanvantari Shikshan Va Samajik

Pratishthan

..... Petitioner

VERSUS

The State of Maharashtra & Anr.

..... Respondents

Mr.Surel Shah for the Petitioner.

Ms.Kavita N.Solunke, A.G.P. for the State – Respondent no. 1.

CORAM: R. D. DHANUKA AND

R.I.CHAGLA, JJ.

DATE : 30th AUGUST, 2021

P.C:-

Mr.Shah, learned counsel for the petitioner seeks to delete the respondent no.2 as no relief is sought against the respondent no.2. Leave to amend is granted as prayed. Amendment to be carried out during the course of the day. Re-verification is dispensed with.

2. Rule. Learned A.G.P. waives service for the respondent no.1.

By consent of parties, the writ petition is heard finally.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the order dated 8th July, 2021 passed

by the respondent no.1 thereby rejecting the applications filed by the petitioner.

4. A perspective plan was published on 28th December, 2020 by the University wherein a Point in Haveli Taluka was reserved for establishment of Arts, Commerce and Science College in Haveli Taluka (except the Municipal Corporation limits). The petitioner applied for permission to start a college on 10th March, 2021. The University made a recommendation in favour of the petitioner.

5. Though the respondent no.1 had issued Letter of Intent on 15th April, 2021, no Letter of Intent was issued by the respondent no.1 for establishment of Arts, Commerce and Science College in Haveli Taluka (except Municipal Corporation).

6. The petitioner filed writ petition bearing no. 2467 of 2021 for various reliefs. During the pendency of the said petition, the respondent no.1 passed impugned order dated 9th July, 2021 rejecting the application made by the petitioner. After obtaining liberty from this Court, the petitioner filed this writ petition.

7. Mr.Shah, learned counsel for the petitioner invited our attention to the impugned order dated 8th July, 2021 and various documents annexed to the petition and would submit that the entire order is based on the erroneous premise and is *ex-facie* perverse.

8. After hearing the parties, this Court passed an order on 26th August, 2021 and dealt with the reasons recorded by the respondent no.1 in the impugned order and the documents annexed to the writ petition relating to those grounds in which the application filed by the petitioner was rejected. This Court *prima facie* observed that the impugned order passed by the respondent no.1 is *ex-facie* contrary to the documents produced on record by the respondents. This Court granted time to the respondent no.1 to make a statement before this Court whether the impugned order can be withdrawn and an opportunity to the petitioner of being heard can be granted.

9. Learned A.G.P. on instruction states that it is not possible for the State Government to consider the application for issuance of any Letter of Intent for the colleges in question for this academic year.

10. There is no justification to the impugned order passed by the

respondent no.1. This Court has already made *prima facie* observations on the correctness of the impugned order passed by the respondent no.1. For the observation recorded in the earlier order, we are inclined to allow this petition. Though this Court is of the view that the impugned order is *ex-facie* contrary to the documents produced on record by the petitioner in view of the fact that the last date for issuance of Letter of Intent has already expired in terms of section 109 of the Maharashtra Public Universities Act, 2016, we direct the respondent no.1 to grant final approval in favour of the petitioner for the college in question for the next academic year within four weeks from today.

11. Writ petition is allowed in the aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs.

[R.I.CHAGLA, J.]

[R.D.DHANUKA, J.]