

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.5743/2021

Sanjeevan Gramin Vaidyaki  
and Samajik Sahayata Pratishtan ..... Petitioner

Vs.

State of Maharashtra & Ors. .... Respondents

Mr. Sanjay P. Shinde for the Petitioner  
Ms. Sushma S. Bhende, AGP for Respondent Nos.1 to 3 State  
Mr. Abhijit A. Kulkarni for the Respondent No.4

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

**DATED : OCTOBER 8, 2021**

**P.C.**

1. Heard the learned counsel for the parties.

Rule.

By consent of the parties, the matter is taken up for  
final disposal.

2 By this petition under Article 226 of the Constitution  
of India, the Petitioner has impugned the order dated  
17.08.2021 passed by Respondent No.4 refusing to grant  
proposal of the Petitioner for starting M.Sc. Chemistry  
Course for the Education Year 2021-2022 submitted on  
30.09.2020 on-line.

3 It is not in dispute that Respondent No.4 - University, after verifying all the compliance, has recommended to grant the said proposal in favour of the Petitioner. Though the University has recommended permission in favour of the Petitioner for starting M.Sc. Chemistry for the Education Year 2021-22, Respondent No.2 vide order dated 12.07.2021 rejected the said proposal. Said order was communicated by the University, vide communication dated 17.08.2021.

4 We have perused the impugned order passed by Respondent No.2. On perusal of the order annexed with the proposal is rejected on three counts, i.e. condition No.5, 8 and 11A of the Government Resolution dated 18.09.2018 are not complied with.

5 The learned counsel for the Petitioner submits that the Petitioner had already produced the proof of Fixed Deposit with an undertaking that the Fixed Deposit will not be withdrawn by the Petitioner. He invited our attention to the documents at page Nos.90 and 91 in support of the statement. We are satisfied that Respondent No.2 ought not to have rejected the proposal on this ground in view of the fact that the Petitioner has already complied with the said requirement.

6 So far as the bank guarantee upto 18.09.2018 is concerned, a perusal of the records indicates that the Petitioner has produced bank guarantee for one year i.e.

upto 31.03.2019 and did not produce bank guarantee completely in compliance with clause 5 of the Government Resolution dated 18.09.2018.

7 The learned counsel for the Petitioner states that the Audit Reports are already available with the Petitioner and could not be produced at that point of time since there was no intimation given to the Petitioner about the compliance of the said requisition. The statement is accepted.

8 In so far as the alleged non compliance of Condition No.11A of the Government Resolution dated 18.09.2018 is concerned, the learned counsel for the Petitioner has strongly placed reliance on Section 52 of the Maharashtra Village Panchayat Act 1958 and also invited our attention to the certificate dated 01.09.2021 issued by the Group Grampanchayat Onde, Tq. Vikramgad, Dist. Palghar certifying that the Petitioner has completed the construction mentioned therein on Plot No.98 Hissa No.2.

9 Mr. Kulkarni, the learned counsel for the University submits that the said certificate issued by the Group Grampanchayat would not be in compliance with the said requisition under Clause 11A of the Government Resolution dated 18.09.2018. The building completion certificate has to be issued by the Collector of the concerned District and not by the Grampanchayat.

10 The learned counsel for the Petitioner, now states that he would produce a building completion certificate from the

Collector before Respondent No.2 in the meeting proposed to be held. The statement is accepted.

11 The learned counsel for the Petitioner submits that according to his client, the certificate produced by the Petitioner on page 207 issued by the Group Grampanchayat, Onde is in compliance with the said condition No.11A of the Government Resolution dated 18.09.2018 and is not required to be produced any building completion certificate to be issued by the Collector of the concerned District. The Respondent No.2 shall decide this issue, afresh.

11 In our view, the interest of justice would be met, if we set aside the impugned rejection of the proposal on the grounds in respect of the alleged non submission of bank guarantee of the relevant years. So far as the building completion certificate not having been submitted by the Petitioner is concerned, we render an opportunity to the Petitioner to approach and comply with these two requirements by directing Respondent No.2 to grant an opportunity to produce the said documents.

12 The impugned order is, accordingly, quashed and set aside insofar as the alleged non compliance of Condition No.5 and 11A of the Government Resolution dated 18.09.2018.

13 The Respondent No.2 is directed to grant hearing to the Petitioner to produce those documents on 11.10.2021 at 2.00 pm., without fail.

14 Upon additional documents that may be produced by the Petitioner, Respondent No.2 shall pass a fresh order, without being influenced by the inferences drawn in the impugned order, within 48 hrs from the date of production of documents by the Petitioner and communicate the same to the Petitioner within next 24 hrs.

15 The learned AGP has agreed to inform this order to Respondent No.2 for compliance.

16 The Rule is made absolute in the aforesaid terms.

17 The Writ Petition stands disposed.

18 Parties to act on an authenticated copy of this order.

(ABHAY AHUJA, J.)

(R.D.DHANUKA, J.)