

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO. 590 OF 2021 (FOR REVIEW)

IN
WRIT PETITION NO. 6692 OF 2018 (D)

Mr. Mithilesh Gyanprakash Pande and Ors.,
..VS..
The State of Maharashtra and Ors.,

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Dr. Shri R. S. Sundaram, Advocate for applicants.
Shri N. R. Patil, Assistant Government Pleader for respondent
Nos.1 & 2.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : 26.11.2021

1. Heard.

2. During the course of the argument, Shri Sundaram, learned counsel for the review applicant, who is the original petitioner No.1, has invited our attention to the provisions made in Section 121 of the Maharashtra Public Universities Act, 2016 (for short the 'Act of 2016') and submitted that no decision in this case to recommend the closure was taken actually by the academic council and that the NOC was issued by different authority of the University, not contemplated under Section 121 of the Act of 2016. He also submitted that although it was the

requirement of Section 121 that the recommendation regarding closure of the college was made after arriving at subjective satisfaction based upon the material produced before it, no such subjective satisfaction was reflected in the impugned NOC issued by the authority of the University. It is also submitted that Sub-Section (4) of Section 121 contemplates preparation of report regarding payment of damages or compensation to be recovered from the management from the assets created utilizing fund provided by the UGC, the State Government or other public agencies and in the present case, the NOC challenged did not refer to any such report having been prepared before the NOC was issued, which has affected the right of the review applicant to receive compensation and also other benefits, to which he is entitled under the provisions of Act of 2016 and various statues/directions of the University including direction No.55.

3. Shri Patil, learned Assistant Government Pleader submits that all these arguments were not made by the learned counsel who represented the petitioners in this case and, therefore, it cannot be said that there is any manifest error in the judgment sought to be reviewed.

4. Upon a careful consideration of the judgment sought to be reviewed, we cannot but agree with the submission of the learned Assistant Government Pleader. The above referred arguments were not made before us and what was sought to be argued and what was considered was primarily the question of payment of

compensation as a pre-condition for issuance of NOC regarding closure of college and this point was answered by finding that there is no such provision made in Section 121 of the Act of 2016 which requires compensation to be paid first before the NOC regarding closure is issued.

5. In view of above, we find that there is no merit in the review application and it deserves to be dismissed.

6. Before parting with the order, we would like to make it clear that in the judgment sought to be reviewed, this Court never recorded any finding as regards the entitlement or otherwise of the petitioner to receive compensation and/or other benefits as are or would be made available to the petitioner under the provisions of Act of 2016 and also various statutes and directions of the University. It would then follow that the review applicant/original petitioner No.1, would be at liberty to pursue an appropriate remedy for asserting all his rights in respect of payment of compensation and making available all other benefits as are or which may be provided under the Act of 2016 and other applicable rules/statutes and directions, receivable from the management.

7. The review application is **dismissed** subject to the above referred clarification. No costs.

CIVIL APPLICATION NO.753 OF 2021.

In view of dismissal of the review application, this application does not survive and hence it is disposed of accordingly.

JUDGE**JUDGE***Kirtak*