

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3640 OF 2019

- 1) Sanmarg Shikshan Sanstha,
a Society registered under the provisions
of Societies Registration Act and
Maharashtra Public Trusts Act having
Office at E-2/F-3, New Nandanvan,
Nagpur, through its Secretary,
Shri Kiran S/o Krishnarao Pandav
- 2) Late Vasantdada Polytechnic
E-2/F-3, New Nandanvan, Near Water
Tank, Nagpur 440 009, through its
Principal, A.K. Jajulwar.

.... **PETITIONERS.**

// VERSUS //

- 1) All India Council for Technical Education
having Office at Nelson Mandella Marg,
Vasant Kunj, New Delhi 110 070, through
it's Member Secretary
E-mail : ms@aicte-india.org
- 2) Director of Technical Education,
Maharashtra State having Office at 3,
Mahapalika Marg, Mumbai
E-mail : desk10@dte.org.in
- 3) Maharashtra State Board of Technical
Education, 49, Kherwadi, Bandra (E)
Mumbai-400 051, through its Director
E-mail: rbtemumbai@msbte.com

.... **RESPONDENTS.**

Shri F.T. Mirza, Advocate for petitioners.
Shri N.P. Lambat, Advocate for respondent no.1.
Ms. N.P. Mehta, AGP for the respondent no.2/State

CORAM : **SUNIL B. SHUKRE AND**
 ANIL S. KILOR, JJ.

DATED : **SEPTEMBER 27, 2021**

ORAL JUDGMENT : (Per : Sunil B. Shukre, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. The matter is heard finally with the consent of the learned counsel for the parties.

3. We have already taken a view while allowing the application being Civil Application (CAW) No.1401 of 2021, by passing a detailed order that both the objections taken by respondent No.1, as seen from its reply (Page 69), are not tenable at law. We have found that there being no norms prescribed by the All India Council for Technical Education (for short 'the AICTE') for payment of salary of the teaching and non-teaching staff, it should not be a matter of concern for the AICTE as to at what rate salary should be paid to the teaching and non-teaching staff and therefore, the objection taken by the AICTE that no bank statement has been furnished by the college Authority to it in order to enable it to verify the issue of payment of salary in terms of 6th Pay Commission Recommendation is not sound. We have also found that the requirement of land having increased area has come into force with effect from 31.12.2018 and that being so, it would not be

applicable to the colleges, which were established much earlier than the year 2018.

4. This college has received its first approval in the year 1990, though on year to year basis and was receiving approval later on also on yearly basis, but that could not mean that every year, whenever the case of the petitioner-college is considered for grant of approval, the college would have to be treated as if it has been established only during that year.

5. This is the view taken by the Coordinate Division Bench of this Court at Aurangabd in the case of *Dr.J.J. Magdum College of Engineering through its Principal Vs. AICTE and others* in Writ Petition No.10130 of 2014, vide its judgment delivered on 03.05.2019. The Division Bench has held that the new guidelines being prospective in nature, would only apply to the cases where approval for starting new course has been sought. This means that the new guidelines would not be applicable to the existing courses or existing colleges.

6. In the present case, no approval for starting of any new course or new college has been sought and therefore, the new guidelines would have no application to the approval sought in the present case. Thus, we are of the view that the facts of the instant case are squarely covered by the view taken by the Division Bench at Aurangabad in the

aforestated case.

7. The petition, therefore, deserves to be allowed. The petition is allowed.

8. The impugned order of withdrawal of approval is hereby quashed and set aside.

9. We direct the respondent Nos.1, 2 and 3 to grant approval to the college for the year from 2019-20 and allow the petitioner-college to take part in the central admission process.

10. Rule accordingly. No costs.

(ANIL S. KILOR, J)

(SUNIL B. SHUKRE, J.)

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