

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 WRIT PETITION NO.7008 OF 2019

Vivekanand Pratishthan, Jalgaon.
Through its Secretary,
Rajendra Lakhichand Nannaware,
Age 51 yrs., Occ. Business,
R/o 347/8, Khote Nagar,
Pimprala Road, Near Manavseva School,
Jalgaon.

... Petitioner.

... **Versus** ...

- 1 The State of Maharashtra,
 Through it's Secretary,
 Higher and Technical Education Department,
 Mantralaya, Mumbai.
- 2 The State of Maharashtra,
 Through it's Secretary,
 Social Justice and and Special Assistance
 Department, Mantralaya, Mumbai.
- 3 Kavayitri Bahinabai Chaudhari
 North Maharashtra University,
 Jalgaon,
 Through it's Registrar,
 University Campus, Jalgaon.

... Respondents

...

Mr. S.V. Dixit, Advocate for petitioner

Mrs. V.N. Patil-Jadhav, AGP for respondent Nos.1 and 2

Mr. A.B. Girase and Mr. Y.B. Bolkar, Advocates for respondent No.3

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**CORAM : SMT. VIBHA KANKANWADI AND
Y.G. KHOBRADE, JJ.**

DATE : 13th OCTOBER, 2022

JUDGMENT : [PER : SMT. VIBHA KANKANWADI, J.]

1 Rule. Rule made returnable forthwith. Heard learned Advocates for the parties finally, by consent.

2 By this petition, the petitioner invokes the constitutional powers of this Court under Article 226 and 227 of the Constitution of India to challenge the order dated 07.02.2019 issued by respondent No.1, whereby proposal of commencement of new college by the petitioner came to be rejected and also to challenge order dated 15.03.2018 issued by respondent No.1 rejecting the application of the petitioner for commencement of the college itself.

3 The petitioner is a Public Trust registered under the provisions of Maharashtra Public Trust Act as well as Co-operative Societies Act. Proposal for establishing college for running B.S.W. and M.S.W. courses was submitted by the petitioner as per the perspective plan prepared by respondent No.3. The said proposal was recommended by respondent No.3, however, it has been rejected by the respondent No.1 for the academic year 2018-2019 and

2019-2020. Hence, this writ petition.

4 Affidavit-in-reply has been filed on behalf of the respondent No.1 by Dr. Satish Madhavrao Deshpande, working as Joint Director, Higher Education, Jalgaon Region, Jalgaon. He admits that the university had published the perspective plan as stated in the petition, however, it was on the basis of the committee that was constituted by the Government under the Chairmanship of Dr. Narendra Jadhav. In all the proposals recommended by concerned universities there was proposal of the petitioner. It is then stated that the said proposal of the petitioner as per the norms laid down in Government Resolution dated 15.09.2017 for the academic year 2018-2019 and 2019-2020 were scrutinized as per the control and responsibility of the grants in aid through Social Welfare Department for B.S.W. and M.S.W. courses. The Government has forwarded the said proposal to the said Department vide letter dated 15.03.2018 and 07.02.2019, however, the said Department has taken decision vide Government Resolution dated 24.08.2004 that taking into consideration the fact of intake capacity and actual admission taken by the students no permission on permanent non grant basis or grant basis be given to B.S.W. and M.S.W. courses. Under such circumstances, the permission/proposal came to be rejected.

5 Heard learned Advocate Mr. S.V. Dixit for the petitioner, learned

AGP Mrs. V.N. Patil-Jadhav for respondent Nos.1 and 2 and learned Advocate Mr. Y.B. Bolkar for respondent No.3.

6 Learned Advocate appearing for the petitioner has referred to Section 109 of the Maharashtra Public Universities Act, 2016 and submitted that accordingly the university had published the perspective plan for establishment of new social work college. On 15.11.2017 the approval was given by the respondent No.3 university. It was pursuant to the application that was made by the petitioner on 30.09.2017 intending to start the college for the said courses. He relied on the decision of this Court in **Writ Petition No.11579 of 2019 (Ashwamedh Bahuuddeshiya Shaikshnik Va Samajik Sanstha, Osmanabad, Through its Secretary vs. The State of Maharashtra and others)** with companion matters, decided by this Court on 26.11.2020, wherein similarly situated colleges/Trusts, which were intending to start similar courses, whose proposals came to be rejected, had approached this Court, even at that time reference was made to the report of Dr. Narendra Jadhav Committee and the need for establishment of such colleges. Respondent No.4 therein i.e. Dr. Babasaheb Ambedkar Marathwada University had published the perspective plan for such colleges at Osmanabad, Shendra, Aurangabad and Sakri. Further, in that case reliance was placed on the earlier two decisions of this Court i.e. **Writ Petition**

No.2444 of 2017 and **Writ Petition No.4422 of 2017** dated 07.11.2017. Writ Petition Nos.2440 of 2018 and 2573 of 2018 are decided on 20.07.2018, wherein the ban on starting new courses on the basis of Government Resolution dated 24.08.2004 was held to be unjustified. So also, in the said Writ Petition No.11579 of 2019 it was similarly held and it was then stated that by quashing the impugned order the respondent No.1 was directed to decide the recommendations by the university and not to reject the said proposals on the ground of Government Resolution dated 24.08.2004. When the petitioner herein is similarly situated, learned Advocate appearing for the petitioner prayed for similar orders.

7 Learned AGP relied on the Government Resolution dated 24.08.2004 and submitted that the policy decision was taken by the State that no such approval be granted since 2004-2005, in view of the fact that there was less number of admissions.

8 In view of the fact that already this Court has come to the conclusion in the earlier cited decisions that in view of the fact that the Government itself had appointed a committee headed by Dr. Narendra Jadhav and it appears that the report of the committee was accepted and thereupon the university proceeded with perspective plan, then, now, the

respondent cannot go back and bent upon its resolution dated 24.08.2004. Further, the situation in 2004 is not prevalent, definitely, there would be demand for starting such courses. Taking into consideration the utility of the social workers the graduates from the said courses we are required to consider the present need. Hence, definitely, a case is made out to allow the writ petition, on the same basis as it was earlier held by this Court in the petitions above referred.

9 For the above said reasons, we deem it appropriate to quash and set aside the impugned communications and direct respondent No.1 to decide on the recommendation by university with reference to the perspective plan and the academic year, taking into account that proposals were pursuant to perspective plan for 2018-2019 and 2019-2020 and the decision of Division Bench of this Court in Writ Petition No.11579 of 2019 and not to reject proposals on the ground of Government Resolution dated 24.08.2004 and to pass appropriate orders within a period of six weeks from the date of receipt of writ of this order. Writ Petition disposed of accordingly. Rule made absolute in above terms.

(Y.G. Khobragade, J.)

(Smt. Vibha Kankanwadi, J.)