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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

923 CIVIL APPLICATION NO.17207 OF 2022
IN WP/8618/2022

URDU EDUCATION SOCIETY, THROUGH ITS PRESIDENT
SHAIKH MOHAMAD AYYUB AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA, THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

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Mr R. N. Dhorde, Senior Advocate i/b Mr V. R. Dhorde, Advocate
for applicants/petitioners;
Mr P. S. Patil, A.G.P. for respondent Nos.1 & 2
Mr S. S. Tope, Advocate for respondent Nos.3 to 5

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 21st December, 2022

PER COURT:

1. The applicants/petitioners have put forth prayer clause (A),
which reads as under :-

“A) Grant this Civil Application and direct the Respondent No.3 – University to generate the additional examination forms for 42 students admitted for B.Sc. 1st year course in the applicant-college and further accept the necessary fees and examination forms and permit the said 42 students to appear for 1st semester examination for B.Sc. Course for that purpose issue necessary orders;”

(2)

2. In support of prayer clause (A), the applicants/petitioners have put forth their pleading in paragraph Nos.4, 5 and 6, which read as under :-

“4. The applicants state that, despite Writ Petition No. 8618/2022 is pending before this Hon’ble Court on 18.11.2022, the Respondent No.3 – University arbitrarily issued letter to the applicants/petitioners directing to deposit the fine of Rs.2,00,000/- with interest and if the same is not deposited the further action will be taken and further examination forms of the students will not be accepted. The applicants replied the said letter on 12.12.2022 informing that by letter dated 26.07.2022, the applicants had already informed the admissions in the petitioner college which is already done before the impugned action is taken. The applicants have also informed about filing of the present Writ Petition, and therefore, requested the Respondent – University not to take any action as the matter is subjudice before this Hon’ble Court. Hereto annexed and marked as Exhibit ‘P-III’ Collectively is the copy of the letter dated 26.07.2022 sent by the applicants to the Respondent No.3 – University, letter dated 18.11.2022 issued by the respondent No.3 – University to the applicants along with reply dated 12.12.2022 given by the applicant/college.

5. The applicants state that, in view of the abovementioned facts, it is necessary to direct the Respondent No.3 – University to accept the examination forms of 42 students for 1st year B.Sc. course, who are already admitted to which the Permanent Registration Number is already issued by the Respondent No.3 - University as mentioned above. The applicants state that, the Respondent No.3 – University is not allowing and/or the

(3)

online application forms for remaining 42 students are not generated on the portal of the University, therefore, the applicants are unable to fill in the examination forms of 42 students admitted in the College for 1st year B.Sc. Course. The applicants state that, therefore, it is necessary to direct the Respondent No.3 – University to generate 42 examination forms on its web portal to be filled in by the applicants for 42 remaining students for 1st year B.Sc. course. The applicants state that, considering the interest of the students as they were already admitted before the impugned action was taken the said students are necessary to be appeared for 1st Semester examination, which is commencing from 27.12.2022.

6. The applicants state that, in view of the abovementioned facts and circumstances of the case, the applicants have good case on merit and hope to succeed in the matter. The applicants state that, therefore, the applicants are approaching this Hon'ble Court by way of filing the present Civil Application seeking directions against the Respondent No.3 – University to allow the applicants to fill in the examination forms of 42 students of 1st year B.Sc. course admitted in the applicant/college and further allow them to appear for 1st Semester examination commencing from 27.12.2022. The applicants state that, if the Civil Application is not allowed, the applicants would suffer irreparable loss and hardship. The balance of convenience lies in favour of applicants.”

3. The learned Advocate representing the University refers to his first affidavit dated 05/09/2022 and contends that, because of certain deficiencies, an order was passed on 22/07/2022, which was received by the petitioner/Management on 25/07/2022,

(4)

declaring that certain courses are placed in 'no admission' category. Insofar as the intake capacity for the courses of B.A., B.Sc., B.Com. and M.A. (Urdu) are concerned, the impugned order reduces the intake strength to 50%.

4. In this civil application, the applicants have put forth a grievance restricted to the B.Sc. category, since the Institution was approved of the intake strength of 120 students for the B.Sc. faculty. 102 students were admitted much prior to the issuance of the impugned order. At the time these students were admitted, the petitioners' approved intake capacity was 120. By the impugned order dated 22/07/2022, the intake capacity of the same B.Sc. course has been reduced to 50%.

5. The learned Senior Advocate Shri. Dhorde, points out from the Students PRN Report for the B.Sc. 1st Semester course for the academic year 2022-23, that the University to which the applicant/College was affiliated, namely, Dr. Babasaheb Ambedkar Marathwada University, Aurangabad, has already granted the Permanent Registration Number (PRN).

6. The learned Advocate for the University, submits on the basis of the record that, the impugned order is dated 22/07/2022

(5)

and the 102 students were admitted prior to the issuance of the impugned order.

7. In the above facts, we are of the view that, as the impugned order declares a decision to reduce the intake capacity of B.Sc. Course to 50%, i.e. bringing it down to 60 seats, in the backdrop of 102 students already been admitted, such a decision could only be operative prospectively, lest, the future of 42 students would hang in balance. Had the impugned order been passed prior to admitting the students beyond 60, the applicants would have been under an embargo not to admit even a single student beyond 60. Since the admission of 102 students, in the backdrop of the approved intake capacity of 120 students, occurred prior to the issuance of the impugned order, the impugned order would apply to this Management prospectively, subject to the decision in the writ petition.

8. In view of the above, this civil application is partly allowed in terms of prayer clause (A).

9. We would expect the learned Advocate for the University, to communicate this order dictated in open Court, to the University.

(6)

10. List the writ petition for admission/hearing on 11/01/2023.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

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