

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

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WRIT PETITION NO. 646/2021

* Shri Rajabhau Jachak College of Education
Near Canal, Arvi Road, Yelakeli,
Tah. Seloo, Dist. Wardha
run by Shri Vyankatesh Shikshan Sanstha
Dist. Wardha (Registration No. MH/237/07)
Through its President
Shri Prashant s/o Rajabhau Jachak
Aged about 50 years, R/o State Bank Colony
Wardha Dist. Wardha.

..PETITIONER

v e r s u s

- 1) The Director of Higher Education
State of Maharashtra
Central Building, Pune.
- 2) The Joint Director of Higher Education
State of Maharashtra
Nagpur Division, Nagpur.
- 3) Rashtrasant Tukdoji Maharaj
Nagpur University, Nagpur
Through its Vice Chancellor
Civil Lines, Nagpur.
- 4) The Union of India
Through its Secretary
Ministry of Human Resource Development
Department of School Education and
Literacy, Shastri Bhawan, New Delhi.
- 5) National Council for Teacher Education
Through its Chairman
having office at G-7 Sector 10

Dwarka Near Metro Station
New Delhi 110 075 (India)

.. **RESPONDENTS**

.....
Mr.S.PBhandarkar, Advocate for petitioner
Mr.Anand Fulzele, Addl.G.P for respondent nos.1 and 2
Mr.Sudhir Puranik, Adv.h/for Mr.J.J, Chandurkar,
Advocate for respondent no.3
Respondent no.4 served
Mr Rohit Sharma,Advocate for respondent no.5
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CORAM: SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ
DATED : 10th January, 2022

ORAL JUDGMENT: (PER SUNIL B.SHUKRE, J.)

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent.
2. The petitioner-Institution is the College which has been conducting Bachelor of Education course since about 2008 after approval was granted by respondent no.5. The petitioner is an Institute affiliated to respondent no.3-University.
3. The admissions to Bachelor of Education course are made under the Centralized Scheme and when the process for making of admission to this course for the academic year 2020-21 was opened, to the utter surprise of the petitioner, the petitioner did not find its name in the list of Colleges where admissions could be secured by the students. The petitioner made enquiry and another surprise visited the

petitioner. The petitioner learnt that the approval granted to the petitioner to conduct the said course was withdrawn by respondent no.5-Council. It is the contention of learned counsel for the petitioner that there was no show-cause notice issued to the petitioner nor copy of the order of withdrawal was served upon it and it is also submitted that no principles of natural justice have been followed in the present case.

4. Mr. Sharma, learned counsel for respondent no.5, the main contesting party, submits that proper procedure has been followed in the present case, inasmuch as copy of the show-cause notice has been sent to the petitioner and that copy of order withdrawal of the approval too was sent to the petitioner. He submits that both these copies were sent by speed post.

5. The contentions so made on behalf of respondent no.5 are also made in the reply supported by an affidavit of respondent no.5 but, no proof of service of show-cause notice has been filed on record. There is one document at Page 71 to which our attention has been invited by learned counsel for respondent no.5 in order to support the contention that the show-cause notice was sent to the petitioner. But, this document only gives the tracking number of the article which was sent

by speed post to the petitioner and nothing more. The respondent no.5 has not filed on record any screenshot of the result of the enquiry made by using the tracking number appearing on Page 71 and if it had been filed on record, perhaps, it would have indicated something about the delivery of the article under Receipt No. 206917 but, that has not been done by respondent no.5. In fact, it is an admitted position that now no document whatsoever showing delivery of article under Receipt No.206917 to the petitioner, is available.

6. There are certain developments which have taken place after the so called withdrawal of approval order has been issued by the respondent no.5. This order which has been impugned here is of the date 14.10.2019. However on 21.07.2020, the respondent no.3- University has, by allowing the appeal to grant affiliation to the petitioner for the academic year 2020-21, granted affiliation to the petitioner for the year 2020-21 as well. If the University had been informed of the withdrawal order, the University would not have granted any affiliation to the petitioner for the academic year 2020-21. Now the Inquiry Committee of the University has recommended grant of affiliation even for the academic year 2021-22 as informed by learned counsel for the petitioner. In support of the same, learned counsel for

the petitioner has produced before this Court copy of the recommendation which is taken on record and marked as Document "A". This recommendation would not have been there if the University had been sent the withdrawal order. These developments only support the contention that neither the show-cause notice nor withdrawal order has been served upon the petitioner and, thus, the principles of natural justice have not been followed in this case.

7. It is also the submission of the learned counsel for the petitioner that even the requirements of Section 17 of the National Council for Teacher Education Act, 1993 have been contravened. In support, he invites our attention to the provisions made in Section 17 of the Act. On going through Section 17 of the said Act, it is seen that whenever an order of withdrawal of recognition is to be passed, a reasonable opportunity of making a representation against the proposed order has to be given to the recognized institution and copy of the withdrawal order has to be sent to the concerned institution and also the concerned university. Not only that, it is also required to be published in the Official Gazette for general information. None of these requirements has been followed in the present case. The reply filed by respondent no.5 nowhere states anything about publication of the

impugned order in the Official Gazette. In view of the above, we find that the impugned order is bad in law.

8. In the result, the Writ Petition is allowed in terms of Prayer clause "B" and we direct that the petitioner-Institution be allowed to take part in the admission process for the academic year 2021-22.

9. Rule accordingly. No costs.

JUDGE

JUDGE

sahare