

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

WRIT PETITION NO.1251 OF 2023

**MARATHWADA NAVNIRMAN LOKAYAT MANAVLOK
THROUGH ITS SECRETARY ANIKET DWARKADAS**

LOHIYA

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Advocate for the Petitioner : Shri Deshmukh Shambhuraje V

AGP for Respondents 1 to 3/State : Shri S.G. Karlekar

Advocate for Respondent 4/University : Shri S.S. Tope

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CORAM : RAVINDRA V. GHUGE

&

SANJAY A. DESHMUKH, JJ.

DATE :- 06th February, 2023

Per Court :-

1. The petitioner is aggrieved by the impugned communication dated 15.11.2019 issued by respondent No.1 refusing to grant approval to the proposal of the petitioner, which has been forwarded with positive recommendations by the University for establishment of an unaided Bachelor of Social Work additional course at Ambajogai, District Beed, in accordance with the perspective plan. The rejection is on the ground that there was a ban.

2. The learned advocate for the petitioner relies upon the following orders vide which, the ground of ban was held to be inoperable and unconnected with such proposals:-

(a) The order passed by this Court at Nagpur, dated 20.07.2018 in Writ Petition Nos.2440/2018 and 2573/2018 (***Late Manikrao Govindrao Khadse Gramin Vikas vs. State of Maharashtra and others***).

(b) The orders dated 24.07.2018 and 31.07.2018, delivered by this Court at Aurangabad in Writ Petition No.14724/2017 (***Disha Bahuuddeshiya Sevabhavi Sanstha vs. The State of Maharashtra and others***).

(c) The order of the Honourable Supreme Court dated 08.02.2019 in Special Leave Petition (Civil) Diary No.1145/2019 with reference to the order dated 20.07.2018 passed by the Nagpur Bench in Writ Petition Nos.2573/2018 and 2440/2018, vide which, the SLP has been dismissed.

(d) The judgment dated 26.11.2020 passed by this Court at the Aurangabad Bench in Writ Petition No.11579/2019 (***Ashwamedh Bahuuddeshiya Shaikshnik Va Samajik Sanstha vs. The State of Maharashtra and others***).

3. The learned AGP has appeared on behalf of the respondents/State and Shri Tope, the learned advocate, has caused an appearance on behalf of the University.

4. The learned AGP is right in submitting that when the impugned order was passed as long as on 15.11.2019, the petitioner has preferred this petition on 13.01.2023, which is after three years and three months. This delay will have to be explained by the petitioner considering the law laid down by the Honourable Supreme Court in the *State of Uttar Pradesh and others vs. Arvind Kumar Srivastava and others, 2015 (1) SCC 347*.

5. The learned advocate for the University submits that the petitioner's proposal was forwarded with positive recommendations since the Committee scrutinizing the proposal noticed that a good case was made out.

6. The learned advocate for the Petitioner submits that insofar as the delay is concerned, there is indeed a delay, which has been triggered on account of the national lock-down due to the covid pandemic w.e.f. 24.03.2020. He concedes that though the restrictions were lifted in January, 2021, this petition has been filed in January, 2023. On account of delay, the petitioner

Management is willing to donate an amount of Rs.20,000/- (Rupees Twenty Thousand) within three weeks, to the High Court Advocates' Association, Bench at Aurangabad.

7. Insofar as the laches are concerned, we do not find that laches or oblique motives could be attributed to the conduct of the petitioner.

8. Having considered the law crystalized by this Court vide the above referred judgments/ orders and in view of the fact that the Honourable Supreme Court has sustained the order of this Court dated 20.07.2018 (supra), that **this Writ Petition is partly allowed**. The impugned communication dated 15.11.2019 is quashed and set aside.

9. By the consent of the petitioner and since the peculiar facts of this case so warrant, the proposal of the petitioner dated 29.09.2018 shall now be considered only for the academic year 2023-2024 for Ambajogai city, since it fits into the perspective plan which is alive till the academic year 2023-2024. However, we deem it appropriate to record that if the slot for which the petitioner's college was recommended, has already been occupied by any other recommendation having been approved by the State Government, the appropriate authorities

may consider that aspect while deciding the claim/ proposal of the petitioner afresh, on it's own merits. Needless to state, the claim of the petitioner shall not be rejected on the ground of ban since that ground is not available to the authorities for rejecting the proposal. We expect the decision from the appropriate authorities as expeditiously as possible and preferably on or before 30.04.2023.

kps

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)