

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

WRIT PETITION NO.4728 OF 2021

1. Shikshan Prasarak Sanstha,
Sangamner,
Through its Chairman,
Sanjay Malpani
Tal. Sangamner, Dist. Ahmednagar

2. Omkarnath Malpani Law College,
Sangamner,
Through its Principal,
Sangamner, Tq. Sangamner,
Dist. Ahmednagar

... Petitioners

Versus

State of Maharashtra
Through its Secretary,
Higher & Technical Education,
Department, Mantralaya,
Mumbai

... Respondent

...

Advocate for Petitioners : Mr. Anil S. Bajaj
AGP for Respondent / State : Mr. S. B. Yawalkar

...

**CORAM : MANGESH S. PATIL
AND
NEERAJ P DHOTE, JJ.**

DATED : 07TH NOVEMBER 2023

PER COURT :

. Heard. Rule. Rule is made returnable forthwith. Learned
AGP waives notice on behalf of the respondent / State. Heard finally at
the stage of admission.

2. Since the request of the petitioner seeking grant-in-aid was not being considered by the State Government, the petitioners had filed a Writ Petition bearing No.1255 of 2015. By the order dated 05.07.2017 the writ petition was disposed of with following operative part:

“(i) Respondent No.1 is directed to allow the proposal of Petitioner No.2 – college for the grant of grant-in-aid based upon application dated 27th March, 2008 and deal with the same in accordance with the then existing grant-in-aid policy of 1991, phase-wise from 27th March, 2009 and pass appropriate and consequential order accordingly.

(ii) Petition is allowed. Rule is made absolute accordingly. No costs.”

3. Aggrieved by the above order, the State had gone in appeal before the Supreme Court. The Supreme Court by the order dated 28.09.2018 disposed of SLP (C) No.027051 of 2018. The order dated 28.09.2018 reads thus:

“O R D E R

Delay condoned.

Leave granted.

It is stated by the learned counsel appearing for the parties that the grant-in-aid will be released from 18th July, 2017 i.e. from the date of impugned order passed by the High Court of Judicature at Bombay Bench at Aurangabad, as per the rates and percentage fixed in the GRO. Institutions shall have to abide by the conditions in the Government Resolution No. NGC-2019 dated 08th August, 1991.

The impugned judgment and order is modified to the said extent.

Appeals are accordingly disposed of.

Pending application, if any, also stand disposed of.”

4. The learned advocate for the petitioners submits that when a statement was made before the Supreme Court on behalf of the State Government that the grant-in-aid would be released with effect from the date on which the High Court had passed the order i.e. 18.07.2017, while issuing the resolution on 13.09.2019 the State has played a trick and has in fact passed the resolution to the effect that petitioner institute has been held to be entitled to have the grant in aid starting from 18.07.2017, but in accordance with the government resolution dated 08.08.1991, it was to be released in a phased manner after three years of 18.07.2017 and sanctioned 25% grant in the fourth year i.e. 18.07.2020 and so on.

5. The learned advocate for the petitioners would submit that in spite of specific stand to release the grants with effect from a specific date, the State Government has gone back from its words and has only released it with effect from a future date i.e. 18.07.2020.

6. The learned AGP referring to the affidavit-in-reply would submit that the petitioner was found entitled to have the grant-in-aid and the State has passed the resolution holding it to be so entitled with effect from 18.07.2017. In accordance with the policy it has directed to release the grant from 4th year onwards. There is no illegality. It is a matter of policy.

7. Once having committed before the Supreme Court to release the grant with effect from 18.07.2017, in fact the State ought to have actually released the grant from that date onwards may be in a phased manner according to its policy.

8. The petitioner has been running the college since 1998 and it is not that it had started it on 18.07.2017. Once the State had expressly made a statement before the Supreme Court and the order specifically reads about release of the grant-in-aid, the question of independently deciding the issue as to grant of sanction was not alive for being considered by the State Government independently.

9. In the light of above, the impugned Government Resolution directing release of the grant from the fourth year i.e. with effect from 18.07.2020 is clearly in derogation of the order of the Supreme Court and is liable to be quashed and set aside with a further direction to the State Government to rectify the error and pass a fresh order releasing the grant with effect from 18.07.2017.

10. The Writ Petition is allowed. The impugned order is quashed and set aside. The respondent no.1 shall pass appropriate order releasing the grant to the petitioners' college strictly in accordance with the statement made before the Supreme Court. A fresh order shall be

passed as expeditiously as possible and in any case within four weeks from today. Rule is made absolute accordingly.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE

GGP