

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO.8033 OF 2021

AMD COLLEGE THROUGH ITS PRESIDENT DILIP ARJUNE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Deshmukh Shambhuraje V
AGP for the respondent – State : Mr. A.A. Jagatkar
Advocate for respondent no. 2 : Mr. S.S. Tope
Advocate for respondent no. 3 : Ms. Rucha Kulkarni h/f. Mr. S.S. Jadhavar
...

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

DATE : 3 NOVEMBER 2023

PC :

The petitioner is challenging the letter of intent (LOI) issued to the respondent no. 3 pursuant to the provisions of section 109 of the Maharashtra Public Universities Act, 2016 for establishment of Arts, Commerce and Science College at Sonnath (J), Tq. and District Jalna.

2. The learned advocate for the petitioner submits that the petitioner had also applied for starting a new college at the same point as was done by the respondent no. 3 from the academic year 2021-22 in accordance with the annual plan and the perspective plan prepared by the respondent – university. The respondent no. 3 was not having necessary infrastructure and there were several other shortcomings and still the Government granted LOI under the discretionary powers

without indicating any reasons. He submits that the respondent no. 3 is no longer interested and in spite of having secured the LOI, has not been able to undertake further steps and even the LOI has lapsed. He submits that in view of such supervening events, there is no communication from the State government about the petitioner's proposal, the State may be directed to accord permission to petitioner for starting a new college at Somnath (J).

3. The learned advocate for the respondent – Mr. Tope submits that in-fact the petitioner as well as the respondent no. 3 were not entitled to establish the colleges. There was no positive recommendation still the LOI was granted by the State government to the respondent no. 3 without assigning reasons. That itself was illegal. He would submit that since the previous perspective plan has come to an end with the academic year 2023-24, the university is in the process of having a comprehensive perspective plan for the next five years as contemplated under section 107. Though the letter of intent was issued to the respondent no. 3 by the State government under its exceptional and discretionary power, that cannot enure to the benefit of the petitioner. It would be always open for it to apply again in accordance with the new perspective plan and the annual plan to be prepared by the respondent – university.

4. The learned AGP in accordance with the affidavit in reply would submit that the LOI was issued to the respondent no. 3 in the light of the proviso to clause (d) of section 109 as an exceptional case. Petitioner's proposal was for the year 2021-22 and it cannot be considered now.

5. Since it is a matter of starting a new college in the light of the provisions of section 109 read with section 107 of the Maharashtra Public Universities Act, the stand of the respondents that by efflux of time, since the perspective plan of the previous five years has lived its life and a new perspective plan and the annual plan will have to be prepared for the next period of 5 years, irrespective of the fact that the respondent no. 3 is no longer interested or has not completed all the subsequent stages leading to the final permission, without there being any request from the petitioner to the State government, this Court will not be in a position to issue any *mandamus*.

6. It would be always open for the petitioner to wait for the next perspective plan and the annual plan and if it is convenient to it to make a proposal for starting a new college thereunder.

7. Writ petition is dismissed.

[NEERAJ P. DHOTE]
JUDGE

arp/

[MANGESH S. PATIL]
JUDGE