

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8283 OF 2021

Praful S/o Prakash Rathod,
President of
Baliram Patil Missan Education Society,
Madavi, Age : 60 years,
Occu : Agri & Social Worker,
R/o : At Post Mandavi, Taluka : Kinwat,
District : Nanded

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through the Secretary,
Higher and Technical Education,
Department, Mantralaya,
Mumbai – 32.
- 2] The Desk Officer,
Mantralaya,
Mumbai – 32.
- 3] The Deputy Registrar of
Academic Affiliation Section,
Swami Ramanand Teerth Marathwada
University, Nanded
Dnyanteerth, Vishnupuri,
Nanded

.. Respondents

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Advocate for petitioner : Mr. Santosh C. Bhosle
AGP for the respondent – State : Mr. A.A. Jagatkar
Respondent no. 3 served – absent.

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 6 SEPTEMBER 2023

ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate for the petitioner and the learned AGP.

2. The petitioner is aggrieved by the order passed by the respondent no. 1 dated 06-07-2021 rejecting the proposal forwarded by the respondent no. 3 - University for opening of a new senior college at Madavi, Tq. Kinwat, District - Nanded.

3. The learned advocate for the petitioner submits that the petitioner had submitted a proposal on 27-02-2020. The committee of the respondent no. 3 - University visited the site and after considering the norms in accordance with the UGC guidelines forwarded a favourable proposal on 16-03-2021 under section 109 of the Maharashtra Public Universities Act, 2016 (**Act**). However, by the impugned communication, the respondents no. 1 and 2 have rejected the proposal. He submits that a favourable proposal has not been appropriately considered though it has been observed that the petitioner did not possess any lease deed and that the area was not sufficient, ignoring the fact that the petitioner was having his own land and the remaining portion was obtained by it on a notarized document. No opportunity of hearing was extended to it to rectify the shortcomings, if any, and the order has been passed against the principles of natural justice.

4. The learned AGP referring to the affidavit in reply filed by the Joint Director of Higher Education submits that by virtue of section 109(3)(d) of the Act, after examining the merits of the proposal seeking permission to start a college, the state government issues a letter of intent. It was issued to the petitioner on 31-01-2020. However, it is thereafter the University is supposed to submit a proposal for final approval. It was not forwarded by the University. The letter of intent was valid only till 31-01-2021 by virtue of that provision. Therefore, there is no active letter of intent in existence so as to undertake any re-scrutiny of the petitioner's proposal.

5. The learned AGP would further submit that the petitioner's proposal forwarded by the University was not complying with the requisite norms. Insufficient area was proposed. There was no registered lease deed and the deficiencies were communicated to the University. He, therefore, submits that the proposal could not be considered now. It would always be open for the petitioner to apply for starting a new college once again in accordance with law.

6. We have considered the rival submissions and perused the papers.

7. As far as the principles of law are concerned, the matter is squarely covered by the provisions of sections 107 to 112 of the Act.

There cannot be any dispute about the fact that going by the modalities leading to starting of the college after final approval is granted, it is imperative that pursuant to the initial favourable proposal from the University as contemplated under section 109(4), the government issues letter of intent whereupon another inspection has to be conducted and a fresh proposal is to be forwarded for final approval. As has been mentioned in the affidavit in reply and as has been indicated in the impugned communication, there were certain shortcomings which were not complied with. No rejoinder has been filed to controvert such a stand of the respondents no. 1 and 2 in the affidavit in reply. For this reason alone, the petitioner would not be entitled to claim any relief.

8. Independently, by virtue of section 109(3)(d), a letter of intent would be valid only for one year. Since no further steps could be taken within a period of one year from the letter of intent issued on 31-01-2020, even otherwise the petitioner is not entitled to insist for reconsideration of the initial proposal submitted under section 109(3)(d) of the Act.

9. In view of above, there is no active proposal which can be directed to be considered by the respondents. Needless to state that it is a matter of seeking approval for starting a new college and it would

always be open for the petitioner to take appropriate steps again if it intends to start a new college even hereafter.

10. The writ petition is dismissed with liberty to the petitioner to take appropriate steps for starting a new college as is contemplated under the Maharashtra Public Universities Act, 2016.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/