

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10273 OF 2022

Rajureshwar Shikshan Prasarak Mandal, Takali (Bhokardan),
Taluka Bhokardan, District Jalna,
through its President -
Ramesh Trimbakrao Gavande,
Age : 46 years, Occu. Service,
R/o. Takali (Bhokardan), Post Babhulgaon,
Taluka Bhokardan, District Jalna.

....Petitioner

Versus

1. The State of Maharashtra,
through its Principal Secretary,
Department of Higher and Technical Education,
Mantralaya, Mumbai.
2. Dr. Babasaheb Ambedkar Marathwada University,
Through its Registrar,
Aurangabad.

....Respondents

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Mr. Santosh S. Jadhavar – Advocate for the Petitioner
Mr. S. V. Hange – AGP for respondent / State
Mr. R. R. Shinde h/f Mr. S. S. Tope – Advocate for respondent No. 2
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CORAM : MANGESH S. PATIL
AND
NEERAJ P DHOTE, JJ.

DATE : 18.12.2023

PER COURT :

. Heard both the sides.

2. The Petitioner is aggrieved by the fact that in spite of the
University having forwarded the proposal as contemplated under Section

109 of the Maharashtra Public Universities Act, 2016 [hereinafter referred to as 'the Act'], nothing was communicated and till date no decision has been taken by the State Government particularly when, even there is a proviso to clause (d) of sub-section 3 of Section 109 of the Act enabling the State Government to consider the proposals favourably even if there is a negative recommendation. He would submit that this has happened twice before. Every time the Petitioner has to pay the requisite fees which is around Rs. 1.00 lakh. In the absence of any transparency and communication, the Petitioner would be burdened to pay another fees for the next year if a fresh proposal is to be submitted.

3. The learned AGP referring to the affidavit-in-reply would submit that since the University forwarded negative recommendation of the Petitioner, it was rejected. There was some time given for rectifying the errors for re-consideration, resorting to the aforementioned provision. However, nothing could transpire. It would be always open for the Petitioner to make another proposal for the new academic year. Practically, no purpose would be served by way of this petition since the academic year for which permission was sought for setting up of a new satellite centre has already half way down the line.

4. Having heard both the sides and having considered the provisions of the Act, it is apparent that Sections 107 to 109 lay down the

procedure *inter alia* for seeking permission for starting a new course or new College including a satellite centre. It is also *ex facie* clear that by virtue of aforementioned proviso to clause (d) of sub-section 3 of Section 109, even if there is a negative recommendation by the University, the State Government may consider the proposal positively and grant permission. It is also apparent from the reply that the Petitioner's proposal was rejected by the respondents. However, the reply is conspicuously silent as to how the decision, if any, was ever communicated to the Petitioner. Even if grant of such permission being an administrative action, all the principles of natural justice may not be followed, still when these provisions contemplate that permission for starting a new College etc. by paying requisite fees it is imperative that something is communicated to the institute concerned in response to its proposal. Apparently, only a notification wherever such permissions are granted to various Colleges is issued.

5. Be that as it may, admittedly, the perspective plan for the Respondent No. 2 – University would come to an end by the end of the current academic year. By virtue of the aforementioned provisions, if a fresh perspective plan would come into being for the next five years, obviously necessary process will be undertaken and it would be published and even there would be an annual plan. The Petitioner will have to again submit a fresh proposal if it still intends to establish a satellite centre. Since the tenure of the existing perspective plan under which the Petitioner had

applied is coming to an end at the end of this academic year and now that we are already in December – 2023, no practical purpose would be served by directing the respondents to communicate something to the Petitioner.

6. The learned advocate for the Petitioner would submit that considering the history, the Petitioner will have to take up another burden of requisite fees of around Rs. 1.00 lakh. Therefore, at least the Petitioner may be exempted from paying such fees if and when it makes a fresh proposal.

7. We are afraid this Court in exercise of the powers under Article 226 of the Constitution of India cannot create an exception to the Regulations of the respondent – University, which mandate payment of requisite fees for processing a proposal for setting up a new College, etc.

8. The Petition has practically become *infructuous* and is disposed of.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE

SG Punde