

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

WRIT PETITION NO. 9809 OF 2022

Nisargadeep Shikshan Prasarak Mandal,
Aurangabad, 17/2, Banjara Colony,
Naik Nagar, Aurangabad,
Through its Secretary,
Shri Vijendra S/o Gulabsingh Jadhav,
Age : 53 years, Occu. : Social Service,
R/o 17/2, Banjara Colony,
Naik Nagar, Aurangabad,
Tq. & Dist. Aurangabad. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Higher Education Department,
Mantralaya, Mumbai – 32.
2. Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad,
University Campus, Near
Soneri mahal, Jaisingpura,
Aurangabad, Maharashtra 431004
Through its Registrar. .. Respondents

Shri V. D. Sapkal, Senior Advocate i/by Shri S. T. Chalikwar,
Advocate for the Petitioner.
Shri S. B. Yawalkar, Addl.G.P. for the Respondent No. 1.
Shri S. S. Thombre, Advocate for the Respondent No. 2.

**WITH
CIVIL APPLICATION NO. 14436 OF 2022
IN
WRIT PETITION NO. 9809 OF 2022**

Baburao Ramdas Pawar and another .. Applicant

Versus

Nisargadeep Shikshan Prasarak Mandal,
Through its Secretary and others .. Respondents

Shri S. S. Tope, Advocate h/f Shri Vaibhav U. Pawar, Advocate
for the Applicants.

Shri S. T. Chalikwar, Advocate for the Respondent No. 1.

Shri S. B. Yawalkar, Addl.G.P. for the Respondent No. 2.

Shri S. S. Thombre, Advocate for the Respondent No. 3.

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

CLOSED FOR JUDGMENT : 23.08.2023

JUDGMENT PRONOUNCED ON : 29.08.2023

JUDGMENT (*Per Shailesh P. Brahme, J.*) :-

. Rule. Rule is made returnable forthwith. With the consent of parties taken up for final hearing at the admission stage.

2. The petitioner is an educational institution registered under the provisions of the Maharashtra Public Trust Act, 1950 (for the sake of brevity and convenience hereinafter referred as to the “Act of 1950”). It is challenging the communication dated 06.09.2022 addressed by the respondent No. 2/University withdrawing affiliation of the college run by it from the academic year 2022-2023. Additionally, the petitioner is seeking directions to restore the affiliation and to permit to run the college.

3. The respondent No. 2 has filed affidavit in reply opposing the prayers and the claim of the petitioner. An application for

intervention bearing Civil Application No. 14436 of 2022 is filed contesting the petition.

4. It is the case of the petitioner that it runs Shri Tulja Bhavani Arts and Science College at Chitte Pimpalgaon, Tq. and Dist. Aurangabad on permanent non grant basis since 2009. The respondent No. 2/university has extended affiliation to the college since 2009. The affiliation committee of the respondent No. 2 inspected the college every year. After being satisfied with the infrastructural facilities, the renewal used to be given by the university. The renewal continued upto the year 2019-2020.

5. The petitioner trust is being governed by the newly elected managing committee from 21.06.2020 for the period 2020-2025. A change report to that effect is subjudice before the competent authority under the Act of 1950. There is dispute between two groups of the management. The rival group of the petitioner is comprising of six members, who had resigned from the membership. At their instance nuisance and hurdles are being created in the smooth functioning of the college. Bank account was also closed due to their complaint. The login ID and the password of the college was secured by the rival group, which led to the police complaint.

6. It is further averred that due to the disputes in the management, the recruitment of the principal and the staff could not be made. It is stated that on 02.05.2022, the Secretary was confronted with the show cause notice for withdrawal of

affiliation issued by the respondent No. 2/university without there being any service of the notice on the petitioner. The reply was submitted on 21.05.2022. The report of the Dr. Wayker Committee was never supplied to the petitioner. The Board of Deans of the respondent No. 2 recommended for withdrawal of recognition which was approved by the Academic Council. By letter dated 06.09.2022, ultimately affiliation of the college was withdrawn. The action is arbitrary, illegal and inspired by the frivolous complaints of the rival group.

7. The respondent No. 2 would support the action of withdrawal of affiliation. It is contended in the reply that the impugned action was taken as per the provisions of Section 120 read with Section 108 of the Maharashtra Public Universities Act, 2016 (hereinafter referred as to the “Universities Act” for the sake of brevity and convenience). The affiliation is withdrawn after following statutory procedure and giving opportunity of hearing. It is contended that before pandemic of Covid-19 severe deficiencies were noticed. By show cause notice dated 26.12.2019, the petitioner was apprised of the deficiencies. Reply was received on 24.01.2020. Thereafter inspection committee under the Chairmanship of Dr. Wayker was appointed to conduct inspection.

8. On 09.02.2021 and 11.06.2021, the inspection committee visited the college and prepared report disclosing infrastructural deficiencies due to the disputes in the management. The report dated 23.08.2021 was submitted to the university.

9. After the inspection and report of Dr. Wayker committee, a show cause notice was given to the petitioner on 16.03.2022. The petitioner tendered reply on 21.03.2022. Thereafter the matter was placed before the Board of Deans for further consideration. In a meeting dated 07.07.2022, it was resolved to withdraw the affiliation of the college run by the petitioner. The resolution was placed before the Academic Council on 29.08.2022. Thereafter the decision was taken by the learned Vice Chancellor withdrawing the affiliation of the college. It was communicated to the petitioner by the impugned letter.

10. We have heard learned counsel for the intervenors. He would support the action taken by the university. The contents of the civil application reflect disputes in the management. It is not necessary to enter into that controversy.

11. Having considered the submissions canvassed by the respective parties, a short question falls for our consideration regarding validity of the action taken by the respondent No. 2/University for withdrawal of the affiliation of the college U/Sec. 120 of the Universities Act.

12. The petitioner and the intervenors/applicants have made allegations against each others. We are not inclined to go into the disputes in the management, their rival claims for entitlement to the office of the trust and proceedings pending before the other forum. In a writ jurisdiction, we are examining

the decision making process and nothing beyond that. The respondent No. 2 is expert to decide the prevalence of academic standards. The writ court has limitations to examine decision so rendered.

13. The respondent No. 2/university is empowered to inspect affiliated colleges. It has every authority to examine whether the conditions of the affiliations are adhered to. Section 108(1) Clauses (d), (f) and (g) of the Act obliges the management to maintain required academic standards. The infrastructural facilities are the back bone to maintain educational standards. The university is empowered to withdraw the affiliation if the college is being conducted in a manner prejudicial to the interest of the university or the standards laid down by it.

14. It is seen from the record that the college was being inspected every year for renewal of affiliation. The affiliation committee submitted a report on 23.04.2019. The respondent No. 2 has produced a show cause notice dated 26.12.2019 issued on the basis of the inspection report. It reveals that the college was lacking many basic infrastructural facilities and was given less percentage of marks than the bench mark. Considering the poor performance, the petitioner was called upon to reply. An opportunity was extended. The reply was tendered on 24.01.2020. Thereafter the university appointed a separate committee under the Chairmanship of Dr. Wayker.

15. It is not disputed by the parties that the inspection of the

college was conducted by the affiliation committee. A report was submitted on 23.08.2021 by the committee. The inspection was conducted on two occasions. Following deficiencies were recorded in the report.

- (i) The writing boards in the class rooms were not in order.
- (ii) No facilities were available in the computer section.
- (iii) There were no apparatus in the laboratories of physics, chemistry and zoology. The laboratories were not as per the standards.
- (iv) The library was not having the books quoted by the management.
- (v) Only few old books were found. There was no register maintained in the library.
- (vi) No documents were made available showing the muster, salary statements of the employees, appointment orders, the approvals, tuition fees and lease agreement.
- (vii) In a class room furniture and toys of primary school students were found.
- (viii) There were no teachers, librarian and regular principal.
- (ix) No facility of drinking water, gymnasium, hostel, canteen, ladies room, play ground, bio-matric, botanical garden, etc. were seen.

16. It transpires from the record produced by the respondent No. 2 that the report of Dr. Wayker Committee was considered by the respondent No. 2. A show cause notice was given on 16.03.2022. An acknowledgment is found at page No. 307 having

received the notice by the petitioner. The learned counsel for the petitioner has denied the acknowledgment. It is claimed that the intervenor has acknowledged it.

17. Though the petitioner has disputed the acknowledgment, no endeavour is made to show that notice was never served upon the petitioner. On the contrary there is a correspondence dated 05.05.2022 at Exhibit I addressed by the Secretary to the university seeking time to tender reply. Reply appears to have been tendered on 21.05.2022. This shows that the petitioner was given opportunity of explaining the deficiencies noted by the inspecting committee.

18. The report, show cause notice and reply were placed before the Board of Deans as contemplated by Section 120(3) of the Universities Act. In a meeting dated 07.07.2022 a recommendation was made to withdraw the affiliation of the college. The said resolution is placed on record by the respondent No. 2/university. Thereafter matter was placed before the academic council for further action as per Section 120(3) of the Universities Act. The academic council approved the recommendation. It was forwarded to the learned Vice Chancellor.

19. The recommendation of the academic council dated 29.08.2022 reveals that the impugned decision of withdrawal of affiliation was taken from the academic year 2022-2023. A care is also taken to adjust the students in the neighbouring colleges.

20. We do not find any infirmity in the procedure followed by the respondent No. 2/university. The statutory procedure contemplated by Section 120 of the Universities Act is followed by the university. The impugned decision appears to have been taken in the interest of the students. The expert committee found serious deficiencies in the infrastructural facilities.

21. We find that the respondent No. 2/university has taken due care of examining the conducive atmosphere in the concerned college which would be always very solemn. The decision making process cannot be faulted with. The learned senior counsel for the petitioner is unable to persuade us to show violation of mandatory and statutory procedure. We do not find any merit in the submissions that due to disputes in the management the impugned action was prompted or adequate facilities were overlooked while arriving at impugned decision.

22. The disputes in the management are a common feature now a days. But that by itself may not affect the college. Basic infrastructural facilities are must to maintain academic standards. The present case reflects serious lapses having large magnitude which are found to be sufficient to disqualify the petitioner from running the college. We find justification for the respondent No. 2/university in taking drastic action of withdrawal of affiliation.

23. For the reasons stated above, we do not find any merit in

the writ petition. The writ petition is dismissed. Rule is discharged. There shall be no order as to costs.

24. The civil application for intervention also stands disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Aug. 23