

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4839 OF 2021

President/ Secretary,

Shri. Vitthalai Charitable Trust

... Petitioner

versus

The State of Maharashtra and Others

... Respondents

.....

Mr.Yuvraj S. Gharat for the Petitioner.

Mr.S.H.Kankal, AGP for Respondent No.1 -State.

Mr. A.K.Jalisatgi with Mr. T.R. Yadav for Respondent Nos. 2 and 3.

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**CORAM : NITIN JAMDAR AND
MANJUSHA DESHPANDE, JJ.**

DATE : 11 OCTOBER 2023

P.C. :

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order passed by Respondent No.2-Vice Chancellor, Maharashtra Animal and Fishery Science University dated 28 June 2021 invoking the provisions of Regulation 4 (VI) (b) of the University's Livestock Management and Dairy Diploma by Approved Private Institutes / Schools Regulations, 2016 (विद्यापीठाचा पशुधन व्यवस्थापन व दुग्ध उत्पादन पदविका अभ्यासक्रम चालविन्या करिता मान्यताप्राप्त खाजगी विनाअनुदानीत संस्थासाठी विनियम - २०१६) (Regulations of 2016).

3. Regulation 4 (VI) of the Regulations of 2016 states that for four consecutive years, if the institute/ college fails to get approval or

admit the students, then recognition of such college would be permanently cancelled. Pursuant to this Regulation, action is taken against the Petitioner.

4. A show cause notice was issued to the Petitioner on 23 March 2021. This had reference to the Petitioner's letter dated 25 February 2021. By this letter dated 25 February 2021, the Petitioner had prayed to Respondent No.2 to permit it to admit the students for the academic year 2020-2021. In the show cause notice, it is stated that this request cannot be considered on two counts. First, the admission process for the academic year 2020-2021 is over and second, since 2016-2017, no steps have been taken by the Petitioner for approval or admitting the students. and therefore, why Rule 4(VI)(b) be not made applicable to the Petitioner.

5. The Petitioner filed a response to the show cause notice and took up various grounds. It is also urged before us that if there was a certain enquiry held against the Petitioner which led to a stoppage of students being sent to the Petitioner's institution, this enquiry was in respect of an exam that took place in the year 2015-2016. The Petitioner, in spite of repeated follow-ups, was not informed about the outcome. The Petitioner also stated before Respondent No.2 that the Petitioner had suffered from certain difficulties. Respondent No.2 did not accept this explanation and passed the impugned order on 28 June 2021, giving effect to Regulation 4(VI)(b) and the recognition was cancelled. The matter of fact established before us is

that preceding four years, neither any approval was granted nor students were admitted and, therefore, Regulation 4 (VI) (b) has come into operation. The question is whether, in the writ jurisdiction, we can declare that in spite of this factual position existing, the action taken by Respondent No.2- University is illegal or without jurisdiction. Even assuming that a sympathetic view can be taken in spite of the self-operative clause, we need to note the conduct of the Petitioner. Firstly, on 25 February 2021, when the Petitioner had applied to Respondent No.2- University, the Petitioner stated that for some technical reasons, the college had not been functioning since 2016-2017. The reason was not of a technical nature but much more serious.

6. Respondent Nos. 2 and 3, by way of an affidavit, have placed on record that serious malpractices took place during an examination conducted by the Petitioner and a complaint was received on 4 June 2015. In the complaint, it is stated that even though 48 students were admitted in the Petitioner's institute only 11 students had appeared for the examination. The teachers themselves were writing the answer sheets of 37 students who were not present. The scholarship meant for the students was being deposited in the bank account of the employee of the Petitioner. The names of the students mentioned in the admission register were bogus. It is further stated that a person who was employed as a clerk was signing various documents as the Principal of the Petitioner-institution when, in fact, the said Principal was working in different institute. Upon this

complaint, the University constituted a fact-finding committee. The fact-finding committee confirmed that there were serious large-scale malpractices. There were persons who were working without qualifications. Therefore, the admission process for the academic year 2015-16 in the Petitioner's institution was stopped. Furthermore, Regulations stipulate that for approval, the Petitioner has to deposit the inspection fees, and after carrying out the inspection, approval is granted. Even this is not done by the Petitioner.

7. The contention of the Petitioner that the Petitioner was awaiting the outcome of the enquiry cannot be considered as the stipulation under Regulation 4 (VI) (b) had come into operation. It cannot be said that the Petitioner is not aware of this Regulation by which the Petitioner is governed. Nothing stopped the Petitioner from making efforts to ensure that this Regulation does not come into effect. Apart from this admitted failure on the part of the Petitioner, we have also noted the conduct of the Petitioner as above and thus, we are of the opinion that no case is made out to exercise a writ jurisdiction.

8. The writ petition is accordingly rejected.

(MANJUSHA DESHPANDE, J.) (NITIN JAMDAR, J.)