

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7260 OF 2022

1. Satpuda Shikshan Vs Gramin Vikas Sanstha,
Palsi Vaidya, Registration No.F-2505,
having its office at Jalgaon Jamod,
District Buldhana Through its
President/Secretary
 2. Bapumiya Sirajoddin Patel
Arts, Commerce and Science College,
Pimpalgaon Kale, Kurha Road,
Taluqa Jalgaon Jamod,
District Buldhana, Thr. its Principal
- ...Petitioners

-vs-

1. The State of Maharashtra,
Through its Secretary, Department of Higher
Education, Mantralaya, Mumbai
 2. Sant Gadge Baba Amravati University,
Through its Chancellor/Vice Chancellor,
Amravati, Tahsil and District Amravati
- ... Respondents

Shri S. P. Bhandarkar, Advocate with Shri K. S. Malokar, Advocate for
petitioners.

Ms N. P. Mehta, Assistant Government Pleader for respondent No.1.

Shri J. B. Kasat, Advocate for respondent No.2/University.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE : January 09, 2023

Oral Judgment (Per : A. S. Chandurkar, J.)

Heard.

The petitioners seek a direction to be issued to the respondent
No.2-Sant Gadge Baba Amaravati University through its Vice Chancellor

to decide pending appeal preferred against the refusal by the Deputy Registrar of the said University to grant affiliation to the petitioner No.2-Senior College. A further prayer is made for issuance of a direction to grant access to the petitioners to permit the students admitted by them in the Post Graduate courses so as to enable them to participate in further examinations.

2. It is the case of the petitioners that the petitioner No.2-Senior College intended to impart education in additional subjects in the Post Graduate courses of Science, Arts and Commerce. A proposal was accordingly submitted in the prescribed proforma on 30/04/2022 with necessary fees. On examination, deficiencies found were notified and according to the petitioners the same were removed on 09/05/2022. An inspection was carried out of the petitioner No.2-College on 22/09/2022 and the Enquiry Committee submitted its report to the University. A copy of the said enquiry report was served on the College on 10/10/2022 and deficiencies were directed to be removed. It is the case of the petitioners that such deficiencies were removed and hence on 12/10/2022 the petitioners sought necessary affiliation. By the communication dated 02/11/2022 the petitioners were informed by the Deputy Registrar that the matter would be placed before the Academic Council for consideration and as the affiliation for starting the courses in

new subjects had been refused, students should not be admitted. On 04/11/2022 since the University started the process of opening bank accounts of newly admitted students, the petitioners have approached this Court by the present writ petition seeking the relief mentioned herein above.

3. On 09/12/2022 while hearing the writ petition, the Vice Chancellor was directed to take a decision on the petitioners' representation dated 05/11/2022 by which permission was sought to permit the students to appear for the ensuing examination. Such decision was directed to be taken by 12/12/2022. Accordingly on 12/12/2022 the Vice Chancellor informed the petitioners that on reconsideration of the matter, power under Section 12(7) of the Maharashtra Public Universities Act, 2016 (for short, the Act of 2016) could not be exercised for permitting the students to appear for the examinations. It was reiterated that the matter would be placed before the Academic Council. By amending the writ petition, the order dated 12/12/2022 has been placed on record and a challenge to the same has also been raised.

4. We have heard the learned counsel for the parties and we have also perused the documents filed on record. It is clear from the

record that on 08/08/2022 the State Government granted permission to the petitioner No.1-Society to conduct additional courses at the petitioner No.2-College. This was however subject to complying with the Affiliation of Colleges by University Regulations, 2009. Thereafter the petitioners applied for first term affiliation on 10/08/2022 after which a five members enquiry committee carried out the inspection of the college on 22/09/2022. The committee found certain deficiencies and according to the petitioners the same were removed on 12/10/2022. It was further resolved by the University to place the matter before the Academic Council. It is further seen that in view of the order dated 09/12/2022 passed in the writ petition the enquiry committee reconsidered the matter on 12/12/2022 but found that the deficiencies notified to the petitioners had not been removed. In that context it was informed that the proposal for grant of affiliation would be placed before the Academic Council.

From the aforesaid it is clear that despite fresh consideration by the enquiry committee on 12/12/2022, it was not satisfied by the response of the petitioners in the matter of curing of deficiencies. On this count the decision taken by the University to place the matter before the Academic Council cannot be said to be either illegal or arbitrary. The Academic Council would be in a better position to consider the said matter.

5. As regards the contention made on behalf of the petitioners that the students admitted be permitted to appear for their examination by directing the University to treat them as validly admitted students, we find that the provisions of Section 110(5) of the Act of 2016 prohibit a college from admitting any students unless the University has granted affiliation to the college. Admittedly such affiliation has not yet been granted by the University and therefore this Court cannot issue a direction contrary to the provisions of Section 110(5) of the Act of 2016.

6. For aforesaid reasons we do not find any case made out to interfere in writ jurisdiction. The Writ Petition is thus dismissed leaving the parties to bear their own costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)

Asmita