



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

47 WRIT PETITION NO. 3898 OF 2024

TULJA BHAWANI SEVA PRATISHTHAN THROUGH ITS PRESIDENT
RAJENDRA SHIVAJIRAO NAGAWDE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...

Advocate for the Petitioner : Mr. Kulkarni Suresh Madhusudan

AGP for Respondent nos. 1 & 2 : Mr. D.R. Korde

Advocate for Respondent No. 3 : Mr. V.P. Golekar h/f Mr. A.R. Joshi

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

DATE : 18.06.2024

PER COURT :

Heard both the sides.

2. The petitioner-institute was permitted to open a new law college by issuing Letter of Intent (LOI) in the light of Section 108 of the Maharashtra Public Universities Act, 2016. The decision was communicated to it on 30.12.2022.

3. However, in view of certain orders passed by this Court in Writ Petition Nos. 5600/2022 and 6065/2022 on 21.07.2022 the decision was stayed by issuing a communication dated 16.01.2023 addressed to the petitioner and a similar decision was communicated to the University on 30.12.2022.

4. In fact, the interim order that was granted in the aforementioned two writ petitions by the order dated 21.07.2022 ought to have been read in the context in which it was passed. The Court cannot be assumed to have interdicted all the permissions irrespective of the litigating sides; rather, the decision ought to have read only to the extent of the dispute being raised in those two writ petitions qua the parties involved therein. It appears that

assuming that it was a blanket order operating against every permission granted under the aforementioned provision to all the institutes across the State, impugned communication was issued.

5. Besides, in order to obviate such confusion, by a subsequent order dated 24.02.2023, the division bench had expressly clarified that the interim order was qua the parties before the Court.

6. Once having noticed such a state of affairs, the stand of the State Government initially staying the permission granted would not be sustainable, particularly when it is nobody's case that some other competing institute was objecting to the petitioner's proposal for starting a new law college at the desired point in the light of the provisions of Section 109 of the Maharashtra Public Universities Act.

7. Though the petitioner has been seeking to challenge such subsequent communications dated 30.12.2022 and 16.01.2023, in our considered view, it would be appropriate that the respondent is directed to recall the stay granted to the permission.

8. By way of clarification, it would also be necessary that the permission is treated as still alive since, in the meantime, in the light of the aforementioned unprecedented events, a period of one year has already lapsed.

9. The Writ Petition is accordingly allowed. Respondent no. 1 is directed to pass appropriate order recalling the decision staying the permission granted to the petitioner. The respondents shall treat this permission as still alive and permit the petitioner to take appropriate steps for starting the new college.

(SHAILESH P. BRAHME, J.)
mkd/-

(MANGESH S. PATIL, J.)