



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

22 WRIT PETITION NO.9862 OF 2022

Siddharth Shaikshanik And Sanskrutik Mandal Through Its
President Rajkumar Haribhau Mhaske

VERSUS

The State Of Maharashtra Through Its Secretary And Another

...

Advocate for the Petitioner : Mr. S.V. Deshmukh

AGP for Respondents : Mr. P.S. Patil

...

CORAM : SMT. VIBHA KANKANWADI
AND
S. G. CHAPALGAONKAR, JJ.

Dated : January 15, 2024

PER COURT :-

1. Present petition has been filed for issuance of writ of mandamus or any other appropriate writ for quashing and setting aside the communication dated 29.6.2022 issued by respondent no.1 and communication dated 25.7.2022 issued by respondent no.2 rejecting the proposal of the petitioner for establishment of BA Civil Services College at Tembhurni, Tq. Jafrabad, District Jalna and to direct respondent no.1 to take afresh decision on the proposal of the petitioner.

2. Heard learned advocate for the petitioner and learned AGP for respondent-State.

3. It appears that the petitioner, through Kavi Kulguru Kalidas Sanskrit Vishvvidyalaya, Ramtek, District Nagpur had submitted the proposal to start establishment as

aaa/-

aforesaid. However, for the reason that there is no 'NA' permission and only stating that the proposed place falls in Gavthan area issued by the Gramsansad Karyalaya, petitioner was held to be not qualified or in other words proposal was rejected.

4. Learned advocate for the petitioner points out the order passed by the Tahsildar, Jafrabad on 21.6.2022 imposing penalty for putting the land to the use of Non-Agriculture and also sanctioning approval for use of the land for Non-Agriculture basis on conditions. It is basic contention of petitioner that since land was in Gavthan, there was no question of obtaining any order, however, when it was not approved or it was find out that, that defect is to be removed, an application was made under section 45 of the Maharashtra Land Revenue Code for the imposition of penalty and allowing the petitioner to use the land for NA purposes.

5. Learned AGP points out that the decision was taken by the State Government on 15.6.2022 itself that out of 178 new colleges and 39 proposals for extension, permission has been granted to 142 new colleges and extension to 35 proposals. Therefore, whatever decision was taken by the Government was prior to 21.6.2022.

6. It appears that Government made communication to its decision dated 15.6.2022 to the University on 29.6.2022 and it appears that said university communicated the same to the petitioner by letter dated 25.7.2022. So, unless decision of

the Government would not have been communicated through proper channel, the petitioner would not have challenged the decision of the State dated 15.6.2022. There appears to be no much delay after the communication was made by the University to the petitioner. However, in the meantime, the appropriate authority under the Maharashtra Land Revenue Code has taken its decision on 21.6.2022 and it was only objection as it appears from the communication dated 25.7.2022 to reject the proposal of the petitioner by the State. We are, therefore, of the considered view that without going into merits further, when said objection came to be removed, the respondent no.1 should consider the said proposal afresh. In view of the same, following order is passed :-

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned communication dated 29.6.2022 issued by respondent no.1 and communication dated 25.7.2022 issued by respondent no.2 rejecting the proposal of the petitioner for establishment of B.A.-Civil Services College at Tembhurni, Tq. Jafrabad, District Jalna has been quashed and set aside.
- iii. Respondent no.1 is directed to take afresh decision on the proposal of the petitioner within a period of (02) two months from today by taking into consideration the order passed by the Tahsildar, Jafrabad on 21.6.2022.

- iv. If favourable decision is taken in favour of the petitioner, it should come into effect from the next academic year.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

...