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wp 13199.22 (R).odt

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

WRIT PETITION NO. 13199 OF 2022

Mohotadevi Seva Pratishthan
Shrigonda, Tq. Shrigonda,
District Ahmednagar
through its President namely;
Satish S/o. Shivaji Shinde,
Age 41 years, Occ. Agril
R/o. Makharewadi (Ganeshnagar)
Tq. Shrigonda, Dist. Ahmednagar.

.. PETITIONER.

Versus

1. The State of Maharashtra
through its Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai – 32.
2. Director of Higher and Technical Education,
Maharashtra State, Pune.
3. The Joint Director of Higher Education,
Pune Region, Pune.

.. RESPONDENTS.

Mr. A.N. Nagargoje, Advocate for petitioner
Mr. S.K. Shirse, AGP for respondent Nos. 1 to 3.

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.**

**RESERVED ON : 23rd February, 2024.
PRONOUNCED ON : 6th March, 2024.**

JUDGMENT [PER S.G. CHAPALGAONKAR, J]:-

1. The petitioner approaches this Court under Article 226 of the Constitution of India, impugning the order passed by respondent No. 1 - State, thereby rejecting proposal dated 29.4.2022 filed by the petitioner to start new courses. The petitioner further seeks issuance of writ of Mandamus against respondent No.1 for grant of permission to run proposed post graduate courses from the ensuing academic session.

2. The petitioner contends that it is an Educational Trust registered under the Societies Registration Act as well as the Bombay Public Trusts Act. The petitioner is running a senior college at Shrigonda, affiliated to Savitribai Phule Pune University. On 24.4.2022, the University published a proclamation inviting proposals for grant of LOI and permission to start new courses. In response to the said proclamation, petitioner submitted proposal dated 29.4.2022 to start the post graduate courses in Arts, Commerce and Science faculty. The petitioner possesses requisite infrastructure in tune with criteria laid down by the UGC. The University, after inspecting the availability of the infrastructure and facilities, positively recommended the proposal of the petitioner. Unfortunately, the respondent No.1 State of Maharashtra rejected the petitioner's proposal only on the ground that the petitioner was not compliant for "NAAC Accreditation". According to the petitioner, the action on the part of the respondent State is discriminatory, arbitrary and malafide. Many institutions who do not possess NAAC are granted permission to start PG Courses. In fact there was no deficiency in the proposal of the petitioner however proposal is rejected giving incorrect reason.

3. The respondent Nos. 1 to 3 by filing affidavit in reply states

that petitioner's proposal is rejected for want of "NAAC accreditation" Petitioner enclosed mere undertaking to comply such requirement which is not sufficient. It is further submitted that the Government has already completed procedure for subject academic year and granted permissions to start new courses under Govt. Resolutions dated 8.8.2022, 10.8.2022 and 16.8.2022 to the eligible institutions for the academic year 2022-23. The petitioner could have submitted fresh proposal for grant of permission for ensuing academic year as per the norms prescribed. Therefore, prayer of the petitioner can not be considered.

4. Mr. A.N. Nagargoje, learned advocate appearing for the petitioner vehemently submits that the petitioner runs senior College since academic year 2019-20. After successfully completing about 3 years, the proposal to start new Post Graduate Courses, in tune with the perspective plan of the University was submitted. The proposal was complete in all respects. The deficiencies as pointed out by the University and the State Government were removed within time. However, petitioner's proposal has been rejected by giving unconscionable reason. He would submit that since the petitioner institution yet to complete 5 years of its existence, it is not eligible for "NAAC accreditation". Even said fact is admitted by the respondents in affidavit in reply, particularly, para No.9. The rejection of the petitioner's proposal is without justifiable reasons. He would, therefore, urge to quash and set aside the impugned order and direct the respondents to grant permission as per petitioner's proposal to start new courses from ensuing academic year.

5. Learned AGP submits that the petitioner has not submitted

the proposal for ensuing academic year 2023-24. Its old proposal cannot be considered for the ensuing academic year.

6. Having considered submissions advanced on behalf of the respective parties and upon perusal of record tendered into service we find that Apparently, the petitioner – Institution is running a senior college since academic year 2019-20. It has been affiliated to Savitribai Phule Pune University from the same academic year. The Savitribai Phule Pune University published Annual Perspective Plan for the academic year 2022-23 and invited applications for grant of LOI and permission to start new courses. The petitioner responded to said proclamation and submitted proposal dated 29.4.2022 to start new courses like M.A., M.Com, M.Sc. (Organic Chemistry), M.Sc. (Microbiology). The petitioner's proposal was positively recommended by the University after ensuring requisite compliances. So far as condition regarding NAAC Accreditation is concerned, it was made clear that the petitioner college has not completed 5 years of its existence, hence, requirement of NAAC Accreditation is not applicable as has been clarified by Govt. Resolution dated 8.10.2010. However, when the proposal of the petitioner was under consideration with the State Government, similar objection was raised. Although, petitioner as well as University submitted its explanation, the proposal of the petitioner came to be rejected under the impugned communication dated 29.4.2022.

7. Perusal of the communication dated 4.8.2022, issued by the State Government thereby notifying the deficiencies in the proposals of the institutions depicts that only deficiency pointed out in the petitioner's proposal was that, "NAAC Accreditation is not submitted". However, said

compliance was made by the petitioner under its communication dated 8.6.2022 by filing undertaking to get it done on completing five years. Apparently, there was no other objection as regards the proposal of the petitioner. Hence, in our considered opinion, the reason given for negating petitioner's proposal is erroneous.

8. The UGC introduced the requirement of National Assessment and Accreditation by the Universities and Colleges. The State Government accepted the recommendation of the UGC and under GR dated 8.10.2010, laid down the policy for NAAC Accreditation by the Universities and Colleges within the State of Maharashtra. The Government Resolution specifically states that existing Colleges for 5 years are required to get NAAC Accreditation in 3 stages. It is, therefore, evident that the petitioner was not under obligation to submit NAAC Accreditation alongwith its proposal for want 5 years of its existence. Pertinently, respondents in their affidavit in reply particularly in Para. No9 states as under :-

*“9. I say and submit that from the documents annexed by the petitioner with the petition, it appears that the Government has issued Letter of Intent vide G.R. dated 31.1.2019 to the ptn and as per the G.R. dated 15.6.2019 the Government has granted final approval to the petitioner. However, **it is a fact that the said college has not completed 5 years and therefore ineligible for NAAC accreditation.**”*

9 A bare perusal of the aforesaid contents of the affidavit-in-reply shows that even the respondents are not disputing that the petitioner was not eligible for NAAC Accreditation and such a condition could not have been imposed upon it while processing its proposal for grant of permission to start Post Graduate Courses. As rightly pointed

out by Mr. A.N. Nagargoje, the learned advocate for the petitioner, various institutions are granted permissions to start new courses on furnishing undertaking of getting NAAC compliance. Petitioner appears to have been discriminated and its proposal is rejected without any good reason.

10. Although it is contended on behalf of the respondents that the petitioner has not filed fresh proposal for ensuing academic year hence its old proposal cannot be considered, we are not inclined to accept the said submission. There is no reason to ask the petitioner to file fresh proposal, deposit huge amount of inspection fees and undergo expensive and time consuming process once again, when its proposal is wrongly rejected. In such cases, the respondent State Government can be directed to grant permission for running PG Course from the ensuing academic year, particularly, when it is not disputed before us that said point is still not exhausted and available for opening proposed courses. Hence, we proceed to pass the following order :

ORDER

- [a] The Writ Petition is allowed;
- [b] The impugning the order passed by respondent No. 1 -State, thereby rejecting proposal dated 29.4.2022 filed by the petitioner to start new course is hereby quashed and set aside.
- [c] The respondent No.1-State of Maharashtra is directed to

grant of permission to run the Post Graduate Courses at Shrigonda in favour of the petitioner in pursuance of its proposal dated 29.4.2022, from the ensuing academic year within a period of two weeks from the date of this order.

[d] The respondent No.1 State Government shall decide the proposal of the petitioner in the backdrop of situation that prevailed and perspective plan of the University for that academic year only and shall not reject the proposal of the petitioner on such ground.

[e] Rule made absolute in above terms with no orders as to costs.

[S.G.CHAPALGAONKAR,J]

[SMT. VIBHA KANKANWADI, J]

grt/-