



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6627 OF 2019

1. Gramvikas Shikshan Mandal,
Marwad, Tq. Amalner, Dist. Jalgaon,
Through It's President.
2. Late Mansaram Tukaram Patil Arts College,
Marwad, Tq. Amalner, Dist. Jalgaon.

.. Petitioners

Versus

1. The State of Maharashtra
Through, The Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai, 32.
2. The Directorate of Education,
Maharashtra State, Pune,
Through the Director of Education,
Central Building, Pune-411001.
3. Kavayitri Bahinabai Chaudhari
North Maharashtra University,
Jalgaon,
Through The Registrar.

.. Respondents

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Mr. D. M. Mane h/f Mr. Milind Patil, Advocate for petitioners.
Mr. V. M. Jaware, AGP for respondent Nos.1 and 2 – State.
Mr. Y. B. Bolkar h/f Mr. A. B. Girase, Advocate for respondent No.3.

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

DATE : JANUARY 09, 2024.

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. By present writ petition, petitioners intend to invoke the constitutional powers of this Court under Article 226 of the Constitution of India for following prayers :-

“A) Rule may kindly be issued.

B) Rule may kindly be made absolute and the respondents may kindly be directed to review the sanction dated 6th January 2005 accorded to the special subjects in Arts II and III year of the decree course to treat the same as on non-grant basis amenable for consideration of grants by revoking the clog of permanent non grant basis.

C) Any other relief to which the petitioners are entitled, may kindly be granted in their favour.”

2. Petitioner No.1 is an Education Society runs the petitioner No.2 College for imparting education by conducting graduation courses in Arts. The college is affiliated to respondent No.3 University. The initial sanction to petitioner No.2 College was on no grant basis i.e. it was for the First year of the course vide sanction order dated 14.03.2001. The sanction to the Second and Third year divisions was accorded vide order dated 25.11.2003. It has been submitted that as per the university curriculum, for Second and Third year in the graduation course for Arts, some subjects are mandatory i.e. compulsory and some are the choice special subjects.

While granting sanction to Second and Third year divisions, four special subjects in addition of the original subjects sanctioned in First year were recommended by the University and the Deputy Director of Higher Education by order dated 06.12.2003. It has been then stated that recommendation was made by the Deputy Director of Education for sanction of special subjects on non grant basis. Thereupon, respondent No.1 by letter dated 06.01.2005 accorded the sanction to the special subjects on permanent non grant basis. In view of the clog of permanent non grant basis, the petitioners responded to respondent No.2 for the removal of the said clog and, in fact, it was the differential treatment. Proposal of the petitioner No.3 College for grant to the Three years degree course pending before respondent No.1 was considered and finally 100% grants were sanctioned on 25.03.2008. However, as regards the special subjects are concerned, it was not granted and, therefore, the petitioners are saying that it is a differential treatment and, in fact, the three other colleges have received sanction on permanent non grant basis with retrospective effect, which are named in paragraph No.7 of the petition.

3. Heard learned Advocate Mr. D. M. Mane holding for learned Advocate Mr. Milind Patil for petitioners, learned AGP Mr. V. M. Jaware for respondent Nos.1 and 2 – State, learned Advocate Mr. Y. B. Bolkar holding for learned Advocate Mr. A. B. Girase for respondent No.3.

4. Learned Advocate for the petitioners has taken us through the documents, which have been produced on record. It can be seen that by order dated 14.03.2001, the permission was accorded to the petitioner No.1 to start the college with conditions and as regards the First year is concerned, it was on non grant basis. Thereafter, it appears that by letter dated 25.11.2003 the Director of Education has stated that it is granted for the Second and Third year on non grant basis and it was in respect of the general subjects, which according to the petitioners are for the compulsory subjects. The impugned order is dated 06.01.2005 which states that the permission granted in respect of special subjects i.e. History, Marathi, Hindi and Political Science is on permanent non grant basis only. The first and the foremost fact is that the present petition to challenge this order is filed on 22.12.2018. We have specifically made query to the learned Advocate for the petitioners as to why the petitioners have approached this Court belatedly. There was no explanation in the nature that the petitioners had made representations. In fact, the petition does not see the annexure of representations periodically made. The delay of 13 years ought to have been explained. We are therefore of the opinion that the petition suffers from delay and laches. Even if we consider the alleged sanction to the other three colleges, it was on 11.08.2010, 28.02.2011, 08.02.2011. Still, there is delay of seven years. A discretionary power that too with constitutional power cannot be then used when the petitioners were

lethargic. No case is made out for exercising the constitutional powers of this Court. Hence, the writ petition stands dismissed.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm