



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.517 OF 2020

Chabai Shikshan and Krida Mandal,
Through its Secretary,
Mr. R.L. Pund,
R/o-Begumpura, Aurangabad,
Taluka and District-Aurangabad.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Social Justice and Special Assistance
Department, Mantralaya, Mumbai,
- 2) The State of Maharashtra,
Through its Secretary,
Higher and Technical Education
Department, Mantralaya, Mumbai,
- 3) The Commissioner of Social Welfare,
Maharashtra State, Pune-1,
- 4) Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad.

...RESPONDENTS

...
Mr. S.V. Deshmukh Advocate for Petitioner.
Mr. N.S. Tekale, A.G.P. for Respondent Nos.1 to 3.
Mr. Vaibhav Pawar Advocate h/f. Mr. S.S. Tope Advocate
for Respondent No.4.

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

DATE : 15th JANUARY, 2024

JUDGMENT [PER SMT. VIBHA KANKANWADI, J.] :

1. Rule. Rule made returnable forthwith. Heard learned counsel appearing for the respective parties finally, by consent.

2. The petitioner – institution is seeking direction to the respondents to decide the proposal in the form of representation dated 30th June 2019 and 20th August 2019 thereby seeking permission to run Social Work College at Aurangabad. Further prayer is made to quash and set aside the impugned communication dated 2nd August 2017 issued by Respondent No.3, stating that the proposal of the petitioner institution cannot be considered in view of the Government Resolution dated 10th April, 2001.

3. The facts leading to the Petition are that the petitioner filed proposal seeking permission to run Social Work College at Aurangabad for the academic year 2008-2009 and 2009-2010. The said proposal, after scrutiny, was positively recommended by the University. The Government had not taken any decision for a considerable period and therefore, the petitioner approached this Court by filing Writ Petition No.372 of 2012. The said petition

came to be decided on 7th April 2014 in view of the statement made by the learned Assistant Government Pleader asking the petitioner to file fresh proposal, which is to be then considered by the authorities. According to the petitioner, representation was made on 14th October 2014 to respondent No.4 University requesting it for reconsideration of the proposal. Thereafter again representation was made on 20th April 2016 to the respondents but then the Government had taken a policy decision by its order dated 7th August 2017 that in view of its decision on 10th April 2011 the proposal of the petitioner cannot be considered as the State Government has put ban for the new Social Work Colleges. It is then stated that when similar request was made by the institutions, the Government had appointed the committee headed by Dr. Narendra Jadhav and the report was submitted by the committee to the Government. Thereafter the State Government has granted permission to certain institutions to run the college for the said curriculum of Social Work. Therefore, the proposal of the petitioner ought not to have been rejected by the respondents. Hence the present Petition. The petitioner is relying on certain decisions of this Court, Bench at Nagpur, confirmed by the Hon'ble Supreme Court and thereafter also certain orders passed by this Court in similar matters.

4. Heard learned Advocate Mr. Deshmukh appearing for the petitioner, learned AGP Mr. Tekale appearing for respondent Nos. 1 to 3 and learned Advocate Mr. Pawar holding for learned Advocate Mr. Tope appearing for respondent No.4.

5. In the present case the main dispute is not in respect of the policy of the Government because it is not *res integra*. In similar matters, this Court has taken a view that the Government ought to have considered the proposals of the institutions to run the colleges. The stand of the Government regarding the ban in view of the Government Resolution dated 24th August 2004 has already been decided by this Court, Bench at Nagpur in ***Writ Petition No.2440 of 2018 (Late Manikrao Govindrao Khadse Gramin Vikas..... vs. State of Maharashtra and others)***, by order dated 20th July 2018, and thereafter this Court in ***Writ Petition No.14724 of 2017 (Disha Bahuuddeshiya Sevabhavi Sanstha through its President Sumanbai Bhagwanrao vs. the State of Maharashtra and others)***, by observing that this Court is not taking a different view than the view taken by the Division Bench at Nagpur and then the permissions have been granted to run the college for Social Work or directions have been issued to the Government to accord the permission to the petitioners therein.

6. However, so far as the present case is concerned, the petitioner had already approached this Court in the year 2012 by filing a Writ Petition No.372 of 2012. On 7th April 2014, the learned AGP made a statement that the State has framed new policy in respect of opening of M.S.W. College and therefore, this Court, taking into consideration the new policy, directed the petitioner that the petitioner would file fresh proposal through the concerned University, in accordance with new policy framed by the State Government and after adhering to the relevant procedure, for the academic year 2014-2015. Thereafter time limit was given to the University to consider the proposal and if approved, then the University to forward the proposal to the State Government immediately. We made inquiry with the learned Advocate for the petitioner, as to whether there is compliance of the order passed by this Court on 7th April 2014. Learned Advocate for the petitioner then pointed out Exhibit-D, the handwritten letter by the secretary of the petitioner institution dated 14th October 2014, which appears to be the communication to the University. Perusal of the said letter would show that by giving reference to the order passed by this Court on 7th April 2014, the secretary of the petitioner has stated that

the proposal already given by the petitioner institution be forwarded after giving recommendation. That means, when the petitioner was directed, by order dated 7th April 2014, to give fresh proposal through the concerned University, in accordance with new policy framed by the State Government and also by adhering to the relevant procedure, the said compliance has not been made. Further communication on behalf of the petitioner dated 18th / 20th April 2016 reminding the University, is of no consequence, when the basic condition on which the respondent authorities were directed to take action has not been adhered to by the petitioner. In other words, the petitioner was specifically directed to make the compliance first, that means to submit the fresh proposal and then only that could have been considered by the University. Merely asking the respondent authorities to take positive action on the earlier proposal, the petitioner could not have got any right. The petitioner itself is at fault when no compliance has been made. The petitioner, therefore, cannot be allowed to take advantage of the action taken subsequently by the State Government to accord sanction to other institutions to run the said course. That does not amount to discrimination, as the fresh proposal as per the new policy of the State Government was not at all submitted by the petitioner. No case

is made out for exercise of constitutional powers of this Court. This Court cannot use its constitutional powers in favour of a negligent party and therefore, the Petition deserves to be dismissed.

7. The Writ Petition stands dismissed. Rule is discharged.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JAN24