



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5181/2019

Shri. Sai Education Society, Nagpur

Vs.

**The State of Maharashtra, Through its Secretary, Department of
Higher and Technical Education and others**

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. B.G. Kulkarni, Advocate for Petitioner
Mr. A.M. Ghagare, AGP for Respondent Nos.1 to 3 / State

**CORAM: AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.**

DATED : 24th APRIL, 2024

Heard Mr. Kulkarni learned counsel for the petitioner. The petition challenges the communication dated 01/03/2019, whereby the claim by the petitioner, for grant-in-aid, has been rejected on the ground, that the petitioner had applied for starting an Arts college for girls on no grant basis and, therefore, since the policy, which is indicated by the GR dated 24/11/2001, that the permission for opening new college would be on permanent no grant basis, was in vague the claim of the petitioner, cannot be accepted.

2. Mr. Kulkarni, learned counsel for the petitioner, invites our attention to the position

that the application for starting a new Arts College for girls was made by the petitioner on 06/7/2000, which is indicated by the affidavit of the same date (page 25). He also submits, that the permission to start the new college was granted on 09/03/2001 (page 27). He, therefore, contends, that the subsequent policy decision dated 17/5/2001, which has culminated into the GR dated 24/11/2001 would not be attracted to the petitioner and, therefore, the petitioner would be governed by the earlier policy, which is reflected by GR dated 29/12/1999 (page 122) and, therefore, entitled to grant-in-aid upon satisfaction of the requirement of the same.

3. The learned Assistant Government Pleader appearing for the respondents / State while supporting the impugned decision, relies upon the judgment of the learned Division Bench of this Court at Aurangabad Bench in the case of **Matsyodari Shikshan Sanstha Vs. The State of Maharashtra and others in Writ Petition No.7810/2016 and other connected matters decided on 18/4/2019** and contends, that the GR dated 24/11/2001, shall prevail.

4. It is not in dispute, that the application to start an Arts College for girls w.e.f. the current academic session 2001-02, was made prior to

06/07/2000, which is reflected from the affidavit dated 06/07/2000, filed by the petitioner with the office of the Secretary, Higher and Technical Education, Government of Maharashtra, Mumbai (page 25). It is also not disputed, that in pursuance of the said application the approval came to be accorded by the respondent No.1 by its communication 09/3/2001 (page 27). It is, therefore, apparent that the process for applying to start a new Arts College and its approval, stood completed by 09/03/2001.

5. As against this, the policy to open new college on permanent no grant basis was for the first time formulated in the cabinet meeting dated 17/5/2001, which has culminated into the GR dated 24/11/2001. It is, therefore, apparent, that when the application for grant of permission to open a new Arts College for girls was filed by petitioner and so also at that point of time when the approval was accorded by communication dated 09/3/2001, the policy as indicated by GR dated 24/11/2001 was not in existence at all. Even in the cabinet meeting, where the policy was formulated had not taken place. This would clearly indicate, that any permission or the approval for opening a new Arts College to be granted ought to be governed, by the policy,

which was extant at that point of time and therefore, would be covered by GR dated 29/12/1999 (page 122). Though the communication dated 09/03/2001 (page 27) indicates, that the permission has been granted on permanent no grant basis, that obviously was not the policy of the State at that point of time as is indicated by GR dated 29/12/1999 and therefore, such a condition, in the communication dated 09/03/2001 would be beyond the policy of the State as extant at that point of time and, therefore, cannot be held to be binding upon the petitioner

6. Though reliance is placed by the learned Assistant Government Pleader, upon the judgment in the case of **Matsyodari Shikshan Sanstha Vs. The State of Maharashtra** (supra) para 14 thereof, itself indicates, that the permissions in those batch of matters was granted after 17/05/2001 when the policy decision for granting permission to open new college on permanent no grant basis was taken for the first time and thus is not applicable. In the result, we hereby quash and set aside the impugned communication dated 01/03/2019 and hold that the petitioner would be entitled to be governed by the GR dated 19/12/1999,

however w.e.f. the date of this order and not earlier thereto. The petition is accordingly allowed in the above terms. No costs.

(SMT. M.S.JAWALKAR,J.)

(AVINASH G. GHAROTE,J.)

MP Deshpande