



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7944 OF 2025

Rajkunwar Bahuuddeshiya Sewabhavi Sanstha
Through Its President

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

- Mr. Santosh Sampatrao Jadhavar, for Petitioner.
- Mr. S. D. Ghayal, Addl. GP for Respondent No.1.
- Ms. Vaishali Patil Jadhav, for Respondent No.2.

CORAM : MANISH PITALE AND
Y. G. KHOBRAGADE, JJ.

DATE : 17th JULY 2025.

ORAL ORDER (PER – MANISH PITALE, J.) :

1. **Rule.** Rule made returnable forthwith with the consent of the learned counsel for the parties.
2. On 04th July 2025, this Court had issued notice for final disposal, returnable today (i.e. 15th July 2025), as a very short point arises for consideration in this petition.
3. The petitioner contends that the impugned communication issued by the respondent No.2 – University on 21st April 2025, is in the teeth of section 109(4)(d) of the Maharashtra Public Universities Act, 2016, particularly proviso thereof.

4. In the present case, the petitioner intends to open a new course i.e. M.Sc. (Computer Science) in its college for the academic session 2025-2026. In that connection, in terms of the provisions of the aforesaid Act, the petitioner approached the respondent No.2 – University for grant of permission to open such a new course.

5. By the impugned communication, the respondent No.2 – University at its own level has held that the petitioner is ineligible to open such a new course.

6. It is the case of the petitioner that even if the University is of the opinion that permission for opening new course cannot be granted, under the statutory scheme, the University is expected to forward a negative opinion / recommendation to the respondent No.1 – State, so that if the petitioner is able to satisfy the State authorities that its case can be said to be falling in the category of the exceptional cases under the proviso, the State Authorities could still consider granting permission to the petitioner.

7. The learned counsel appearing for respondent No.2 – University was at pains to point out that the permission sought by the petitioner was rejected for justifiable reasons, which is further evident

from an earlier communication dated 17th March 2025, sent by the respondent No.2 – University to the petitioner. Reliance is also placed on Government Resolution dated 13th September 2017, to contend that the guidelines provided therein, clearly indicate that the petitioner does not satisfy the requirements for opening such a new course.

8. Although the respondent No.2 – University may have, in its opinion, sufficient reasons and grounds to refuse permission to open such a new course, we find that under the statutory scheme, it could not have rejected permission at its own level. A perusal of the relevant statutory provision clarifies the position. It reads as follows :

- 109. Procedure for permission for opening new college or new course, subject, faculty, division.—** (1) The proposal for opening of new colleges or institutions of higher learning or for starting new courses of study, subjects, faculties, additional divisions or satellite centers, shall be invited and considered by the university.
- (2) No application for opening a new college or institution of higher learning, which is not in conformity with the perspective plan prepared under section 107 shall be considered by the university.
- (3) (a) The Management seeking a Letter of Intent for opening a new college or institution of higher learning shall apply in a prescribed format to the Registrar of the university before the last day of September of the year preceding the year in which the Letter of Intent is sought;

- (b) only those applications complying with the requirements and received within the prescribed time limit, shall be accepted and considered by the university;
- (c) all such applications received within the aforesaid prescribed time limit, shall be scrutinized by the Board of Deans and be forwarded to the State Government with the approval of the Management Council on or before 30th November of the year in which such application is received by the university. The university shall submit alongwith the application, its recommendation, duly supported by relevant reasons, as are deemed appropriate by the Management Council;
- (d) out of the applications recommended by the university, the State Government may grant a Letter of Intent on or before 31st January of the immediately following year after the recommendations of the university under clause (c). The Letter of Intent may be granted to such institutions as the State Government may consider fit and proper in its absolute discretion, taking into account the relevant factors, the suitability of the management seeking Letter of Intent, state level priority with regard to location of institutions of higher learning, etc. The Letter of Intent shall be communicated by the State Government to the university, on or before the date specified in this clause:

Provided, however, that in exceptional cases and for the reasons to be recorded in writing any application not recommended by the university may be approved by the State Government for grant of a Letter of Intent to college or institutions of higher learning;

¹[****]

- (e) such Letter of Intent granted by the State Government shall be valid up to 31st January of the next following year. The management shall have to comply with the necessary conditions mentioned in the Letter of Intent, within such period and submit compliance report to the university with the present status of the academic and infrastructure facilities and readiness to start the institutions with required documents for final approval;
- (f) Such compliance report received within aforesaid time-limit, shall be scrutinized by the Board of Deans and be forwarded to the State Government with the approval of the Management Council on or before, 1st day of May in which the compliance report has been received. The recommendation of the Board of Deans and approved by the Management Council shall be duly supported by relevant reasons as are deemed appropriate by Management Council:

Provided that, if the management fails to comply with the conditions of Letter of Intent, within the time limit as specified in clause (e), the Letter of Intent shall be deemed to have been lapsed:

Provided however that, in exceptional cases and reasons to be recorded in writing, the State Government may, on application by the management duly processed by the university, extend from time to time, the validity of Letter of Intent for further period which shall not exceed twelve months in the aggregate;

1 Second and third provisos and Table there under were deleted by Mah. 34 of 2022, s. 5(1)(i).

²[****]

(g) after considering the report of the university under clause (f), the State Government may grant final approval to such management as it may consider fit and proper in its absolute discretion, taking into account the State Government's budgetary resources, and other relevant factors, the suitability of management seeking permission to open new institution, etc. The final approval under this clause may be granted on or before 15th June, of the year in which such new college or institutions are proposed to be started. Such approval from the State Government shall be communicated to the university. Approvals granted thereafter shall be given effect by the university only in the subsequent academic year:

Provided however that, in exceptional cases and for the reasons to be recorded in writing any compliance report on the Letter of Intent, which is not recommended by the university, may be approved by the State Government.

³[Provided further that, to extend the date of grant of final approval by the State Government, for the academic year 2024-2025, the date referred to in clause (g) of sub-section (3) as specified in column (2) of the Table given below, shall be read as provided in column (3) of the said Table:—

TABLE

Clause	Date Provided in existing provision	Date provided for Academic Year 2024- 25
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² Third proviso was deleted by Mah. 34 of 2022, s. 5(1)(ii).

³ The second proviso and the Table was substituted by Mah. 26 of 2024, s. 3(i).

(1)	(2)	(3)
(g)	on or before the 15 th June of the year in which such new college or institution is proposed to be started.	on or before the 15 th July 2024.]

(4) (a) The management seeking permission to start a new course of study, subjects, faculties, additional divisions or satellite centers shall apply in a prescribed format to the Registrar of the University before the last day of the September, of the year preceding the year in which the permission is sought;

⁴[***]

(b) only those applications complying with the requirement and received within the prescribed time limit shall be accepted and considered by the university;

(c) all such applications received within the aforesaid prescribed time limit, shall be scrutinized by the Board of Deans and be forwarded to the State Government with the approval of Management Council on or before the 1st day of April of the year, with such recommendation duly supported by relevant reasons as are deemed appropriate by the Management Council;

(d) out of the applications recommended by the university, the State Government may grant permission on or before 15th June of the year to such institutions as it may consider fit and proper in its absolute discretion, taking into account other relevant factors, the budgetary resources of the State Government and other relevant factors, the suitability of the management seeking

⁴ This proviso was deleted by Mah. 34 of 2022, s. 5(2)(i).

permission, etc. The permission shall be communicated by the State Government to the university, on or before the date specified in this clause:

Provided however that, in exceptional cases and for the reasons to be recorded in writing any application not recommended by the university may be approved by the State Government.

⁵[Provided further that, to extend the date for grant of permission by the State Government, for the academic year 2024-2025, the date referred to in clause (d) of sub-section (4) as specified in column (2) of the Table given below, shall be read as provided in column (3) of the said Table:—

TABLE		
Clause	Date Provided in existing provision	Date provided for Academic Year 2024-25
(1)	(2)	(3)
(g)	on or before the 15 th June of the year in which permission is sought.	on or before the 15 th July 2024.]

- (5) No application shall be entertained directly by the State Government for grant of Letter of Intent, under sub-section (3) or final approval under sub-section (4), as the case may be.
- (6) The application for starting new course of study, subject, faculty or additional division or satellite center by existing colleges or institutions of Higher learning, shall not be forwarded to the State Government by the university, if,—
- (a) they have not been accredited or re-accredited either from

⁵ This proviso and Table was substituted by Mah. 26 of 2024, s. 3(ii).

National Assessment and Accreditation Council or National Board of Accreditation even though they are eligible and due for being accredited or re-accredited as per the norms of accreditation agencies; and

- (b) they have not complied with the conditions laid down by the State Government.
- (7) Notwithstanding anything contained in this Act or any other law for the time being in force,—
- (a) no management shall establish or open a new college or an institution of higher learning in the State, except with the prior permission of the State Government;
 - (b) no management shall start a new course of study or subjects, faculty, additional division or satellite centers except with the prior permission of the State Government.
- (8) In case of extraordinary situations which warrant starting of new divisions of particular faculties, the State Government, with reasons to be recorded in writing, shall have the authority to declare and adopt the fast track system of grant of permission to start such new divisions and the norms and procedures related thereto:
- Provided that, the procedure for grant of permission in such extraordinary situations shall be completed not later than 31st August of the Academic Year in which such new divisions are to be started:
- Provided further that, the applications for starting of new divisions under the fast track system shall be duly processed by the university. On the compliance of necessary conditions, if the University recommends to the Government the proposal for starting such new divisions,

then such permission shall be deemed to have been accorded by the State Government if no adverse communication of any nature is issued by the State Government up to 31st August of the Academic Year in which such new divisions are to be started.

- (9) The State Government, for the purpose of giving effect to the provisions of sub-section (3) or sub-section (4), as the case may be, may by notification in the Official Gazette, lay down the procedure to be followed for the purposes under the said sub-sections.”

9. A perusal of the first proviso to Section 109(4)(d) clearly shows that in exceptional cases, the State Government can grant permission, despite the fact that the concerned University has not recommended the application of an institute to open a new course. We are of the opinion that such an opportunity ought to be available to institutions like the petitioner herein, despite the fact that the University makes a negative recommendation for opening of a new course. The impugned action of the respondent No.2 – University has resulted in the said opportunity not being made available to the petitioner, despite the fact that such an opportunity is clearly contemplated in the aforesaid statutory scheme. To that extent, the impugned action of the respondent No.2 – University cannot be sustained.

10. In view of the above, the impugned communication dated 21st April 2025, issued by respondent No.2 – University is quashed and set aside. The respondent No2 – University is directed to forward its opinion / recommendation, including a negative recommendation for opening of new course by the petitioner, to the respondent No1 – State within two weeks from today.
11. The respondent No.1 – State shall consider such a negative recommendation by the respondent No.2 – University strictly in accordance with law, including by application of the aforesaid Government Resolution dated 13th September 2017.
12. The respondent No.1 – State is expected to take a decision in the matter within four weeks thereafter.
13. The writ petition is allowed in the above terms.
14. Rule made absolute. Pending applications, if any also stand disposed of.
15. The learned counsel appearing for the respondent No.2 – University is permitted to tender Vakalatnama, which is taken on record.

(Y. G. KHOBRADE, J.)

(MANISH PITALE, J.)