



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

WRIT PETITION NO.1570 OF 2019

1. Vijay Shikshan Prasarak Mandal,
Tq. Gangapur, District Aurangabad.
Through Mr. Sham Laxmanrao Khamgaonkar,
Age : 43 years, Occu. Principal,
Sainath College,
R/o House No.655, Arunodaya Colony,
N-5, CIDCO, Aurangabad.
2. Sainath Junior College,
Through its Principal,
Mr. Sham Laxmanrao Khamgaonkar,
Age : 43 years, Occu. Principal,
Sainath College,
R/o House No.655, Arunodaya Colony,
N-5, CIDCO, Aurangabad.

...PETITIONERS

VERSUS

1. The State of Maharashtra.
Through its Secretary,
Higher and Technical Education
Department, Mantralaya, Mumbai-32.
2. Director,
Vocational Education and Training,
Maharashtra State, Mumbai.
3. Deputy Director,
Vocational Education and Training,
Maharashtra State, Aurangabad.
4. State of Maharashtra.
Through its Secretary,
Skill Development and Entrepreneurship
Department, Mantralaya, Mumbai.

...RESPONDENTS

...
Shri Sushant V. Dixit, Advocate for the petitioners.
Shri Amar V. Lavte, AGP for the respondents/ State.
...

**CORAM : MANGESH S. PATIL
&
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 06th February, 2025

JUDGMENT (Per Prafulla S. Khubalkar, J):-

Heard Advocate Sushant V. Dixit for the petitioners
and Advocate Amar V. Lavte, the learned AGP for the
respondents.

2. Rule. Rule made returnable forthwith and heard
finally by consent of parties.

3. The petitioners have sought a writ of mandamus
directing the respondents to pay 100% grant in aid of salary and
non salary grants to petitioner No.2 junior college run by
petitioner No.1 Management.

4. The petitioners' contention is that they are running
the college imparting general education as well as 'Minimum
Competency Vocational Courses' (MCVC) since the year 2000.

The petitioners claim to have received permission on 06.03.2000 to conduct MCVC courses on 'permanent non grant' basis with a categorical condition stated in the order to abide by Government Resolution dated 28.10.1988, which made it dependent on grant in aid from the Central Government. After the permission was granted, the petitioners appointed requisite teaching and non teaching staff and with necessary infrastructure the courses were successfully conducted.

5. The petitioners have stated that during the academic years 1996-97 and 1997-98, the Government of Maharashtra had granted 187 divisions of vocational courses on full financial grant-in-aid basis and out of those, 97 divisions started functioning and remaining 90 divisions, which could not be started functioning, were re-allotted to various institutions, however, on 'permanent non grant' basis. The petitioners received such divisions on 'non grant' basis. The earlier 97 divisions which were operational from initial sanction, were receiving financial grant- in-aid from the State Government, however, other 90 divisions were not given grant-in-aid.

6. It is submitted that thereafter, in the year 2001, the

Government of Maharashtra took a policy decision granting permission to private institutions for running primary and secondary schools on 'permanent no grant' basis and accordingly, the courses were started in the respective institutions. It is stated that on 20.07.2009, the State Government issued the Government Resolution and excluded the word 'permanent' from the permissions granted to primary and secondary schools. Accordingly, in view of this policy decision, it is submitted that the petitioner institution also became entitled to be excluded from category of 'permanent non grant' basis to 'non grant' basis. It is submitted that since other institutions were brought on partially grant in aid basis or fully grant in aid basis, the petitioners who were running MCVC courses, also became entitled to similar treatment.

7. The learned advocate Shri Sushant Dixit for the petitioners vehemently submitted that in view of the Government Resolution dated 20.07.2009, the word 'permanent' having been excluded in respect of many institutions, the petitioners are also entitled to similar benefits. It is submitted that by denying grant in aid to the petitioners, the respondents have discriminated it in

comparison to other institutions, which were brought on partially grant in aid basis. It is also submitted that the policy decision of the Government to grant aid to some institutions and refuse it to other institutions, is perverse and arbitrary and therefore, same needs to be interfered with under Article 226 of the Constitution of India.

8. Advocate Shri Amar V. Lavte, the learned AGP for the respondents/ State, strongly opposed the petition by pointing out that the decision to extend grants is a policy decision of the Government and the petitioners cannot claim to have any vested right. He has submitted that the petitioners were initially granted permission on 'permanent no grant' basis with a categorical stipulation that in case the Central Government gives financial assistance, then only grants in aid would be made available to them. By referring to the affidavit in reply dated 31.01.2022 and the additional affidavit dated 23.01.2024, he has submitted that the petitioners cannot claim any entitlement on the basis of the Government Resolution dated 20.07.2009. It is also pointed out that the respondents had earlier decided to introduce vocational education at 10+2 level with financial assistance of the Central

Government, however, since the Central Government has subsequently stopped and deleted the scheme from the list of financial assistance, the Government of Maharashtra vide letter dated 25.08.1998 took a policy decision to grant permission to run vocational courses at 10+2 level only on 'permanent non grant' basis. It is, thus, submitted that since the scheme was deleted from the financial assistance of the Central Government, the petitioners cannot claim any kind of entitlement to grant.

9. We have considered the rival submissions and perused the papers.

10. It is to be noted that communication dated 06.03.2000 granting permission to the petitioners to start vocational courses is clearly on 'permanent non grant' basis. Although the Government of Maharashtra has taken a policy decision for extending grants to various institutions, the claim for grants in aid cannot be considered to be a vested right. Providing grants to a particular kind of courses is solely in the discretion of the Government since it involves financial implications. The policy decision vide Government Resolution dated 20.07.2009 to delete the word 'permanent' from the permissions earlier granted,

does not confer any right in favour of the petitioners to claim grants.

11. It is to be further noted that the Government Resolution dated 20.07.2009 was issued by the School Education and Sports Department with reference to primary and secondary schools and same was not directly made applicable to the Department of Skill Development and Entrepreneurship under which the courses of MCVC are conducted. Further, in view of the specific stipulation in the permission of the petitioners regarding condition of financial assistance from the Central Government and in the light of the decision of the Central Government to delete the courses of MCVC from the list of financial assistance, the petitioners or other institutions are not entitled to claim grants. It has to be noted that in the affidavit in reply dated 31.01.2022, the respondents have specifically stated that none of the institutions across the State of Maharashtra running vocational courses, have been brought on grant in aid basis and, therefore, the petitioners also cannot claim any entitlement in this regard.

12. As regards the contentions of the petitioners alleging

the policy of the Government to be arbitrary, they have failed to substantiate this stand with objective/ tangible material. It is a matter of policy of the Government about extending grants. It is settled position of law that policy decisions are not open for judicial scrutiny unless they are arbitrary, perverse or unconstitutional. In this regard, a reference can be made to the judgment in the matter of ***Federation Haj PTOs of India vs. Union of India, (2020) 18 SCC 527.***

13. On consideration of the factual and legal aspects, we are of the considered view that the petitioners' claim for 100% grants for salary and non salary, is not at all sustainable. The petitioners have failed to make out any case seeking a writ of mandamus under Article 226 of the Constitution of India. The petition, therefore, deserves to be dismissed.

14. Writ Petition is dismissed. No order as to costs.

15. Rule is discharged.