

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

WRIT PETITION NO. 4875/2017

WITH

CIVIL APPLICATION (W) NOS. 2063/2017 & 2258/2017

(Shivshakti Shikshan Sanstha, Kotha, Yavatmal vs. The State of  
Maharashtra and others )

.....  
Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
of directions and Registrar's orders

Court's or Judge's order

.....  
Shri M.G.Bhangde, Senior Counsel with Shri V.V.Bhangde,  
Advocate for petitioners  
Shri A.M.Deshpande, Additional Govt. Pleader for respondents 1 and 2  
Shri R.L.Khapre & Shri S.A. Marathe, Advocate for intervenors  
Shri A.A. Naik, Adv.for intervenors.

CORAM : R.K. DESHPANDE &  
VINAY JOSHI, JJ.

DATED : 20<sup>th</sup> June, 2019.

1. Heard learned counsel appearing for respective parties.
2. **Rule**, made returnable early.
3. Shri A.M.Deshpande, learned Additional Government Pleader waives service of notice on behalf of respondent nos.1 and 2.
4. We have also heard learned counsel appearing for the parties on the question of grant of continuation of interim relief which was granted on 28<sup>th</sup> July, 2017.

5. Shri M.G. Bhangde, learned Senior counsel appearing for the petitioner has placed strong reliance upon the Government Resolution (GR) dated 04.02.2008 and has urged that it has been issued after the decision of the Cabinet. The GR decides that the claim of the Institution already running other courses like Arts and /or Commerce on grant-in-aid basis, should be given priority in providing grant-in-aid to other streams. The claim of the petitioner for providing grant-in-aid to the Science faculty has to be considered on priority basis for the reason that two other faculties, namely, Arts and Commerce are already on grant-in-aid. The contention is that this requirement of giving priority is deleted by the GR dated 02.09.2013 which, in fact, is not at all applicable and at any rate, the requirement of G.R. dated 02.09.2013 cannot override the decision of the Cabinet contained in GR dated 04.02.2008.

6. The question as to whether the criteria prescribed under GR dated 02.09.2013 can be made applicable for providing grant-in-aid requires consideration. The stand of the respondent-State Government is reflected in paragraph 16 of the reply, which is reproduced below :

*“16. It is further submitted that the Hon'ble High Court vide its order dated 16.11.2016 has directed to scrutinize the petitioner no.2-College*

*first in order to examine its eligibility to the grants. Accordingly, the respondent no.2 has scrutinized the petitioner no.2-College on the available information and data submitted by the petitioner no.2-College as per the advertisement issued. It is submitted that the Hon'ble High Court has observed that the petitioner no.2-college has NAAC accreditation so should be considered by the respondents while ascertaining its eligibility. Here it is submitted on behalf of the respondent no.2 that even if the petitioner no.2-College has NAAC accreditation as per the Government Resolution dated 08.10.2010, it does not mean that the essential requirements under the Government Resolution dated 02.09.2013 are not necessary. Some of the important observations are that the petitioner no.2-College does not have separate class rooms for Science faculty. As the petitioner no.2 College has already been granted grant-in-aid for Arts and Commerce faculty, the said class rooms are also being used for Science faculty. Further, it is also seen that the Audit report are not produced by the petitioner no.2-College and also the N.A. certificate is also not produced. It is also been seen that the infrastructure which are necessary for the classrooms are not there in the petitioner no.2-College. Thus, it is mentioned that not only having*

*NAAC does not entitle the petitioner but other facilities like building, class rooms, staff and other related faculties should be possessed by the College and thus the petitioner No.2-College does not fulfill the 55 points which are necessary for granting grant-in-aid. Accordingly, Government Order dated 12.07.2017 has been issued.”*

7. *Prima facie*, we are of the view that the provisions of GR dated 02.09.2013 merely provide certain additional requirements to be fulfilled and it in no manner override GR dated 04.02.2008 which merely talks of priority. There is no legal right conferred. Actually, we wanted to finally decide the matter after fully understanding the controversy, but the learned senior Advocate wanted to urge several other points. Though we spent half an hour to hear the arguments, we are constrained to grant “Rule” to hear the matter on other aspects.

8. We have also seen the comparative chart in respect of the infrastructural facilities available in the Institution. However we do not find that this is a case where the interim relief is required to be continued. We have judged the matter independent of the claims of other comparative institutions and in the light of the stand taken by the State Government in para no.16 reproduced above, the interim relief granted by this Court is vacated. However,

the further process shall be subject to result of this petition.

9. At this stage, learned senior counsel submits that the order of *status quo* be granted, so as to enable the petitioner to approach the Hon'ble Apex Court.

10. We continue the interim relief for a period of four weeks from today. After the end of that period, the interim relief shall stand automatically vacated.

11. The Civil Applications for intervention to be considered at the time of final hearing.

**JUDGE**

**JUDGE**