



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

**WRIT PETITION NO. 2093 OF 2024**

Nisargdeep Shikshan Prasarak Mandal, Aurangabad  
17/2, Banjara Colony, Naik Nagar,  
Chhtrapati Sambhajnagar (Aurangabad),  
Through its Secretary,  
Shri Vijendra S/o. Gulabsing Jadhav,  
Age. 54 years, Occu. Social Service,  
R/o. : 17/2, Banjara Colony, (Aurangabad),  
Chhatrapati Sambhajnagar, Tq. And Dist. (Aurangabad),  
Chhatrapati Sambhajnagar. ...Petitioner

**Versus**

1. The State of Maharashtra  
Through its Secretary,  
Higher and Technical Education Department,  
Mantralaya, Mumbai-32.
2. Dr. Babasaheb Ambedkar Marathwada University,  
Chhatrapati Sambhaninagar (Aurangabad),  
Through its Registrar,  
University Campus, Near Soneri Mahal,  
Jaysinghpura, Chhatrapati Sambhajnagar (Aurangabad),  
Maharashtra – 431 004.
3. Shri Dyaneshwar Bahuuddeshiya Sevabhavi Sanstha  
Through its Secretary,  
R/o. Pachod, Tq. Paithan, Dist. Chhatrapati Sambhajnagar  
(Aurangabad).
4. Pandit Dindayal Uppadhyay Shikshan Sanstha,  
Dharmaveer Sambhaji Vidyalay, CIDCO, N-5,  
Savarkar Nagar, Chhatrapti Sambhajnagar (Aurangabad).
5. The Maharashtra State Commission for Higher  
Education and Development,  
Through its Chair Person, Mantralaya, Mumbai – 32.

6. Rajendra S/o. Gulabsingh Jadhav,  
Age. 56 years, Occ. Retired/Secretary  
R/o. 17/2, Banjara Colony,  
Near Santoshi Mata Mandir,  
Chhatrapati Sambhajnagar (Aurangabad). ...Respondents

...

Advocate for Petitioner : Mr. M.V. Ghatge  
Addl. GP for Respondent Nos. 1 & 5 : Mr. A.R. Kale  
Advocate for Respondent No.2 : Mr. S.S. Tope  
Advocate for Respondent No.3 : Mr. V.P. Latange  
Advocate for Respondent No.4 : Mr. Y.V. Kadake  
Advocate for Respondent No.6 : Mr. P.B. Shirsath

...

**CORAM : MANGESH S. PATIL &  
SHAILESH P. BRAHME, JJ.**

**RESERVED ON : 12 AUGUST 2024  
PRONOUNCED ON : 26 AUGUST 2024**

**JUDGMENT [*Shailesh P. Brahme, J.*] :**

1. Rule. Rule is made returnable forthwith. With the consent of the parties, heard finally at the admission stage.

2. By way of present petition jurisdiction under Article 226 of the Constitution of India is invoked to challenge letter dated 22.09.2023, issued by respondent no. 1 inducting new locations for issuing Letter of Intent (hereinafter referred to as 'LOI' for the sake of brevity and convenience) for 2024-2025, government resolution dated 15.02.2024 issuing LOI to respondent nos. 3 and 4 and government resolution dated

15.07.2024 granting final approval to them. Petitioner is also seeking ancillary orders.

3. The controversy pertains to opening of a College at Chitte-Pimpalgaon, Taluka and District Chhatrapati Sambhajnagar. The LOI and final permission are regulated under Maharashtra Public Universities Act 2016 (hereinafter referred to as 'Act' for the sake of brevity and convenience). Respondent no. 6 is a faction of the office bearers who is at loggerhead with the Secretary of the petitioner. The petition is opposed by all the respondents.

**Background of the petition :**

4. The petitioner is a Registered Public Trust. It was issued with LOI to run Shri Tuljabhavani Arts and Science College on permanent non grant basis at Chitte-Pimpalgaon, Taluka and District Chhatrapati Sambhajnagar, vide government resolution dated 15.07.2024. Its College was given affiliation also which was continued up to 2020-2021.

5. As there were complaints, criminal cases against the office bearers and serious lapses, an enquiry was conducted by

Committee appointed by University. Report was submitted by covering letter dated 23.08.2023, recommending withdrawal of affiliation. Consequently, the respondent no. 2 – University had withdrawn affiliation vide order dated 06.09.2022. It was challenged by the petitioner in Writ Petition No. 9809/2022 in the High Court which was dismissed on merits vide judgment and order dated 29.08.2023. Being aggrieved, Special Leave Petition was preferred which was also dismissed by Supreme Court on 06.10.2023.

6. The petitioner submitted applications to respondent no. 2 – University for renewal of affiliation and for providing password as all the defects have been removed. By way of our order dated 14.06.2024 passed in Civil Application No. 3460/2024, respondent no. 2 – University accepted the application of petitioner for affiliation. Later on, it was rejected and is under challenge in Writ Petition No. 8542/2024. Presently, we are not considering the said writ petition. The fact remains that petitioner is prosecuting independent remedy soliciting affiliation.

7. The petitioner also filed Writ Petition No. 5079/2022 challenging letter dated 22.04.2022 issued by Deputy Secretary of

respondent no. 1 and notification – advertisement dated 25.04.2022, inviting proposals for opening new College at Chitte-Pimpalgaon. It is pending. It is claimed that presently petitioner does not have affiliation but it has infrastructure to run the College and the College has not been closed down. The subsequent developments paved way for the petitioner to prefer present matter.

**Case of the petitioner.**

8. Petitioner submitted applications to secure affiliation but those were not being considered by the University. By letter dated 22.09.2023, respondent no. 1 instructed respondent no. 2 – University to invite the proposals for newly added locations for opening of new Colleges for the year 2024-2025. The location of Chitte-Pimpalgaon where the petitioner was running College was one of the added locations. In pursuance of the letters dated 22.09.2023, respondent no. 1 addressed a letter dated 03.11.2023, thereby extending the date for submitting the proposals up to 15.11.2023. Respondent no. 4 submitted proposal. Respondent no. 3 did not submit any proposal at all.

9. Respondent no. 1 addressed letter dated 25.01.2024 to respondent no. 2 – University directing it to forward proposal of respondent no. 3. Respondent no. 1 considered the proposal of respondent no. 3 which was not routed through the University as also the proposal of respondent no. 4. The petitioner made representation on 07.02.2024 to the respondents protesting the consideration of the proposals of any of the Colleges for location Chitte-Pimpalgaon which was already having a College run by the petitioner. By government resolution dated 15.02.2024, LOI was issued to respondent no. 3 as well as 4 for opening new Colleges at Chitte-Pimpalgaon. By distinct government resolution dated 15.07.2024, final approval was also issued to respondent nos. 3 and 4. Being aggrieved, petitioner has preferred the writ petition.

10. Learned counsel Mr. Mahesh V. Ghatge appearing for the petitioner submits that location Chitte-Pimpalgaon has not been included in the perspective plan for 2024-2025 to 2029-2030 and no permission could have been given to open new Colleges. It is illegal to introduce new location in the annual plan. He would submit that without following due procedure of law impugned LOIs and final permissions were given which is contrary to

Sections 107, 109 (2), 109 (3) (d) of the Act. The petitioner is already running a College at Chitte-Pimpalgaon at location in question and has taken required steps to restore the affiliation. Impugned resolutions are against norms settled by Dr. Narendra Jadhav Committee and it is leading to unhealthy competition. It is further submitted that respondent nos. 3 and 4 are run by politically influential persons and, therefore, total go by was given to the statutory procedure.

11. Learned counsel would further submits that the petitioner has locus to maintain the petition because he is prosecuting Writ Petition No. 8542/2024 soliciting affiliation and there is unhealthy competition which is likely to cause loss to the petitioner. He seeks to rely on following judgments :

- i. *M.S. Jairaj Versus Commissioner of Excise, Kerala*, **2000 AIR (SC) 3266** ;
- ii. *Ajintha Bahu Uddeshiya Seva Bhavi Sanstha, Aurangabad Versus The State of Maharashtra and others*, passed by this High Court in Writ Petition No. 10391/2021 ;
- iii. *Trimurti Pawan Pratishthan Versus State of Maharashtra*, **2024 DGLS (Bom.) 2681** ;
- iv. *Raju Ramsing Vasave Versus Mahesh Deorao Bhivapurkar and Others*, **2009 (1) Mh.L.J. 1.**

12. Respondents have opposed the petition. They have filed affidavits and additional affidavit to contest the petition. The learned counsels representing them advance following submission :

**Case of respondent no. 1 – State :**

13. The perspective plan for 2024-2025 was approved by respondent no. 5 – Commission vide letter dated 29.07.2023, thereby, permitting to add the location in question. Accordingly, instructions were given to the Universities and the Colleges for inviting proposals to open new Colleges in the year 2024-2025. Respondent no. 2 – University recommended respondent no. 4 – College. By invoking powers under Section 109 (3) (d) of the Act, the proposal of respondent no. 3 – College was called for and considered. Respondent nos. 3 and 4 – Colleges were found fit as per government resolution dated 15.09.2017 and LOI were issued. It is further contended that both these Colleges were issued with LOI as per the proviso to Section 109 (3) (d) of the Act. The impugned resolutions are issued after following due procedure of law. The petitioner has no locus to maintain the petition. A reliance is also placed on *State of Hariyana : Amrit Singh Versus Chanan Mal : State of Haryana*, 1976 AIR (SC) 1654.



**Case of respondent no. 2 – University :**

14. Having suffered de-affiliation and dismissal of Writ Petition No. 9809/2022 which was confirmed by Supreme Court, the petitioner has no locus to file petition. The College of the petitioner does not exist and it has no nexus with respondent no. 2 – University and newly permitted Colleges. The affiliation of the petitioner's College was withdrawn after conducting due enquiry vide order dated 06.09.2022. There was mismanagement by the office bearers of the petitioner and serious lapses were noticed requiring to resort to de-affiliation. Learned counsel relies on the judgment of *Gurukul Bahuuddeshiya Sevabhavi Pratishthan, Aurangabad Versus The State of Maharashtra and others*, passed by this High Court in Writ Petition No. 9155/2020.

**Defence of respondent nos. 3 and 4 – Colleges :**

15. It is submitted that the petitioner has no *locus standii* and they were issued with LOI and final permission by following due procedure of law. It is the case of respondent no. 3 that the location in question was included in the perspective plan and it submitted proposal within time. LOI was issued under Section 109 (3) (d) of the Act. It is contended by respondent no. 4 that it was running Secondary and Higher Secondary School at Chitte-

Pimpalgaon. Previously also, the University had recommended its proposal. There is no illegality in the impugned resolutions.

16. We have considered rival submissions of the litigating sides advanced across the bar. We have gone through the their respective affidavits and documents which are placed on record. Having considered the matter on merits, we find following relevant undisputed facts :

- i. The affiliation of petitioner's college was withdrawn on 06.09.2022. It was confirmed up to the Supreme Court. A separate Writ Petition No. 8542/2024 is sub judiced, soliciting affiliation.
- ii. Location of Chitte-Pimpalgaon was incorporated in annual plan of 2024-2025 by approval of respondent no. 5 vide letter dated 29.07.2024.
- iii. Respondent no. 3 had submitted proposal in pursuance of letter dated 25.01.2024, directly to the State Government.
- iv. Respondent no. 4 had submitted the proposal which was positively recommended by the respondent no. 5 – University.
- v. By invoking powers under Section 109 (3) (d), respondent nos. 3 and 4 were granted LOI.

17. To crystallize the controversy for adjudication, we propose to formulate following points :

**POINTS**

- I. Whether petitioner has a locus ?
- II. Whether addition of location Chitte-Pimpalgaon in annual plan 2024-2025 is legal and valid ?
- III. Whether LOI and final approval given to respondent no. 3 – College is legal and valid ?
- IV. Whether LOI and final approval given to respondent no. 4 is legal and valid ?

**REASONING**

**Point no. I :**

18. Learned counsel appearing for the respondents have vehemently objected maintainability of the petition. Admittedly, affiliation of the petitioner's College was withdrawn on 06.09.2022. The withdrawal is confirmed up to the Supreme Court. The petitioner has been making attempt to solicit re-affiliation. It submitted application on 26.09.2023 for issuing password. By intervention of the Court, the application for affiliation was accepted by respondent no. 2 – University. Having suffered rejection of the application, petitioner is prosecuting Writ

Petition No. 8542/2024. If it succeeds, the affiliation would be restored and it would be in a position to run Arts and Science College at Chitte-Pimpalgaon. The matter pertains to location of Chitte-Pimpalgaon. Three colleges are staking claim to run College at a small place, Chitte-Pimpalgaon. The apprehension of petitioner for unhealthy competition cannot be said to be unreal.

19. Learned counsel Mr. Yuvraj Kakde appearing for respondent no. 4 has drawn our attention to Section 2 (12) of the Act. According to him for want of affiliation, the petitioner cannot be said to have any existing College at Chitte-Pimpalgaon. Therefore, there is no question of any unhealthy competition. We would have accepted this submission had the petitioner been not granted permission to run College and consequently, affiliation since from 2009-2010. The affiliation of the petitioner was renewed up to 2019-2020. By order dated 06.09.2022, the affiliation was withdrawn. The petitioner is not soliciting affiliation for the first time, rather it is attempting to restore the affiliation or soliciting renewal of affiliation. Under these peculiar circumstances, we are not prepared to accept the submissions of Advocate Mr. Kakade.

20. Dr. Narendra Jadhav Committee was appointed. Norms were laid for opening of new Colleges. As per the norms distance between two Colleges in the rural area should be 20 k.m. Without entering into the controversy whether the norms are directory or mandatory, it can be said that the apprehension of the petitioner is legitimate. It has locus standii.

**Point no. II :**

21. The perspective plan under Section 107 of the Act is published for five years from 2024 to 2029. There cannot be a perspective plan for 2024-2025 which is a misnomer frequently referred to in correspondence dated 22.09.2023, 03.11.2023, public proclamation dated 06.11.2023 and the affidavit-in-reply of respondents. The annual plan is prepared by Board of Deans and it has to be in consonance with the perspective plan. It is relevant to notice following provision Section 37 (1) (i) of the Act :

**“37. Powers and Duties of Board of Deans.-**

(1) The Board of Deans shall have the following powers and duties, namely : -

(a) .....

(b) .....

.....

(i) to prepare the annual plan for the location of colleges and institutions of higher learning, in consonance with the perspective plan.”

The Board of Deans prepares the annual plan. Then the Management Council recommends it for the location of the Colleges prepared by Board of Deans. Therefore, academic council approves it. This is the frame work for preparing annual plan under the statute.

**22.** The perspective plan is prepared by the University under Section 107 (5) of the Act. The Board of Deans under Section 37 (1) (h) of the Act, prepares the perspective plan and under clause (i) prepares annual plan. The perspective plans and annual plans are recommended by Management Council under Section 31 (y) of the Act. Thereafter, Academic Council approves those plans under Section 33 (1) (q) of the Act. The perspective plan prepared by the University needs an approval by Commission under Section 77 (1) (b) of the Act. Thus there is distinction between perspective plan and annual plan. As per Section 37 (1) (i) of the Act the annual plan of the University for opening new Colleges shall be in accordance with the perspective plan in all respect including the location.

**23.** Learned counsel for the petitioner has rightly referred to our decision in the matter of *Trimurti Pawan Pratishthan*

(supra). It is relevant to refer to paragraph nos. 22 to 26 which read thus :

“22. As regards the sanctity of the perspective plan as contemplated under Section 107 is concerned, reading of Section 107 alone would not suffice. It is also necessary to understand the process which is required to be followed before any public university prepares a perspective plan, tenure of which is five years. As indicated therein the plan has to be approved by the Commission constituted under Section 76, which means the Maharashtra State Commission for Higher Education and Development. It comprises the Chief Minister as the Chairman and Minister for Higher and Technical Education as the Vice-Chairman. There are Secretaries of as many as seven departments of the State, Educationist, Vice-Chancellors, Principals, eminent teachers, five other Ministers, Leaders of Opposition, Members of the Legislative Council and Assembly as its members. Section 77 lays down the functions and duties of the Commission and clauses (a) and (b) of Sub- Section 1 of Section 77 expressly lays down and empowers the Commission to prepare guidelines for perspective plan for each University, for the location of the Colleges and institution of higher learning in a manner ensuring equitable distribution of facilities for higher education and to approve the comprehensive perspective plans submitted by the universities.

23. The Tasks of preparing a perspective plan is imposed upon the board of Deans. Even it has to prepare the annual plan. Even before it is placed before the commission for final approval, the draft goes through the scrutiny by the academic council, Senate and Management Council. If such is the meticulous and detail procedure to be followed before the comprehensive perspective plan for a period of five years is prepared and becomes final, one need not overemphasize its sanctity and importance.

24. No provision is pointed out by the learned advocate particularly the learned AGP and the learned advocate representing the University to demonstrate as to if such a perspective plan prepared by the University is susceptible to any concession/leeway either in respect of the institutes/new Colleges to be opened, new courses to be started or for changing the location. Even Sub-Section 4 of Section 107 requires preferences to be given to the districts where gross enrollment ratio is less than the national average and also to the tribal, hilly and inaccessible areas besides quality bench mark, inclusive growth, social relevance and value education. This is clearly demonstrative of the fact that several

factors are to be taken into consideration before finalizing a perspective plan. Every consideration would have its own sanctity and importance. Consequently in our considered view, it is necessary that any such perspective plan is followed strictly by all the stake holders else the purpose and object of preparing a perspective plan would be lost.

25. Having borne in mind, the sanctity and importance of the perspective plan it is imperative that any annual plan which is published every year is strictly in accordance with and should be compatible with the perspective plan. Looked at from this angle, as is pointed out by Mr. Nagargoje the perspective plan that was published by the respondent No.3 - University, by Government Resolution dated 15.09.2017 which was for a period of five years, did not indicate any plan for starting a new law College in entire Newasa Taluka. We, therefore, have no manner of doubt that the annual plan pursuant to which both these institutes had applied in response to the notification issued by the respondent No.3 - University, is clearly in violation of the perspective plan and for this reason alone the entire process of issuing notification dated 10.01.2023 inviting application for the location 'Kharde Newasa Phata', which is not at all traceable to the perspective plan, becomes illegal.

26. We cannot approve of rather would deprecate the practise of the respondent No.3- University in not being consistent in upholding the sanctity of a perspective plan and rather indulging in illegalities by coming out with an annual plan inconsistent with the perspective plan to the extent of the location in dispute and starting of a new law College which is not traceable to the perspective plan. In our considered view, this in itself is sufficient to quash the permission granted to respondent No.4 - Institute under the impugned GR. Obviously, this will obviate any consideration of any other objection being raised in both these petitions questioning sustainability and legality of the permission granted to respondent No.4. However, by way of precaution, we would examine even that aspect.”

**24.** We propose to examine the present matter in the context of the principle laid down in paragraph no. 26 quoted above. The petitioner has vehemently submitted that Chitte-Pimpalgaon is not included in the perspective plan for 2024 to



2029. There is no reply to this factual aspect which goes to the root of the matter. Surprisingly, respondent nos. 1, 2 and 5 have made attempt to submit that Chitte-Pimpalgaon was added in perspective plan of 2024-2025. Being highly placed public officers they should have been candid to disclose as to whether location in question is included in perspective plan of 2024-2029 or not. There is every reason to draw adverse inference against them.

**25.** By letter dated 29.07.2024 issued by respondent no. 5 – Commissioner Chitte-Pimpalgaon is included in the perspective plan. In pursuance of it, impugned letter dated 22.09.2023 was addressed by respondent no. 1 to the University disclosing addition of new locations for opening of the new Colleges. Further correspondence dated 03.11.2023, candidly discloses addition of Chitte-Pimpalgaon. We find that relevant extract of perspective plan 2024-2029 is on record disclosing that Chitte-Pimpalgaon was not included in it. Thus the location in question is for the first time added on or from 29.07.2024, in the annual plan.

**26.** If this is the situation, then by following our decision rendered in *Trimurti Pawan Pratishtan* (supra), we have no option but to hold that annual plan of 2024-2025 with added

location in question is inconsistent with the perspective plan and impugned LOI and final approvals are liable to be quashed.

**27.** It has been argued by learned counsel for respondent nos. 1 and 2 that it is permissible to add new location in the annual plan. We have gone through the provision of Section 77 (1) which stipulates function of the Commission. We do not find any such power with the Commission. Similarly no provision is pointed out from Section 107 or 109, empowering the respondents/authorities to incorporate new location once perspective plan for five years has been brought into force. Incorporation of Chitte-Pimpalgaon for allotting Colleges in the academic year 2024-2025 is illegal and strategic.

**Point no. III :**

**28.** Respondent no. 3 did not submit the proposal initially. There is nothing on the record to show that the respondent no. 2 – University considered its proposal either way and it was forwarded to respondent no. 1. Respondent no. 3 tendered proposal in pursuance of direction issued by letter dated 25.01.2024. Till then, there was no scrutiny of the proposal of the respondent no. 3 nor forwarding of proposal to respondent no. 1.

**29.** The scheme of Section 109 of the Act, does not stipulate any procedure for forwarding the proposal to respondent no. 1 without there-being any scrutiny with positive or negative recommendation of the University. The proviso to Section 109 (3) (d) empowers the State Government to grant LOI notwithstanding negative recommendation. But it does not empower it to grant LOI in the absence of any recommendation from the University. Interestingly, the University is not candid enough in its affidavit-in-reply to disclose that the proposal of respondent no. 3 was not scrutinized by it and was not forwarded to respondent no. 1 with recommendations, either way.

**30.** Respondent no. 3 had not submitted any application to the University and had submitted it directly to the State Government. Section 109 (5) of the Act reads as follows :

“109. Procedure for permission for opening new college or new course, subject, faculty, division.-

(1) .....

(2) .....

(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.”

The decision making process in respect of respondent no. 3 is, thus, *de hors* the statutory norms and liable to be quashed in view of Section 109 (2) and (5) of the Act.

**31.** If the submissions of respondent nos. 1 and 2 that respondent no. 1 has extra ordinary powers to grant LOI even if the location is not part of perspective plan and even if there is no recommendation either favourable or negative by the university are accepted then there would be no reason to create statutory channel for submission of the proposals and the recommendations of the University. The whole object for prescribing procedure under Section 109 for granting permission to open new colleges, is to ensure uniformity, transparency and to streamline the opening of new colleges. Plain reading of Section 109 (2) of the Act shows strict compliance of due procedure is contemplated. It seeks to avoid arbitrariness and high handedness. The respondent no. 1 has no unbridled powers to entertain any proposal which is not in consonance with the perspective plan, policy of education and due procedure.

**32.** Learned AGP would advert our attention to paragraph no. 8 of reply dated 29.07.2024. For the reasons stated therein,

the respondent no. 1 – State issued LOI by invoking special powers under Section 109 (3) (d) of the Act. As we have concluded that the respondent no. 1 – State has no such power to add any new location which is not part of the perspective plan, it would be futile to assign reasons as attempted in paragraph no. 8.

**33.** In this regard, learned counsel for respondent no. 2 refers to judgment rendered in the matter of *Gurukul Bahuuddeshiya Sevabhavi Pratishthan, Waghhalgaon, Aurangabad* (supra). The facts and situation in that matter was totally different. High Court was dealing with power of the State to grant LOI despite negative recommendation of the University. It is held that as per Section 109 (3) (d) of the Act, under exceptional circumstances and for the reasons to be recorded the State has such power. The case in hand is about addition of location which is not part of the perspective plan. The ratio is of no avail to the respondents.

**Point no. IV :**

**34.** Respondent no. 4 had submitted the proposal to the University for the location, Chitte-Pimpalgaon. We have already recorded that Chitte-Pimpalgaon was added for the first time in

annual plan of 2024-2025. It was not included in the perspective plan of 2024-2029. It is usurpation of power to issue LOI for newly added location under garb of Section 109 (3) (d) of the Act. The reasons mentioned in paragraph no. 8 of reply of respondent no. 1 / State would be of no help. We are inclined to quash LOI by following ratio of *Trimurti Pawan Pratishthan* (supra).

**35.** Respondent no. 2 – University has not disclosed relevant facts which are within its special knowledge, to assist the court. Being independent educational authority, it was expected of it to disclose as to whether Chitte-Pimpalgaon is included in the perspective plan or not and as to whether there was any recommendation either positive or negative to the proposals of respondent nos. 3 and 4. The location in question is incorporated in defiance with the perspective plan. The respondent no. 3 was specially called upon to submit the proposal. This type of red carpet treatment to respondent no. 3 is astonishing. There is every reason to infer that respondent nos. 3 and 4 are run by influential persons and therefore, they were being treated specially, by-passing the procedure. Granting permission to open new colleges

simultaneously to respondent nos. 3 and 4 at the same village is highly objectionable, totally unwarranted and grossly illegal.

**36.** Learned counsel Mr. S.S. Tope for respondent no. 2 – University would submit that Act 2016 is beneficial legislation. It is permissible to grant LOI to respondent nos. 3 and 4 being deserving institutes. We have reservations about sustainability of this submission. No provision is pointed out to show that there is trapping of beneficial legislation or meant for weaker section or downtrodden section or unequally placed persons. There is no question of upliftment of any Section of the society or safeguard the rights of vulnerable element of the Society. Rather, it is a matter of regulating the procedure for opening of the Colleges keeping in view the educational standards, infrastructure and welfare of the students. Just because students are the beneficiaries would not render the Act 2016 as a beneficial legislation. We find the submission of the learned counsel is preposterous.

**37.** The analysis of our reasoning is that the impugned government resolutions and letter dated 22.09.2023 are liable to be quashed. We, therefore, pass following order :

**ORDER**

- I. Writ Petition is allowed.
- II. The communication dated 22.09.2023 issued by respondent no. 1 is quashed and set aside.
- III. Government resolution dated 15.02.2024 issuing LOI to respondent nos. 3 and 4 as well as government resolution of 15.07.2024 granting final approval to respondent nos. 3 and 4 are quashed and set aside.
- IV. Rule is made absolute in above terms.

**[ SHAILESH P. BRAHME ]**  
**JUDGE**

**[ MANGESH S. PATIL ]**  
**JUDGE**