

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 816/2022

Shri Shyam Seva Samiti, Bhadar, District Hanumangarh,
Rajasthan Through Its Secretary Virendra Kaushik S/o Shri
Amarnath Kaushik, Aged About 37 Years R/o Ward No. 15, Tehsil
Bhadar, District Hanumangarh, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Deputy Secretary To The Government, Agriculture (Group-III), Directorate Of Agriculture, Jaipur.
2. Additional Chief Secretary To The Government And Commissionr Department Of Agriculture, Directorate Of Agriculture, Jaipur.
3. Commissioner, Department Of Agriculture, Directorate Of Agriculture, Jaipur.
4. Joint Secretary To The Government, Department Of Agriculture (Group-3), Pant Krishi Bhawan, Jaipur.
5. The Controller, Let/pre-PH/ho-D Entrance Examination-2021, S.K.N. Agricultural University, Jobner, Jaipur (Raj.).
6. Agriculture University, Jodhpur Through Its Registrar, Mandor, Jodhpur.

----Respondents

For Petitioner(s) : Mr. K.R. Saharan through V.C.

For Respondent(s) : Mr. K.S. Rajpurohit, AAG through V.C.

JUSTICE DINESH MEHTA

Order

20/01/2022

1. Petitioner-institution submitted an application for grant of NOC and also for seeking approval for increasing the capacity of students from 60 to 120 in its Agriculture college.

2. By way of the order dated 04.08.2021, the State Government though granted temporary NOC for the academic session 2021-22, however did not grant sanction for enhancement of intake capacity of students from 60 to 120.

3. Mr. B.S. Sandhu, learned counsel for the petitioner invited Court's attention towards the recommendation dated 30.06.2021, given by the competent committee constituted by the State Government and highlighted that the committee had categorically pointed out that the petitioner-institution has been functioning in accordance with law/norms and hence, its NOC be extended for the academic session 2021-22 and at the same time it was also recorded that the petitioner-institution is having requisite infrastructure for enhanced intake capacity from 60 to 120 seats and, therefore, seat allocation of petitioner-institution be enhanced to 120 seats.

4. Challenging the order dated 04.08.2021, Mr. Sandhu submitted that in furtherance of the recommendation dated 30.06.2021, the State Government has granted NOC for academic session 2021-22, while completely withholding the sanction of enhancement of seats from 60 to 120, without any rhyme and reason.

5. Learned counsel argued that once the State Government has constituted a committee and such committee has made favourable recommendations, there was no reason for the State Government to deny or withhold grant of permission or NOC for increasing the capacity from 60 to 120.

6. Mr. K.S. Rajpurohit, learned Additional Advocate General submitted that the recommendation made by the committee is not

binding upon the State Government and the State Government has a power to refuse enhancement of seats.

7. Learned Additional Advocate General invited Court's attention towards the communication dated 12.07.2021 and argued that the State Government has constituted a five member committee of Ministers of the State Government for regulating establishment of private colleges and for the setting of parameters for the same and thus, the enhancement of the intake capacity was kept in abeyance.

8. Heard.

9. On perusal of record and after considering rival submissions, this Court is of the view that the State's action of not permitting the enhancement of the intake capacity of the petitioner-institution is arbitrary and illegal. Once, the competent committee, constituted by the State Government, has conducted inspection and given a favourable report, while categorically indicating that the petitioner-institution is having requisite infrastructure and capacity to impart education to 120 students, there was no reason for the State Government to sit over the matter and refuse to permit enhancement of the intake capacity of the petitioner-institution.

10. In any case, if the State Government was of the view that the petitioner-institution is not entitled for enhancement of the intake capacity, it was required to assign valid reasons for the same.

11. Neither in the order impugned, nor in the reply, any reason worth the name has been given owing to which, the request of the

petitioner-institution for enhancement of the intake capacity has been turned down.

12. As a matter of fact, the order dated 04.08.2021, which is absolutely silent in relation to petitioner's request for enhancement of the intake capacity from 60 to 120 students amounts to rejection of petitioner's request for enhancing the student capacity.

13. State's reliance upon the communication dated 12.07.2021, whereby five member committee of the Ministers of the State Government has been constituted, is absolutely misplaced.

14. A perusal of the communication dated 12.07.2021 reveals that the State Government has constituted a five member committee of the Ministers of the State Government in order to take policy decision in relation to establishment of and setting standard or parameters for private colleges.

15. Mere formation of a committee cannot take away rights of a private college/institution, which is otherwise eligible and entitled for enhancement of the intake capacity.

16. Needless to observe that only a committee has been constituted and such committee as of today has not given any recommendation or framed any policy or guidelines. That apart, if any policy is framed by the State Government, the same will apply prospectively. In absence of any guideline, rights of the petitioner-institution, which have accrued, cannot be stalled by the State Government, more particularly in the face of the recommendation dated 30.06.2021.

17. As an upshot of the discussion foregoing, the writ petition succeeds.

18. The state Government is directed to issue NOC to the petitioner-institution for enhancement of the intake capacity to the extent of 120 students.

19. Needful be done within a period of four weeks of placing certified copy of the order instant.

20. Stay petition also stands disposed of accordingly.

74-Ramesh/-

(DINESH MEHTA),J

RAJASTHAN HIGH COURT



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