







पंजी क्रमांक 108/3116

विषय :-

न्यायालयीन प्रकरण डब्ल्यू पी. क्र. 4305/15 (एस) जीजू बाई  
बिना सामिति विरुद्ध उच्च न्यायालय म. प्र. 14/3/16

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राजिव मध्य प्रदेश शासन उच्च शिक्षा विभाग के आदेश क्रमांक 264-265 दिनांक 14/3/16 में अतिरिक्त संचालक/प्रमुख ~~मंजीप बायलिय~~, उच्च न्यायालय, उच्च न्यायालय का प्रभारी अधिकारी नियुक्त किया जा चुका है। कृपया प्रतिरक्षण आदेश जारी करने हेतु नवीन विधि विभाग की ओर संकेत करना चाहें।

प्रतिरक्षण हेतु नवीन विधि विभाग को संकेत करना चाहें।  
आयुक्त/सचिव महोदय  
विधि विभाग

उमाकान्त उमराव  
सचिव/आयुक्त  
उच्च शिक्षा विभाग

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पंजी क्रमांक 108/3116

विषय :-

न्यायालयीन प्रकरण डब्ल्यू पी. क्र. 4305/15 (एस) जीजू बाई  
बिना सामिति विरुद्ध उच्च न्यायालय म. प्र. 14/3/16

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क्षेत्रीय अतिरिक्त संचालक/प्रमुख ~~मंजीप बायलिय~~, उच्च न्यायालय, उच्च न्यायालय का प्रभारी अधिकारी नियुक्त किया जा चुका है। कृपया अनुमोदन आदेश जारी करने हेतु नवीन विधि विभाग की ओर संकेत करना चाहें।

प्रकरण में चर्चा में डिप्टी निदेशक मंजीप बायलिय, उच्च न्यायालय, उच्च न्यायालय का प्रभारी अधिकारी नियुक्त किया जा चुका है। कृपया अनुमोदन आदेश जारी करने हेतु नवीन विधि विभाग की ओर संकेत करना चाहें।

प्रभारी अधिकारी नियुक्ति हेतु स्वीकृति देना चाहें।  
आयुक्त/सचिव महोदय

वि.क.अ. (न्या.प्रकोण)

आ 0264, 65/16  
14-3-16 14/03/16 10/03/16

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कार्यालय अतिरिक्त संचालक, उच्च शिक्षा  
उज्जैन संभाग, शासकीय माधव विज्ञान महाविद्यालय परिसर, उज्जैन (म.प्र.)  
E-mail: adheuiain@gmail.com Tel. No. : 0734-2510267

कमांक / 420 / अति.संचा / 16

उज्जैन, दिनांक : 29.02.2016

प्रति,

आयुक्त महोदय,  
उच्च शिक्षा म.प्र. शासन सतपुड़ा भवन,  
भोपाल

विषय : न्यायालयीन प्रकरण डब्ल्यूपी. 4305/15 जीजु बाई शिक्षण समिति उज्जैन विरुद्ध  
म.प्र. शासन एवं अन्य।

संदर्भ : दूरभाष पर आज दिनांक 29.2.16 को हुई चर्चानुसार।

महोदय,

उपरोक्त विषय में लेख है कि न्यायालयीन प्रकरण कमांक डब्ल्यूपी. 4305/15  
जिजु बाई शिक्षण समिति उज्जैन विरुद्ध शासन एवं अन्य में शासन की ओर से प्रत्यावर्तन  
की कार्यवाही की जाना है। किन्तु उक्त प्रकरण में ओआईसी की नियुक्ति नहीं हुई है।

उक्त प्रकरण अशासकीय महाविद्यालय से संबंधित है तथा प्राचार्य (अग्रणी)  
शासकीय कालिदास कन्या महाविद्यालय, उज्जैन द्वारा निरीक्षण उपरांत उक्त  
महाविद्यालय की मान्यता रद्द की गई थी जिसके विरुद्ध याचिका दायर की गई है।  
अवलोकनार्थ याचिका की छायाप्रति संलग्न है।

अतः प्रकरण में प्राचार्य (अग्रणी) शासकीय कालिदास कन्या महाविद्यालय, उज्जैन  
को प्रकरण प्रभारी नियुक्त करने का कष्ट करें।

संलग्न : उपरोक्तानुसार।

डॉ. श्रीमती उषा श्रीवास्तव  
अतिरिक्त संचालक

उच्च शिक्षा उज्जैन संभाग, उज्जैन  
उज्जैन, दिनांक : 29.02.2016

पृ.क / 421 / अति.संचा. / 16

प्रतिलिपि:

1. डॉ. क्षमा पाण्डे, विशेष कर्तव्यस्थ अधिकारी (न्या.प्र.) उच्च शिक्षा म.प्र. शासन  
सतपुड़ा भवन, भोपाल।

डॉ. श्रीमती उषा श्रीवास्तव  
अतिरिक्त संचालक  
उच्च शिक्षा उज्जैन संभाग, उज्जैन

9/3/16

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W.P.No. 4305 /2015(O)  
IN THE HIGH COURT OF MADHYA PRADESH  
BENCH AT INDORE

Petitioner-- Giju Bhai Shikshan Samiti

V/s

Respondents-- State of M.P. & others

CHRONOLOGY LIST OF DATES & EVENTS

10/08/2000 Petitioner society was granted permission to run the college.

23/03/2004 Petitioner society purchased the land for construction of college building

28/11/2011 Civil suit was filed regarding the land purchased and a temporary injunction was granted not to create third party right.

30/10/2013 This Hon'ble Court was please to observe resolving of dispute in terms of compromise.

04/03/2015 Respondent no. 2 issued show cause notice to petitioner society.

04/06/2015 Respondent no.2 cancelled the permission granted to petitioner society to run the college.

Submitted by,

Place: Indore

Date: 29/06/2015

B.S GANDHI  
Counsel for Petitioner

St. Ward  
Kumhar

(2)

W.P.No. 4305 /2015(O)

**IN THE HIGH COURT OF MADHYA PRADESH**

**BENCH AT INDORE**

Petitioner-- Giju Bhai Shikshan Samiti through  
its Principal Incharge, Ms. Kaina  
Bhonsle, D/o S.R. Bhonsle,  
Aged-32 years, Occu- Service,  
Add- 52, M.I.G., Indira Nagar, Ujjain  
V/s

Respondents--1 State of M.P. through  
Principal Secretary, Higher Education  
Department, Mantralaya, Bhopal M.P.  
2 Commissioner,  
Higher Education Department,  
Satpura Bhawan, Bhopal M.P.  
3 Vikram Vishwavidhyalaya through its  
Vice Chancellor,  
Ujjain M.P.

**WRIT PETITION UNDER ARTICLE 226 OF  
CONSTITUTION OF INDIA**

**1. PARTICULARS OF THE ORDER AGAINST  
WHICH THE PETITION IS MADE**

- i. Date of order - 04-06-2015
- ii. Passed in - Nil
- iii. Passed by - Respondent No.2

iv **Subject matter in brief:** Petitioner society is  
aggrieved by the aforesaid order by which  
respondent no. 2 has cancelled the permission  
granted to petitioner society for running a private  
college in the name of Avantika College for  
conducting graduated and post graduate courses on  
the ground of violation of clause 2.2(C) of

Rules/Regulations for Private Colleges, without granting proper opportunity of hearing to the petitioner society and without considering the defense made by the it. Copy of the cancellation order dt.04/06/2015 is annexed hereto as Annexure P/1.

2. The petitioner hereby declares, that no proceedings on the same subject matter has been previously instituted in any court/tribunal at the instance of petitioners.

3. The petitioner declares that there is no statutory and efficacious alternative remedy available to it except to approach this Hon'ble Court.

4. That, there is no delay in filing the petition.

5. BRIEF FACTS OF THE CASE -

1 That, the petitioner society is a registered society under the provisions of Society Registrikaran Adhiniyam, 1973 and running a private college in the name of Avantika college and conducting graduate and post graduate courses therein and has resolved to authorize its Incharge Principal to file present petition challenging the order of cancellation of affiliation of petitioner's college by respondent no. 2. Copy of registration certificate and resolution are annexed herewith as Annexure P/2 and P/3.



- 2 That, department of higher education has formulated certain rules/regulations for private colleges in which there is a clause no.2(2) that the society can run a college in a tenanted premises for three years only and thereafter, it has to occupy a private building owned by the society concerned to run the college pursuant to which the petitioner society had applied for permission u/s 26(1)(5) of M.P. Vishwavidhyalaya Adhiniyam, 1973 and was granted temporary permission by respondent no. 2 for conducting the course of graduate degree in Arts and Commerce in the year 2000-2001 with a condition precedent that the petitioner shall construct its own building for running the college. Copy of relevant extract of rules and permission certificate are annexed herewith as Annexure P/4 & P/5.
- 3 That, the petitioner society thereafter ran the college on regular basis and in the year 2009, it had applied for and granted permission to conduct the courses of B.B.A-First year, M.Sc. (Computer Science)-First year, PGDCA- First year and B.Sc (Bio-Technology)-First year for session 2009-10 with a condition that it shall complete the construction on its building upto 30/06/09. Copy of permission letter dt. 26/05/09 is annexed hereto as Annexure P/6.
- 4 That, in order to fulfill the requirement of having own building for running the college.

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the petitioner society purchased a piece of land in Village Goyalakhurd vide registered sale deed dt. 23/03/2004 for constructing a college building thereover but due to some dispute arising between the members of petitioner society, a civil suit regarding the land purchased, was filed before the civil court Ujjain and a temporary injunction was sought by the plaintiffs therein regarding restraining the defendants from creating any third party right, interest over the disputed land and by order dt. 28/11/2011, learned civil court had granted a restraining order against the defendants therein not to create any third party right or interest over the disputed land which was challenged by the petitioner society through its president before this Hon'ble Court in W.P. No. 2589/2012 and vide order dt. 30/10/2013, the writ petition was disposed of in the light of compromise entered into between the parties with a condition of payment of Rs. 40,00,000/- by the petitioner to the respondents therein within a period of one year out of which Rs. 10,00,000/- was to be paid within a period of three months and the same was paid by the petitioner society on different dates and the last payment being made on 13/01/2015. That, the dispute was also went before the Registrar, Firms and Societies and by order dt. 08/05/2012 it was directed to all the parties concerned not to

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take any kind of decision regarding the disputed land. Copies of <sup>~ Sale Deed, ~</sup> order passed by learned Civil Court and this Hon'ble Court and Registrar, Firms and Societies are annexed herewith as <sup>~ P/6-A ~</sup> Annexure P/7, P/8 and P/9.

5. That, in this way, despite purchasing the land required for construction of college building way back in year 2004 by the petitioner society and having arranged for loan from the bank for construction of building and building permission granted by Ujjain Municipal Corporation, Ujjain and map sanction by T & C.P. Department, the petitioner society could not construct the building over the disputed land and the petitioner society had no other option but to run the college in the tenanted premises. Copy of building permission, sanctioned map and letter issued by the bank are annexed hereto as Annexure P/10, P/11 and P/12.

6. That, it is pertinent to mentioned herein that Vikram Vishwavidhyalaya had also granted temporary affiliation to the petitioner society for conducting courses of graduation degree and post graduation degree for the session 2014-15 and the college was running upto last academic session. Copy of certificate of affiliation is annexed hereto as Annexure P/13.

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- 7 That, respondent no. 2 issued a show cause notice dt. 04/03/2015 to the petitioner society for still running the college in a tenanted premises and other lacunas and not fulfilling the requirement of having its own building for running the college as mentioned in the regulations to which the petitioner society submitted its reply and showed its inability in not constructing its own building in stipulated time period. Copy of notice dt. 04/03/2015 and its reply are annexed hereto as Annexure P/14 & P/15.
- 8 That, respondent no. 2 without granting proper opportunity of hearing to the petitioner society and without considering the adverse situation of the petitioner society in not constructing its own building within time, vide letter dt. 04/06/2015, has cancelled the permission of the petitioner society for running the college on the ground of violation of rule 2.2(C)-2 of the Rules.
- 9 That, a time table for online admission process in graduation and post graduation degree courses for session 2015-16 has been published and due to the impugned cancellation letter, the petitioner society is unable to conduct online admission process resulting into huge financial loss to the society as the petitioner has invested a huge amount in constructing the infrastructure required to run

a private college having different types of courses. Copy of time table is annexed hereto as Annexure P/16.

- 10 That, at present there are 622 students studying in the petitioner's college in different courses and having full teaching staff and other staff members and the college is running in three floors in the tenanted premises and is well equipped with class rooms, laboratory, library, computer lab and science lab etc. and the petitioner society is also having sufficient finance available with it to run the college efficiently and if the respondents permit it to run the college with the courses available with it then the petitioner society undertakes to construct its own building within a period of two years for running the college. Copy of details of students and staff members and photographs are collectively annexed herewith as Annexure P/17.

Being aggrieved by the cancellation letter dt. 04/06/2015 (Annexure P/1) issued by respondent no. 2, petitioner society most humbly submits present writ petition on the following amongst other grounds:-

6 GROUND'S URGED:-

- 1 Because, the impugned letter Annexure P/1, being issued without granting any opportunity of hearing, is per se illegal, unconstitutional,

arbitrary and in violation of principles of natural justice.

- 2 Because, respondents have failed to consider that the petitioner society was granted provisional permission for running the college in year 2000-01 by respondent no. 2 and respondent no.3 had also granted affiliation of different graduation and post graduation courses and since then the petitioner society is running the college efficiently and effectively in the tenanted premises having three storeys and full infrastructure required for a college to be run in accordance with the regulations.
- 3 Because, respondents have not considered the reply/representation to the show cause notice issued to the petitioner society that the petitioner society was having certain disputes with its members which was travelled upto the Registrar, Firms and Societies and this Hon'ble Court due to which the petitioner society was unable to carry on the construction work of the building despite purchasing the land and arranging loan amount from the bank.
- 4 Because, the petitioner society is running the college with different types of graduation and post graduation courses from year 2000-01 till the date of impugned cancellation letter and invested a huge amount of money in its infrastructure and other facilities required to

run a college in terms of rules/regulations formulated by the respondents.

5. Because, the respondents ought to have granted sufficient time to the petitioner society to construct its own building for running its college since there are 622 students studying in the said college whose career would be ruined if this said college would be stopped from running and also the earning of the staff members serving there would be stopped resulting into condition of their starving.
6. Because, the respondents have failed to consider that there was an intra society dispute arose in the year 2011 whereby one party had filed a Civil Suit regarding the land purchased by the petitioner society for construction of college building and the civil court granted an order of temporary injunction with respect to the restraining from creating third party right over the land and the said dispute was travelled upto this Hon'ble court wherein both the parties inter into compromise and the dispute was resolved in January 2015 in terms of compromise. The dispute was also taken before the Registrar, Firms and Societies which had also restrained the society to take any decision regarding the land purchased by it for constructing the college building due to which the petitioner society could not construct the building with in time.

(1)

8. Because, the petitioner society has also obtained building permission from Ujjain Municipal Corporation and also got its map sanctioned from T & C.P Department and its loan proposal is also pending before a bank meaning thereby that the petitioner society is ready & willing to construct the college building within two years if the respondents grant it permission to run the college in the existing premises.

9. Because, the respondents ought to have considered that the career of the students studying in the college would suffer adversely if their further study would be stopped in the mid time of their courses and also the huge amount invested by the college in its infrastructure would get wasted.

10. Because, due to the impugned cancellation letter, the petitioner society is also unable to take new admissions of the students in the current session of year 2015-16 due to which the petitioner society would be facing huge financial problem.

11 That, petitioner craves leave to urge other grounds at the time of hearing.

7. **RELIEF SOUGHT**

Petitioner most humbly submits that this Hon'ble court may be pleased to:-

- i Quash cancellation dated 04/06/2015 (Annexure P/1) issued by respondent no.2;



- ii Direct the respondents to permit the petitioner society to run its college till it construct its own building;
- iii Allow present writ petition;
- iv Grant any other relief(s) which this Hon'ble court deems fit in the facts & circumstances of this case.

8. INTERIM RELIEF:-

Petitioner society most humbly submits that till the decision of present writ petition, effect and operation of impugned letter dated 04/06/2015 (Annexure P/I) issued by respondent no.2 be kept in abeyance and petitioner's college be permitted to run the courses for the current session by taking off-line registration for new admissions as the date for online registration has already passed.

9. DOCUMENTS RELIED ON BUT NOT IN POSSESSION OF THE PETITIONER NO.

10. That no notice of lodging a caveat by the opposite party is received.

Place: Indore

Submitted by,

Date: 29/06/2015

B.S. Gandhi

Counsel for Petitioner



Serial No. 4879  
Date 29-6-15

(13)

W.P.No.        /2015(O)  
**IN THE HIGH COURT OF MADHYA PRADESH**  
**BENCH AT INDORE**

Petitioner-- Giju Bhai Shikshan Samiti

V/s

Respondents-- State of M.P. & others

AFFIDAVIT

I state on oath that --

1. My name : Kaina Bhonsle  
Father's Name : Shri S.R. Bhonsle  
Age : 32 years  
Occupation : Incharge Principle  
Address : Avantika College 52, MIG Indira Nagar, Ujjain
2. That, I am the Incharge Principal of the college run by petitioner society in the present writ petition u/A 226 of Constitution of India and well conversant with the facts of present case and authorized to swear this affidavit on behalf of petitioner Society.
3. That, the contents of the Writ Petition are true to my knowledge and as per the official record. Nothing stated therein is false nor any material fact has been concealed.

Indore

Date: 29/06/2015

*[Signature]*  
प्रभारी प्राचार्य  
अवतिका : उज्जैन  
Deponent

VERIFICATION

I, the deponent, named above, do hereby verify that the contents of the affidavit from para 1 to end are true to best of my personal knowledge and belief nothing stated therein is false nor any material fact has been concealed.

Indore

Date: 29/06/2015

I Know The

*[Signature]*  
Deponent

*[Handwritten notes and signatures in the left margin, including '29/6/15', 'S.R. Bhonsle', and 'Giju Bhai Shikshan Samiti'.]*

(19)

W.P.No. /2015(O)  
**IN THE HIGH COURT OF MADHYA PRADESH**  
**BENCH AT INDORE**

Petitioner-- Giju Bhai Shikshan Samiti

V/s

Respondents-- State of M.P. & others

**LIST OF DOCUMENTS**

S.No.	PARTICULARS OF DOCUMENTS	Date of Document	Original/ Photocopy	PAGES
1	Copy of Cancellation Letter	04-06-15	Photocopy	2
2	Copy of Registration Certificate		Photocopy	1
3	Copy of resolution		Photocopy	2
4	Copy of Rules		Photocopy	7
5	Copy of permission letter		Photocopy	3
6	Copy of permission letter		Photocopy	1
7	Copy of order	28-11-11	Photocopy	15
8	Copy of order	30-10-13	Photocopy	7
9	Copy of order	08-05-12	Photocopy	3
10	Copy of building permission		Photocopy	2
11	Copy of Sanction map		Photocopy	2
12	Copy of Bank Letter		Photocopy	1
13	Copy of Affiliation		Photocopy	1
14	Copy of notice	04-03-15	Photocopy	1
15	Copy of Reply		Photocopy	10
16	Copy of Time Table		Photocopy	2
17	Copy of particulars & Photographs		Photocopy	6

Submitted by,

Place: Indore  
Date: 29/06/2015

B.S.GANDHI  
Counsel for Petitioner

