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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4406/2012

% **Judgment dated 09.08.2012**

PARMARTH EDUCATIONAL TRUST

..... Petitioner

Through : Mr.R.K. Sharma and Mr.Sandeep Garg,
Adv.

versus

ALL INDIA COUNCIL FOR TECHNICAL
EDUCATION AND ORS

..... Respondents

Through : Mr.Amitesh Kumar and Mr.Mayank
Manish, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Present petition has been filed by petitioner under Article 226 of the Constitution of India seeking a writ, order, or direction in the nature of mandamus directing respondents, more particularly, respondent no.1 to constitute a fresh Expert Visiting Committee/Inspection Team for the purpose of inspection of the petitioner institute for approval as per the norms of respondent no.1 and also a direction to respondent no.1 to sanction the approval for running the petitioner institute. The petitioner also seeks quashing of the order dated 10.5.2012 passed by respondent no.1
2. Rule. With the consent of counsel for the parties the writ petition is set down for final hearing and disposal.
3. As per the petition, petitioner is an Educational Trust duly registered with the Registrar of Trust. The Trust was formed and constituted to impart higher technical education amongst children of the country all over India. On 19.1.2012, the petitioner made an application to respondent no.1 for

grant of approval and permission to run an educational institute. Respondent no.2 after scrutinizing the documents of the petitioner institute, constituted an Expert Visiting Committee to inspect the premises of the petitioner and to furnish its report to enable respondent no.1 to grant approval and permission to the petitioner institute. The Expert Visiting Committee visited the premises of the petitioner on 23.3.2012. Further, as per the petition, the Expert Visiting Committee was fully satisfied that the petitioner has complied with all the formalities as required by respondent no.1 although some minor irregularities like availability of language laboratory, certificate of an Architect giving details of sewage disposal system and general insurance for assets against fire, burglary, and other calamities, etc. were pointed out. It is the case of the petitioner that after the aforesaid requirements and deficiencies were duly rectified the petitioner intimated the Expert Visiting Committee, who again inspected the premises, and reported that the class rooms, tutorial rooms, laboratories' civil work is 80% complete and the balance work was in progress at the institute. A copy of the Expert Visiting Committee report dated 23.3.2012 has been placed on record. According to the petitioner after completing all the formalities and deficiencies, as pointed out by the Expert Visiting Committee, the petitioner again approached respondent no.1 and placed the relevant documents on record. The petitioner also requested respondent no.1 to direct the Expert Visiting Committee to re-inspect the premises of the petitioner and sought approval to run the institute. Thereafter respondent no.1 after scrutinizing the documents of the petitioner directed respondent no.2 to form a SAC - Expert Visiting Committee (EVC) to re-inspect the premises of the petitioner. The SAC-EVC visited the premises of the petitioner on 6.5.2012 and thereafter furnished its report wherein various discrepancies

were pointed out by respondent no.2. A final order of rejection was passed on 10.5.2012.

4. The sum and substance of the arguments of Mr.Sharma, learned counsel for the petitioner is that all the deficiencies stand made up by the petitioner as of today, even otherwise the deficiencies so pointed were minor in nature and cannot be a ground for rejection. It is further submitted by counsel for the petitioner that the petitioner has made large investments, erected a building, provided for laboratories, staff, equipments, insurance covers and in case the application of the petitioner is rejected not only will the petitioner suffer irreparable financial loss but the prospective students will also be adversely affected. Mr.Sharma further submits that all the deficiencies, which have been pointed out by respondents, are extremely minor in nature and the same already stand rectified, if not on the date of inspection but as of now. Mr.Sharma also submits that the deficiencies, which were pointed out in the first inspection report dated 23.3.2012 were that there was non-availability of language laboratory, there was no certificate by an Architect giving details of sewage disposal system, general insurance not provided for assets against fire, burglary and other calamities. Further the housekeeping and Office All Inclusive had incomplete construction; class rooms, the tutorial rooms, laboratories and civil work was 80% completed but flooring, wiring, furnishing and fixing of doors was incomplete and work is in progress. Reliance is strongly placed on the report of the SAC-EVC visiting committee to show the non-application of mind.
5. Learned counsel for the petitioner submits that in the subsequent inspection report the additional discrepancies were pointed out by the respondents to which the petitioner had no occasion to respond.
6. Mr.Amitesh Kumar, learned counsel for the AICTE, has opposed this

petition firstly on the ground that in accordance with Regulation 1.7, it was incumbent upon the petitioner and a mandatory requirement that at the time of filing of the application the institute should have been ready in all respect. It is, thus, contended by counsel Mr.Kumar that the application made by the petitioner was liable to be rejected at the first option available. Regulation 1.7 reads as under:

“1.7 Applicants are advised to apply only if the Building for the purpose of application is complete as per the Infrastructure requirements without any deficiency at the time of filling the application form on the AICTE Web-Portal www.aicte-india.org”

7. Counsel further places reliance on Regulation 4.3, 4.25, 4.26, 4.27, 4.28 and 4.34 in support of his contention that the institute can neither be granted provisional approval nor the application of the institute can be entertained in view of the discrepancies.

“4.3 The Council shall publish from time to time, Approval process Hand Book, detailing the procedure to process the applications of Institutions and/or promoters.

4.25 Competent authorities for admissions shall not allow admission of students in those technical institutions, which do not have requisite prior approval of the Council.

4.26 Affiliating universities shall not enroll students admitted in such technical institutions, which do not have requisite prior approval of the council. Further, all Technical Institutions conducting PG Diploma courses shall not initiate admission process before 31st March of the admission Year.

4.27 Central/State Government/UT Administration concerned shall not permit any technical institution without requisite prior approval of the Council to admit students.

4.28 The applicant promoters/technical institutions are expected to provide to the Council true and complete information and documents required for various purposes. If, the information given and or the documents provided to the Council are found to be false,

incomplete and/or the applicant promoters/technical institutions have failed to disclose factual information and/or suppressed/misrepresented the information, the Council shall take action including withdrawal of approval and/or any other action as deemed necessary against the applicant promoters/technical institutions.

4.34 The Council shall not grant any conditional approval to any institution.”

8. Learned counsel for the AICTE submits that the report dated 6.5.2012, which has been placed on record, would show that in the language laboratory the software was not installed, there was no place earmarked for vehicle parking, no supporting documents for general insurance for the assets against fire, burglary and other calamities, no barrier free environment and no toilets created for physically challenged persons. The area for security, housekeeping, Office All Inclusive were still under construction; the work was in progress; the boys common room, girls common room and cafeteria were small in size; the laboratories were not ready; the gas connection and sewage connection were not provided; workshops were not completely equipped and were without flooring; and drawing halls were small in size and the same had less furniture.
9. Mr.Sharma has refuted all the discrepancies which have been pointed out in the report of 6.5.2012. While relying on a decision rendered by the Bombay High Court in the case of *Aditya Polytechnic v. All India Council for Technical Education and Another*, W.P.(C) 6329/2012, Mr.Sharma submits that this Court must direct respondents to carry out re-inspection to ascertain whether all the discrepancies have been removed or not.
10. An additional affidavit has been filed by petitioner along with supporting photographs to show that the language laboratory and other areas are fully

functional although the cafeteria area, physics laboratory, electrical laboratory, class rooms are all ready.

11. I have heard learned counsel for the parties and also perused the petition the annexures and also the additional affidavit, which has been filed by petitioner. A bare reading of the Regulation 1.7, which is reproduced above would show that at the time of filing of the application by the applicant, the institute, of which the approval is sought, is to be ready in all respects. It is noticed in the present matter and also in other cases that more often the applicants file an application with the hope that the entire infrastructure would be ready by the time the inspection is carried out, which leads to scrutiny and re-scrutiny and re-inspection at the appellate stage. The present case is no different as the inspection report reveal that even as late as on 6.5.2012 some work, may be termed as minor, was still being carried out by the institute.
12. While, learned counsel for the petitioner has vehemently argued that only for the reason that some innocuous and minor work the approval cannot be withheld, learned counsel for the respondent submits that it is impossible for the respondents to carry out its aims and objects if inspection and re-inspections are conducted even in the month of July and August, especially, in view of the fact that there are cut off dates for admission, counselling and for the students to attend classes. It is contended that in case any re-inspection is permitted especially in the facts of this case it would lead to an endless situation and the procedure as per the Act would be rendered futile.
13. Although the inspection report dated 6.5.2012 has been disputed, reliance is also placed on the document dated 20.4.2012 filed along with the additional affidavit, which is the report of the SAC-EVC to show that the language laboratory was in place; photographs and videographs were

produced; and certificate from the Architect and documents with regard to insurance companies were also produced, besides the photographs in support of the completion of work in class rooms, housekeeping, cafeteria, office, etc. The said report is not a final report and the same is a report which is based on the assertions made and information provided by the petitioner. It is only based on this report that the SAC-EVC carried out their inspection and filed its report dated 6.5.2012.

14. Inspection reports dated 23.3.2012 and 6.5.2012 have been placed on record. Perusal of both the reports clearly show that the institute is not complete in all respects. Mr.Sharma has prayed that the institute be re-inspected to ascertain the present position at site. This request of the petitioner cannot be acceded to for the reason that counselling is already in progress.
15. It is not for this Court under Article 226 to decide the disputed questions of fact as to whether the subsequent report is unreliable, especially, in view of the fact that no malafides have been alleged by the petitioner and also having regard to the fact that the most of the discrepancies pointed out in the report of 6.5.2012 are also found in the first report of 23.3.2012. Another reason why this petition cannot be entertained is that the counselling is already in progress and more so the entire procedure which has been followed would be put to naught on account of the factors in change in policy which is pointed by the respondent each year.
16. In view of the report of 6.5.2012 and having regard to the regulations, which provide that an institute should be complete in all respects, present petition cannot be entertained at this stage and the same is accordingly dismissed.

CM 9106/2012.

17. Application stands dismissed in view of the order passed in the writ petition.

G.S.SISTANI, J

AUGUST 09, 2012
msr