

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

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Date of decision: 29th May, 2014

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W.P.(C) No.3244/2014

**MEENAKSHI COLLEGE OF PHARMACY & RESEARCH
CENTRE**

..... Appellant

Through: Mr. Sanjay Sharawat, Adv.

Versus

**ALL INDIA COUNCIL FOR TECHNICAL
EDUCATION**

..... Respondent

Through: Mr. L.N. Rao, Sr. Adv. with Mr.
Amitesh Kumar, Adv.

CORAM :-

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J

1. This petition under Article 226 of the Constitution of India, seeks, i) quashing of Regulations 4&5 of the All India Council for Technical Education (Grant of Approvals for the Technical Institutions) Regulations, 2012 as *ultra vires* Sections 10 & 11 of the All India Council for Technical Education Act, 1987 (AICTE), as well as Articles 14 and 19 of the Constitution of India; ii) quashing of order dated 30.04.2014 of the respondent AICTE; iii) a writ of mandamus directing the respondent AICTE to grant approval to the petitioner for conducting Diploma in Pharmacy with

intake of 180 seats from the academic year 2014-15; and, iv) alternatively a direction commanding the respondent AICTE to re-inspect the college of the petitioner to verify whether the deficiencies found by the Expert Committee have been rectified and to thereafter process the application of the appellant for grant of approval for conducting Diploma in Pharmacy with intake of 180 seats from the academic year 2014-15.

2. The counsel for the sole respondent AICTE appeared on advance notice and we finally heard the counsels on the writ petition itself, on 22.05.2014 & 23.05.2014.

3. It is the case of the petitioner:

- (i) that the petitioner has been established for the purpose of conducting Diploma in Pharmacy and for which prior recognition is required from the respondent AICTE;
- (ii) that the petitioner, on 27.02.2014, made an application to the respondent AICTE seeking approval for the academic Session 2014-15 with an intake of 180 seats and paid processing fee of Rs.5 lacs therefor;

- (iii) the application of the petitioner was processed by the Scrutiny Committee of the North Western Regional Office of the respondent AICTE; being satisfied with the application, the Scrutiny Committee recommended a visit by the Expert Committee for conducting physical inspection of the college of the petitioner;
- (iv) the Expert Committee conducted inspection on 11.03.2014 and in its report of the same date pointed out eight deficiencies in the petitioner college;
- (v) the respondent AICTE vide its letter dated 25.03.2014 to the petitioner, on account of said deficiencies, rejected the application of the petitioner without affording any opportunity to the petitioner;
- (vi) it is the contention of the counsel for the petitioner that the said rejection is void, being in breach of the principles of natural justice;

- (vii) the petitioner preferred a statutory appeal before the Standing Appeal Committee (SAC) of the respondent AICTE which heard the petitioner on 31.03.2014 and being satisfied with the explanation offered by the petitioner, recommended scrutiny;
- (viii) SAC Scrutiny Committee scrutinized the case and was completely satisfied with the explanations offered by the petitioner and vide its report dated 02.04.2014 recommended inspection of the college of the petitioner;
- (ix) the Expert Committee again visited the college of the petitioner on 30.04.2014;
- (x) no copy of the report of the visit dated 30.04.2014 has been supplied to the petitioner;
- (xi) however the respondent AICTE on the basis of the said report, vide impugned order dated 30.04.2014 rejected the application / appeal of the petitioner, again without giving any show cause notice or opportunity of hearing to the petitioner;

(xii) it is the contention of the counsel for the petitioner that the order dated 30.04.2014 is also violative of the principles of natural justice;

(xiii) it is the contention of the counsel for the petitioner that the grounds for rejection in the order dated 30.04.2014 are different from those given in the letter dated 25.03.2014.

4. The counsel for the petitioner has invited our attention to Section 11 of the AICTE Act which is as under:

*“11. **Inspection** – (1) For the purposes of ascertaining the financial needs of technical institution or a University or its standards of teaching, examination and research, the Council may cause an inspection of, any department or departments or departments of such technical institution or University to by such person or persons as it may direct.*

(2) The Council shall communicate to the technical institution or University the date on which any inspection under sub-section (1) is to be made and the technical institution or University shall be entitled to by associated with the inspection in such manner as may be prescribed.

(3) The Council shall communicate to the technical institution or the University its views in regard to the results of

any such inspection and may, after, ascertaining the opinion of that technical institution or University, recommend to that institution or University the action to be taken as a result of such inspection.

(4) All communications to a technical institution or University under this section shall be made to the executive authority thereof and the executive authority of the technical institution of University shall report to the Council the action, if any, which is proposed to be taken for the purposes of implementing any such recommendation as is referred to in sub-section (3)."

and has contended that sub-section (3) thereof provides for, i) communication of the views of the respondent AICTE and / or the result of the inspection carried out by the AICTE to the concerned technical institution; and, ii) to invite response of the technical institution thereto, and to only after considering the said response take a decision. It is contended that the said procedure has not been followed. It is further contended that the procedure provided in Clauses 4&5 of the AICTE Regulations for Grant of Approval for Technical Institutions, which does not provide for communication by the AICTE of the result of the inspection and which does not provide for giving an opportunity of hearing thereon to the technical institution is thus *ultra vires*

Section 11(3) of the Act. Reliance is placed on the judgment dated 27.08.2013 of the Supreme Court in SLP(Civil) No.25698/2013 in ***Swamy Dayal Hospital & Dental College Vs. The Union of India*** laying down that non grant of approval has an adverse effect on the institution and visits the institution with civil and / or evil consequences and further laying down that even in the absence of specific provision of giving hearing, hearing is required in such cases unless specifically excluded by a statutory provision.

5. We had during the hearing on 22.05.2014 invited the attention of the counsel for the petitioner to ***Manohar Lal Sharma Vs. Medical Council of India*** (2013) 10 SCC 60, in para 25 whereof the Supreme Court has observed that the Medical Council of India (MCI) while deciding, to grant permission or not to grant permission, does not function as quasi judicial authority but only as an administrative authority; that rigid rules of natural justice are therefore not contemplated or envisaged and that the MCI if not satisfied with the compliance report submitted by the college is not required to give further time or opportunity to the institution to rectify the deficiencies and had enquired as to how the judgment in ***Swamy Dayal Hospital & Dental College*** (supra) dealing with the provisions of the Dentists Act, 1948, which are materially different from the AICTE Act, can be said to have application.

6. The counsel for the respondent AICTE, on 22.05.2014 also relied on the judgment dated 08.08.2012 of the Single Judge of this Court in ***Thirumathi Elizabeth Education Society Vs. All India Council for Technical Education***.

7. The counsel for the appellant on the next date, drew our attention to para 46.3 of ***Parshavanath Charitable Trust Vs. All India Council for Technical Education*** (2013) 3 SCC 385 to contend that the Supreme Court, while issuing directions, had directed AICTE to inform the institutions of the shortcomings / defects and had granted an opportunity to the institutions to remove such defects within 15 days. It is argued that per contra, the appellant has not been given any such opportunity and the procedure followed by the respondent AICTE is thus not only in violation to said para 46.3 but is also not transparent and fair.

8. Reliance is also placed on order dated 13.06.2013 of the Andhra Pradesh High Court in writ appeal No.803/2013 titled ***All India Council for Technical Education (AICTE), Jampath Vs. Gouthami Educational Society*** where also AICTE was directed to inform the deficiencies.

9. It was further argued that as per the Schedule laid down by the AICTE, there is still time for the respondent AICTE to re-consider the case of the petitioner for the academic year 2014-15.

10. We may at this stage notice the position of the Regulations *supra*, as under:

- (a) Regulation 4.9b, whereunder applications for approval by new institutions are to be made, provides for the application to be evaluated by the Scrutiny Committee;
- (b) Regulation 4.12 provides for posting by the Scrutiny Committee of the deficiencies found in the application, on the web-portal of the respondent AICTE and for communication of the deficiencies if any in the application to the applicant;
- (c) Regulation 4.13 provides for visit by the Expert Committee of institutions who are recommended by the Scrutiny Committee for further processing for grant of approval;
- (d) Regulation 4.15 provides for consideration by the Regional Committee, *inter alia*, of the Expert Committee's recommendations for further processing for grant of approval;

- (e) Regulation 4.18 provides for the recommendations of the Regional Committee to be placed before the Executive Committee of the AICTE;
- (f) Regulation 4.19 provides for grant of approval by the respondent AICTE after satisfying itself that the applicant meets all norms and standards prescribed;
- (g) Regulation 4.20 provides for the issuance of a letter of approval or a letter of rejection to the concerned institution.

It would thus be seen that the Regulations do not provide for communication of the inspection report / recommendation of the Expert Committee or for an opportunity of hearing before issuance of a letter of rejection.

- (h) Regulation 4.33 prohibits grants of conditional approval;
- (i) Regulation 5.1 permits “only one opportunity” to an institution aggrieved by the decision of the Executive Committee of the AICTE, to file appeal before the Appellate Committee;

- (j) Regulation 5.3 provides for the recommendations of the Appellate Committee to be placed before the Council of the AICTE whose decision is prescribed as final;
- (k) Regulation 5.4 provides for the decision of the Council on the appeal to be communicated to the applicant in the form of a letter of approval or rejection and further provides that in case of rejection of proposal, it shall be open to the applicant to make a fresh application.

It would thus be seen that Regulations 5.1 to 5.4 also do not provide for any opportunity of hearing by the Appellate Committee before passing an order of rejection.

11. If the contention of the counsel for the petitioner, of the applicability of Section 11(3) of the Act providing for communication of the result of the inspection to the technical institution and ascertaining the opinion of the technical institution and taking a decision thereafter only, were to be correct, then the Regulations supra which do not provide therefor would indeed be *ultra vires* Section 11(3).

12. We have however invited the attention of the counsel for the petitioner to Section 10 of the AICTE Act which vests the AICTE with the duty to take all steps as it may think fit, for ensuring coordinated and integrated development of technical education and maintenance of standards and particularly to Clauses (k) and (p) thereof which are as under:

“(k) grant approval for starting new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned.

(p) inspect or cause to inspect any technical institution.”

and to Section 23 of the AICTE Act which empowers the AICTE to make Regulations to carry out the purposes of the Act and have enquired whether not the “inspection”, with which Section 11 deals, is different from the power under Clauses (k) and (p) of Section 10 supra of the AICTE to grant approval for starting new technical institutions and whether not Section 11 applies only to the inspection by the AICTE of already approved institutions, for the purpose of ascertaining the financial needs, standards of teaching, examination and research and not in the context of new institutions and which inspection, of already approved institutions, in the absence of a specific power therefor, would not have been possible.

13. Section 11 of the AICTE Act is *pari materia* to Section 13 of the National Council for Teacher Education Act, 1993. The said Section 13 *inter alia* provides for inspection to be caused only by the Council of the NCTE though NCTE, besides the Council, also comprises of Regional Committees. This Court in judgment dated 28.02.2011 in W.P.(C) No.9670/2009 titled ***Kalpana Chawla College of Education for Women Vs. NCTE*** and other connected petitions was concerned with the question whether the Regional Committees of NCTE also have any power to inspect an institution granted recognition under the NCTE Act or whether the power of such inspection is only with the Council. It was held that the power of inspection is inherent in a regulatory body and since Regional Committees of the NCTE were under Section 17 of the NCTE Act empowered to withdraw recognition and in exercise of which power they would be required to carry out inspection, the Regional Committees also had the power of such inspection. The judgment of the Division Bench of Madhya Pradesh High Court in ***Vaishnav Institute of Technology and Management Vs. NCTE*** was dissented from. The said view was affirmed by the Division Bench of this Court in ***Saheed Capt. D.K. Khola College of Education Vs. National Council for Teacher Education*** 180 (2011) DLT 656. The matter finally

reached the Supreme Court in *NCTE Vs. Vaishnav Institute of Technology and Management* (2012) 5 SCC 139. The Supreme Court set aside the judgments of this Court and held; i) that once recognition has been granted by the Regional Committee to an institution, the Council has to ensure that such recognized institution functions in accordance with the NCTE Act; ii) to achieve that objective, the Council has to get inspection of the recognized institution done periodically (under Section 13 of the NCTE Act) and if such institution is found wanting in its functioning as required, then recommend to the institution the remedial action to be taken by it as a result of the inspection; iii) it is with this motive that the Council is required to communicate to the institution concerned its view with regard to the outcome of the inspection and if deficiencies are found, to recommend to such institutions to make up the deficiencies; iv) the whole idea is that the Council as a parent body keeps an eye over the recognized institutions that they function in accordance with the NCTE Act and the Regulations framed thereunder and if any recognized institution is found wanting in its functioning, it is given an opportunity to rectify the deficiencies.

14. The aforesaid explains the purport of Section 11 of the AICTE Act.

The same has got nothing to do with the grant or non grant of approval.

15. The counsel for the petitioner has invited attention to the definition in Regulation 2.5 defining “Approved Institution” as an institute approved by the respondent AICTE and has contended that Section 11 having used the word “technical institution” and not the word “approved institution” would thus include both, already approved institution as well as a new institution.

16. We are unable to agree. The expression technical institution has been described in Section 2(h) of the Act as an institution not being a university “which offers courses or programmes of technical education”. A new institution which has not been granted approval and which, without prior approval of the AICTE is not entitled to offer courses or programmes for technical education, cannot thus qualify as a technical institution. Moreover, the Regulations have been framed in pursuance of the Act and in case of inconsistency even if any, cannot lend colour to the Act. The Division Bench of the High Court of Bombay in ***Ravindra Wasudeo Jamdagni Vs. Maharashtra Academy of Engineering & Educational Research*** MANU/DE/0382/1992, quoting Halsbury’s Laws of England held that, only where a statute provides that subordinate legislation made under it is to have

effect as if enacted in the statute, is such subordinate legislation to be referred to for the purpose of construing a provision in the statute itself; else subordinate legislation made under the statute cannot alter or vary the meaning of statute itself where it is unambiguous and only in exceptional cases may such subordinate legislation be referred for the purpose of construing an expression in the statute, if the meaning of the expression is ambiguous. The said principle was recently reiterated in ***Jeevan Chandrabhan Idnani Vs. Divisional Commissioner, Konkan Bhavan*** (2012) 2 SCC 794. A good discussion on the said aspect is also to be found in a decision of England and Wales High Court (Chancery Division) in ***BDW Trading Ltd. Vs. South Anglia Housing Ltd.*** MANU/UKCH/0234/2013 where, quoting Maxwell on interpretation of Statutes, it was *inter alia* held that Regulations made under a Statute provide a parliamentary or administrative contemporanea expositio of the statute but do not decide or control its meaning: to allow this would be to substitute the rule making authority for the judges as interpreters and would disregard the possibility that the regulation relied upon was misconceived or *ultra vires*.

17. We are therefore of the view that the inspection by the AICTE of any proposed technical institution under Section 10 (k) for grant of approval for starting new technical institution is not governed by the inspection provided for

in Section 11 of the Act. It cannot thus be said that the inspection by the respondent AICTE in exercise of powers under Section 10(k) have to abide by the requirements of Section 11.

18. We may at this stage also notice another argument of the counsel for the petitioner. He has argued that the AICTE, while making the Regulations, having described the same to have been made not only in exercise of powers conferred by Section 23(1) of the Act but read with Sections 10 and 11 of the Act, is indicative of Section 11 being applicable to inspections in the case of grant of approval also. No merit is however found in the said contention for the same reason as aforesaid, of the Regulations made under the Act being incapable of influencing the interpretation of the Act if otherwise clear from the language thereof.

19. However even if the Regulations, in not providing for communication of the result / recommendation of the Expert Committee pursuant to inspection or for an opportunity of hearing cannot be said to be *ultra vires* the Act, the question still remains whether even otherwise such an opportunity of hearing is to be given.

20. We, at the outset, are unable to agree that the Regulations do not provide for such an opportunity of hearing. Though undoubtedly, the Regulations do not provide for the result of the inspection under Regulation 4.13 to be communicated to the applicant and Regulations 4.18 to 4.20 do not provide for grant of an opportunity of hearing to the applicant before rejection of the application for approval on the basis of the said result of inspection, but Regulation 5.1 as aforesaid provides for an appeal thereagainst. It is thus not as if the applicant remains / goes unheard. The applicant is indeed granted a hearing, though under the nomenclature of an appeal before the Appellate Committee of the AICTE and which appeal the petitioner in the present case did indeed prefer.

21. The procedure followed by the Appellate Committee in the matter of the appeal preferred by the petitioner is also indicative of the same providing a complete opportunity of hearing. As aforesaid, the rejection of the application of the petitioner for approval was on eight deficiencies as per the report of the inspection under Regulation 4.13 and which deficiencies were communicated to the petitioner in the letter of rejection. The petitioner, in the appeal preferred before the Appellate Committee, placed before the Appellate Committee its version qua the said eight deficiencies and on the basis of the said version /

explanation of the petitioner, the Appellate Committee placed the matter before its Scrutiny Committee before whom the petitioner produced documentary proof including in the form of photographs of its infrastructure, to contend that the deficiencies did not indeed exist. The Scrutiny Committee of the Appellate Committee being satisfied on the basis of the said documentary proof of the deficiencies indeed not existing, again constituted an Expert Committee for visit of the college premises of the petitioner. However, the said Expert Committee during the said visit also found the deficiencies and on the basis whereof the appeal was dismissed / application of the petitioner for approval was rejected. Regulation 5.3 makes the said decision final.

22. The counsel for the petitioner has argued that the report dated 30.04.2013 of the Expert Committee has not been made available.

23. The senior counsel for the respondent AICTE stated that as per the procedure followed by the respondent AICTE, all communications / reports are uploaded on the website of the respondent AICTE and all applicants are given password to access the same. The counsel for the appellant rejoined stating that the same is not available till now. However, the fact is that in the letter of rejection on the basis of the decision of the Appellate Committee, lists out the said deficiencies.

24. The counsel for the petitioner has argued that if the report dated 30.04.2014 of inspection had been made available to the petitioner prior to the decision on the basis thereof and had the petitioner been given an opportunity of hearing thereon, the petitioner could have satisfied the Appellate Committee that it was entitled to approval.

25. We have enquired from the counsel for the petitioner whether not the same would have been by way of disputing the report dated 30.04.2014 of the Expert Committee.

26. The counsel for the petitioner agrees.

27. We have further enquired whether not any decision on such dispute would have required another inspection / visit.

28. Though the counsel for the petitioner is unable to controvert but states that the petitioner could have satisfied even on the basis of documents.

29. In this regard, we may state that the petitioner, on the basis of the documents, did manage to create a doubt in the mind of the Scrutiny Committee of the Appellate Committee of errors in the earlier inspection report. However when the second Expert Committee visited the college premises of the petitioner on 30.04.2014, as per their report, they obviously

found that the documentary version did not match with the version at the site. The importance of the availability of the prescribed infrastructure, before being eligible to impart education, cannot be undermined. The respondent AICTE cannot thus be expected to grant approvals without being satisfied that the prescribed infrastructure and amenities exist.

30. We have in this context enquired from the counsel for the petitioner that whether inspections *ad infinitum* can be ordered, merely on the applicant disputing the report thereof. We have yet further enquired whether the petitioner before the Appellate Committee or in this writ petition has made any allegations of bias or extraneous considerations against any of the members of the Expert Inspection Committees. Admittedly none have been made.

31. The nature of the approval to be given by the respondent AICTE is such which depends upon the existence of the prescribed infrastructure and amenities at site and cannot thus be given without visit to the site. In our opinion two visits / inspections already conducted are more than enough and merely because the petitioner controverts the reports of the said visits, is no ground to repeatedly direct such visits.

32. Mention at this stage is also necessary of the judgment of the Constitution Bench of the Supreme Court in ***The State of Maharashtra Vs. Lok Shikshan Sansatha*** (1971) 2 SCC 410 which was concerned with grant of permission to set up and start schools. The Supreme Court held that in the procedure prescribed of; (i) the applications for permission being dealt with in the first instance by the District Committees whose members were familiar with the requirements of particular areas or localities; (ii) the educational authorities taking a decision regarding the grant or refusal of permission on the basis of recommendations of the District Committees; and, (iii) the provision of an appeal against the order of the educational authority of the government, there was no violation of Article 14. It was further held that from the mere fact that no opportunity of hearing was provided before the rejection of the application, it cannot be held that there is a violation of the principles of natural justice. The position here is identical to as before the Supreme Court and the said judgment applies squarely.

33. The senior counsel for the respondent in this regard informs us that the respondent every year has to scrutinize about 1000 applications for new approvals and 9000 applications for renewal. From the said figures also, it is

obvious that such repeated inspections are simply not possible particularly when no ground therefor is made out and this Court cannot shut its eyes to the practicalities.

34. The insistence by the counsel for the petitioner on opportunity of hearing and the challenge to the procedure followed by the respondent AICTE on the basis thereof reminds us of the words of Justice Krishna Iyer in ***Nawabkhan Abbaskhan Vs. The State of Gujarat*** (1974) 2 SCC 121, that not all violations of natural justice knock down the order with nullity and that in Indian Constitutional law, natural justice does not exist as an absolute jural value but is humanistically read by courts into those great rights enshrined in Part III as the quintessence of reasonableness. The Constitution Bench of the Supreme Court, in ***Maneka Gandhi Vs. Union of India*** (1978) 1 SCC 248 which is considered as the Bible on the principles of natural justice, has held that what opportunity may be regarded as reasonable would necessarily depend on the practical necessities of the situation; it may be a sophisticated full- fledged hearing or it may be a hearing which is very brief and minimal; it may be a hearing prior to the decision or it may even be a post-decisional remedial hearing; the *audi alteram partem* rule is sufficiently flexible to permit

modifications and variations to suit the exigencies of myriad kinds of situations which may arise.

35. Even if the hearing in the form of appeal given under the Regulations aforesaid, were to be said to be post decisional, the Supreme Court in ***Liberty Oil Mills Vs. Union of India*** (1984) 3 SCC 465 gave illustrations of situations where post-decisional hearing subserves principles of natural justice. It was held that the rule of *audi alteram partem* only requires that a man shall not be subject to final judgment or to punishment without an opportunity of being heard. With reference to orders of suspension without hearing, it was observed that though it may involve hardship but hearing post-suspension suffices. Even in ***Ajit Kumar Nag Vs. General Manager (PJ), Indian Oil Corporation Ltd., Haldia*** (2005) 7 SCC 764 it was held that the principles of natural justice are not rigid or immutable and hence they cannot be imprisoned in a straitjacket- they must yield to and change with exigencies of situations -they must be confined within their limits and cannot be allowed to run wild -while interpreting legal provisions, a court of law cannot be unmindful of the hard realities of life; the approach of the Court in dealing with such cases should be pragmatic rather than pedantic, realistic rather than doctrinaire, functional rather than formal and practical rather than precedential. Prof. de Smith, the

renowned author of "Judicial Review" (3rd Edition), was in ***Swadeshi Cotton Mills Vs. Union of India*** (1981) 1 SCC 664 quoted (with approval) as opining that statutory provision for an administrative appeal or even full judicial review on merits are sufficient to negative the existence of any implied duty to hear before the original decision is made; that the said approach is acceptable where the original decision does not cause serious detriment to the person affected. In the same judgment, it was enunciated that where a statute does not, in terms, exclude the rule of prior hearing but contemplates a post- decisional hearing amounting to a full review of the original order on merits, then such a statute would be construed as excluding the *audi alteram partem* rule at the pre-decisional stage.

36. The counsel for the petitioner has not argued that any prejudice is caused to the applicant / institution in the procedure prescribed in the Regulations. To our mind, the procedure prescribed in the Regulations for dealing with the applications for approval of setting up new institutions does not cause any prejudice whatsoever to the applicant and is compliant of the principles of natural justice. The House of Lords also ***in Pearlberg Vs. Varty (Inspector of Taxes)*** [1972] 1 W.L.R. 534 held that before the Courts exercise unusual power of supplementing the procedure laid down in legislation, it must be clear that

the statutory procedure is insufficient to achieve justice and that to require additional steps would not frustrate the apparent purpose of the legislation. It was further held that one should not start by assuming that what Parliament has done in the lengthy process of legislation is unfair and that one should rather assume that what has been done is fair, until the contrary is shown. It was yet further held that where the person affected can be heard at a later stage and can then put forward all the objections he could have preferred if he had been heard on the making of the assessment, it by no means follows that he suffers an injustice in not being heard on the making of the order. Fairness was held to be not requiring plurality of hearings and it was observed that if there were too much elaboration of procedural safeguards, nothing would be done simply, quickly and cheaply.

37. The Regulations framed by the respondent AICTE in exercise of powers under Section 23 of the AICTE Act, under Section 24 thereof are required to be laid before the Parliament and have statutory force. Recently in ***Smt. Rasila S. Mehta Vs. Custodian, Nariman Bhavan, Mumbai*** (2011) 6 SCC 220 also the Supreme Court held that the fact that a statute does not provide for a pre-decisional hearing is not contrary to the rules of natural justice because the

decision does not ipso facto takes away any right and the post-decisional hearing satisfies the principles of natural justice.

38. We are thus satisfied that considering the nature of the function that the respondent AICTE is discharging while dealing with the applications for approval of new institutions for imparting technical education, the regulations aforesaid even otherwise cannot be said to be violative of the principles of natural justice or Articles 14 & 19 of the Constitution of India. A recent Division Bench of this Court also in ***Bridge And Roof Company India Ltd. Executives Association Vs. Union of India*** MANU/DE/2411/2013 dealing with a challenge to a decision on the ground of non-observance of the principles of natural justice held that a distinction must be drawn between a judicial, quasi-judicial and an administrative action and an administrative action which adversely affect the legal rights of a person and whereas it may be necessary to adhere to the rules of natural justice by a decision maker where the nature of the function itself necessitates that the decision maker acts judicially, no such requirement exists in cases where the decision is purely administrative and the administrative authority has only to act fairly.

39. The challenge by the petitioner to the regulations thus fails.

40. The only ground on which the counsel for the petitioner has otherwise found fault in the order dated 30.04.2014 of the AICTE of not granting approval to the petitioner is by contending that the reasons given for rejection of the approval, in the two orders dated 23.03.2014 and 30.04.2014 are different and inconsistent. The senior counsel for the respondent in this regard has drawn our attention to the report of the first inspection to the effect that several of the buildings / blocks and infrastructure at the college premises of the petitioner were not even ready on that date. It is clarified that the deficiencies in the report of the second inspection which are stated to be new, pertain to the said blocks / buildings. It is contended that the petitioner applied for approval even before the building of the college was complete and has after applying for approval proceeded to complete the construction.

41. We find considerable merit in the aforesaid and on closer scrutiny do not find any inconsistency in the reports of the two inspections as is sought to be alleged.

42. As far as the judgments relied upon by the counsel for the petitioner are concerned, the provisions of the Dentists Act, 1948 with which **Swamy Dayal**

Hospital & Dental College (supra) was concerned, as aforesaid, are materially different from provisions of the AICTE Act and the Regulations therein. Para 46.3 of ***Parshavanath Charitable Trust*** (supra) was concerned with the directions of the Court in the facts of those case and are not found intended to substitute the procedure prescribed in the Regulations.

43. There is thus no merit in the petition which is dismissed with costs of Rs.20,000/-.

RAJIV SAHAI ENDLAW, J

CHIEF JUSTICE

MAY 29, 2014

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