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

+ W.P.(C) 4727/2014 & CM APPL. 9400/2014

MAHARAJA AGARSEN INSTITUTE
OF TECHNOLOGY..... Petitioner
Through Mr. Sudhir Nandrajog, Senior
Advocate with Mr. Laliet Kumar,
Advocate

versus

GURU GOVIND SINGH INDRAPRASTHA
UNIVERSITY & ORS..... Respondents
Through Mr. Mukul Talwar, Advocate with
Mr. Sradhananda Mohapatra and
Mr. Vipin Singh, Advocates for
GGSIU.
Ms. Ferida Satarawala, Advocate for
Govt. of NCT of Delhi.
Ms. Mamta Tiwari, Advocate for
Mr. Amitesh Kumar, Advocate for
AICTE.

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Date of Decision : 20th August, 2014**CORAM:**
HON'BLE MR. JUSTICE MANMOHAN**J U D G M E N T****MANMOHAN, J: (Oral)**

1. Present writ petition has been filed seeking provisional affiliation and approval of additional division of B. Tech. (CSC) course with an intake of 60 students in the Academic Year 2014-15.

2. Petitioner's application for provisional affiliation of additional division of B. Tech. (CSC) for the Academic Year 2014-15 was rejected by respondent-University vide letter dated 23rd July, 2014. The relevant portion of the said letter reads as under:-

"This is in reference to the subject mentioned above vide letters dated 10/06/2014 and 09/07/2014 submitted in the University.

In this context, it is submitted that the ban on the new affiliations is relaxed only for new institutions applying for consideration for Grant of Affiliation, not for Grant of new programmes to the existing institutes as per point no. 5 of Policy Guidelines for issue/revalidation of 'No Objection Certificate' for the Academic Year 2014-15 continuation regarding dated 01/07/2014, which is reproduced as under:

The ban on the new affiliation during the academic year 2014-15 may be relaxed and affiliation may be granted subject to strict scrutiny of facilities to ensure fulfillment of all norms about infrastructure, staff/faculty etc. through JAC and only after NOC is obtained from the State Government. The University shall ensure that an engineer of at least EE rank is a part of the assessment committee."

In view of the above, you are hereby informed that your request cannot be acceded to. Further, introduction of any change in seat intake at this stage, would affect counseling seriously, as this will set a precedent for other institutes desirous for increase in intake in various programme.

This issues with the approval of Competent Authority."

3. Mr. Sudhir Nandrajog, learned senior counsel for petitioner states that the respondent-University failed to consider the report of the Joint Assessment Committee (for short 'JAC') for 2014-15 wherein the petitioner has been rated as category A. He states that after obtaining AICTE approval for additional intake of 60 students in first shift, respondent-University could not have rejected the petitioner's request for additional intake.

4. Mr. Nandrajog further submits that respondent-University's reliance upon paragraph 5 of Guidelines dated 1st July, 2014 is misconceived as by the said paragraph ban on new affiliation was relaxed. He contends that the expression 'new affiliation' would include the additional intake of more students. In support of his contention, Mr. Nandrajog also relies upon paragraph 3 of the letter dated 1st July, 2014. The said paragraph reads as under:-

"3. Cases of all those institutes who were allowed to start various new programme/additional intake during 2013-14 on the recommendation of the JAC and without the NOC of the Delhi government may be reviewed. Issuance of NOC to various institutes for such programmes/intake for 2013-14 may be reconsidered as per the recommendations of JAC and availability of built up space as verified and mentioned by the JAC on the basis of legal documents. Since some of the institutes that were not considered for such programmes / intake by the JAC for 2014-15, University may be asked to conduct separate JAC for this purpose, wherever required and NOC may be granted based on recommendation of JAC."

5. On the other hand, Mr. Mukul Talwar, learned counsel for respondent-University states that the embargo on new affiliation as well as additional course and enhanced intake was issued by Government of NCT of Delhi vide letter/order dated 2nd April, 2014. He states that the first embargo was on new affiliation and the second embargo was on enhanced seats and additional courses. The relevant portion of letter/order dated 2nd April, 2014 is reproduced hereinbelow :

"2. No new affiliation shall be considered by the University for the Academic Year 2014-15.

3. During the Academic Year 2014-15, intake shall not be enhanced and courses shall not be added in any self financed institute."

6. Mr. Talwar further states that by policy guidelines dated 27th June, 2014, superseded by 1st July, 2014 only first embargo was lifted and not the second embargo.
7. Mr. Talwar also states that in pursuance to the notice dated 30th June, 2014 only new institutes have been issued application forms and all existing institutes seeking to enhance the seats or add new courses were not even issued any application form.
8. Mr. Talwar lastly submits that there is no challenge to the policy decision taken by the Government of NCT of Delhi.
9. Since there was a dispute with regard to interpretation of paragraph 3 of the policy guidelines dated 1st July, 2014 issued by Government of NCT of Delhi, this Court directed the Government to file a counter-affidavit. The Government of NCT of Delhi in its affidavit dated 11th August, 2014, inter alia stated as under:-

“2. Vide order dated 07.08.2014, this Hon’ble Court sought a clarification regarding interpretation of paragraph 3 of letter/guidelines dated 1st July 2014. At the outset, it is clarified that in the third sentence, “Since some of the institutes that were not considered for such programmes/intake by the JAC for 2014-15,...”, “such programmes/intake” refers to the first part-cases of all those institutes who were allowed to start various new programme/additional intake...”

3. Furthermore, it may be stated that, during the Academic Year 2013-14, GGSIP University allowed few institutes to start various new programmes/additional intakes on the recommendations of the JAC and without the NOC of the Delhi Government. The Government decided to review those cases with the condition that it has to be recommended by JAC and availability of built up space as verified and mentioned by the JAC on the basis of legal documents. During the year 2014-15, the JAC did not consider those programmes/increase in intakes, wherein NOCs were not approved by the Government for the academic year 2013-14. It is mentioned in paragraph 3 (In the part reproduced above) that University has to

conduct fresh inspection by the JAC for 2014-15 for the programmes for whom Government had not issued NOC in the academic year 2013-14. Therefore, in policy guidelines dated 1/7/2014, it was decided to reconsider those courses where NOC was not issued by the Government for 2013-14. While giving affiliations during 2014-15, decision has been taken to continue such courses. Moreover, the University was asked to conduct separate JAC for such courses/programmes/increase in intake, for the Academic Year 2014-15.

4. *It is pertinent to mention that the Government, vide its policy guidelines dated 01.07.2014 relaxed point no. 2 of its last policy guidelines issued on 02.04.2014, which reads as under:*

“No new affiliation shall be considered by the University for the academic year 2014-15”.

However, the ban on the new intake and new courses in existing institutions continues for 2014-15. A copy of the Policy guidelines dated 02.04.2014 is annexed herewith as ANNEXURE-B.”

10. Ms. Ferida Satarawala, learned counsel for Government of NCT of Delhi admits that though there was some discussion with regard to relaxation/waiver of condition no. 3 in the policy guidelines dated 2nd April, 2014, yet the same could not be relaxed/waived as the counseling was already delayed and any amendment in the policy guidelines would have further upset the schedule for admission.

11. Having heard learned counsel for parties, this Court is of the view that interpretation of Government of NCT of Delhi with regard to paragraph 3 of its policy guidelines dated 1st July, 2014 is correct inasmuch as the entire paragraph 3 pertains only to those cases where additional intake in 2013-14 was allowed on the recommendation of JAC without obtaining any no objection certificate from the Government of NCT of Delhi.

12. Further, this Court finds that JAC’s report for 2014-15 did not pertain to additional intake of 60 students.

13. However, this Court is of the view that it does not stand to logic that though the existing institutions are denied additional intake or new courses even though they have adequate space and infrastructure, yet new institutions, which are yet to start operation, are granted affiliation by waiving condition no. 2 of the policy guidelines dated 2nd April, 2014. Consequently, as long as embargo no. 2 of the letter dated 2nd April, 2014 is waived, embargo no. 3 of the said letter cannot be enforced.

14. This Court may mention that the aforesaid reasoning had also been advanced by the Principal Secretary, Directorate of Higher Education in the note put up by him.

15. As the last date for admission in colleges stipulated by Supreme Court vide order dated 7th July, 2014 is expiring today, this Court is of the view that petitioner cannot be allowed to admit students in the present Academic Year.

16. However, keeping in view the approval letter issued by AICTE as well as the fact that there may be other similarly situated institutes, respondent-University is directed to consider the petitioner's request for additional intake of 60 students in the next academic year. Accordingly, the direction contained in paragraph 13 above shall apply prospectively.

17. With the aforesaid observations, present petition and application are disposed of.

MANMOHAN, J

AUGUST 20, 2014

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