

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4704 OF 2015

Nagar Yuwak Shikshan Sanstha,)
 Airoli's Datta Meghe College of)
 Engineering), having office at)
 Second floor, Datta Meghe College of)
 Engineering, Plot No. 98, Sector-3, Airoli)
 Navi Mumbai) .. Petitioner

Versus

- 1 All India Council for Technical)
 Education (AICTE), having its office)
 2nd floor, Insurance Assurance Bldg.,)
 Veer Nariman Road, Opp. Churchgate)
 Railway Station, Mumbai 400020)
- 2 The Director of Technical Education)
 Maharashtra State, 3, Mahapalika)
 Marg, Dhobi Talao, Mumbai 400 001)
- 3 The State of Maharashtra,)
 The Department of Higher & Technical)
 Education, through The Government)
 Pleader, PWD Building, Fort,)
 Mumbai - 400 023.)
- 4 University of Mumbai through its)
 Registrar, University of Mumbai at)
 Fort Campus, Fort, Mumbai 400 032)

5 The Shikshan Shulka Samiti, 305)
 Government Polytechnic, Building,)
 Kherwadi Ali Yavar Jung Marg,)
 Bandra (East) Mumbai -400 051.) .. Respondents

Mr. S. C. Naidu a/w Rahul Tanwani & Aniketh Poojary i/b Pramod Kalwar, Advocate for the petitioner.

Mr. Sarnath Sariputta a/w Swaraj S. Jadhav, Advocate for AICTE.

Ms. S. S. Bhende, AGP for State.

Mr. R. A. Rodrigues , Advocate for R. No. 4 -University.

CORAM:-ANOOP V. MOHTA &
 V. L. ACHLIYA, JJ.
 DATED : -14/08/2015

ORAL JUDGMENT:- (Per Anoop V. Mohta, J.)

Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

2 The Petitioners is a college, run by public charitable trust and imparting technical education on the basis of approval granted by Respondent No.1.

3 By this Petition, the Petitioners have challenged the decision dated 30 April 2015 of Respondent No.1 to put the Petitioner College into no admission category i.e. (“zero”) intake capacity for the academic year 201415 and/or related action arising out of the same and further prayed for the related prayers including

directions to Respondent No.1 to issue revised EOA with full intake capacity for 201415 and/or 201516.

4 Petition was filed on 5 May 2015. This Court (Coram:Anoop V. Mohta & K.R. Shriram, JJ.), on 8 May 2015 has granted ad interim relief and permitted the Petitioners to participate in CAP admission for the current academic year 201516.

5 Heard finally along with other group of connected matters. We have recorded basic reasons in Saraswati Education Society's Saraswati College of Engineering Vs. All India Council for Technical Education (AICTE) (Writ Petition No. 4586 of 2015) dated 14 August 2015, both on issues of law and related aspects. The reasons and the decision in said case, is fully applicable to the present facts and circumstances of the case, as the Petitioner is similarly situated and challenging the similar action/orders of the Respondents. Therefore, in view of the reasons so recorded, we are disposing of the present Writ Petition for the same reasons.

6 The learned counsel appearing for petitioner – institute placed on record the chart in tabular form mentioning therein the details of deficiencies noted by EVC, observations, recommendation

of the SCC, observations recorded by the AICTE, the explanation and the compliance made by the Petitioner – institute as to each of the deficiencies. So also the learned counsel appearing for the AICTE has also produced on record the chart prepared in a tabular form pointing out the deficiencies noted by the EVC as well as the SCC.

7 We have gone through the charts submitted by the respective counsel and the compliance made by the Petitioner institute. Taking into consideration the deficiencies pointed out by the EVC and compliance made by the Petitioner institute we are of the view that no material deficiencies of substantial in nature exist so as to reduce the intake capacity or to put the college into no admission category. According to us, the deficiencies even if exists still same are curable in nature and the compliance of the same also depends upon the co-operation from other departments / Trust institutions such as the University, Municipal Corporation and other public bodies. The deficiencies are not of such a nature that it would cause serious impact on the quality education to be provided by the Petitioner institute to the students. The deficiencies of such

in nature has no co-relation with quality technical education to be imparted to the students.

8 Certainly, the issue in respect of the appointment of teaching faculty, have an impact over providing the quality education to the students. Therefore, the material deficiencies if any, exists in this regard needs to be dealt strictly. However, for some shortage of faculty the college cannot be put into non admission category. The genuine problem may exist while making such regular recruitment. The difficulty such as availability of suitable candidate as per the norms and policy of reservation of the government, may sometime result in delay in making the appointments by such institution. In the process handbook itself, this aspect has been taken care. Period of 18 months has been specified to overlook such deficiencies. Therefore, we are of the view that in such matters, the AICTE should adopt a pragmatic approach and should not take a harsh action to put the college into no admission category unless there is persistent default on the part of such institute to comply with deficiencies or existence of material deficiencies affect the quality education to be provided by such

institute. The endeavour of AICTE in such matter may be to grant conditional approval or extension by putting the institute to comply the same in time bound manner. The purpose of inspection by any body entrusted to find out the lacunae, defect or deficiencies is to get the same cured. The purpose of inspection is not always to take punitive action. It is therefore, expected that in such matters, the AICTE should strike a proper balance.

9 Therefore, taking an overall view of the matter and in view of the reasons so recorded as correction I s made out to grant the prayer so made subject to conditions which we are inclined to pass in this matter also. The deficiency even if any are not sufficient to deny the application and/or reject the application as contained in the present case by AICTE. Therefore, the following order:

ORDER

- a) Writ Petition is allowed in terms of prayer clauses (a) and (b);
- b) Interim order passed by this Court on 08/5/2015, is confirmed.
- c) The Respondents are directed to consider the

representation/case of the Petitioners, specifically on the issue of cadre and faculty and other related aspects by giving opportunity of hearing to Petitioners and pass the reasoned order, at the earliest.

- d) The Respondent-University is directed that in order to avoid the delay in appointments of teaching faculty in the institution like the Petitioners, the proposals received for approval of draft advertisement, roaster, nomination of the subject experts, nomination of nominee of the Vice Chancellor and approval of the candidates selected through duly constituted Selection Committee, such proposals be decided in expeditious and time bound manner so as to avoid deficiencies in respect of the same being shown by AICTE in the proposals of such institution for extension of approval.

- e) The Petitioners to take steps to remove the deficiencies, even if any, as early as possible.
- f) Writ Petition is accordingly allowed.
- g) Rule made absolute accordingly.
- h) There shall be no order as to costs.

(V. L. ACHLIYA, J.)

(ANOOP V. MOHTA, J.)

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