

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4741 OF 2015

- | | | | |
|---|---------------------------------------|---|----------------|
| 1 | Jawaharlal Nehru Institute of |) | |
| | Education, Science & Technological |) | |
| | Research, Nanded, having office at |) | |
| | Nanded through its Trustee |) | |
| | Shri Sunil R. Jadhav |) | |
| 2 | Smt. Indira Gandhi College of |) | |
| | Engineering), having its office at |) | |
| | Plot No.18, Sector-16,Kopar Khairane) | | |
| | Nave Mumbai through Its Principal |) | .. Petitioners |

Versus

- | | | | |
|---|--|---|----------------|
| 1 | All India Council for Technical |) | |
| | Education (AICTE), having its office |) | |
| | 2 nd floor, Industrial Assurance Bldg., |) | |
| | Veer Nariman Road, Churchgate, |) | |
| | Mumbai 400020 |) | |
| 2 | Director of Technical Education |) | |
| | Maharashtra State, having his office at | | |
| | 3, Mahapalika Marg, Mumbai |) | |
| 3 | State of Maharashtra, |) | |
| | Through Secretary, Department of |) | |
| | Higher & Technical Education, |) | |
| | Mantralaya, Mumbai - 400 032 |) | |
| 4 | University of Mumbai |) | |
| | Fort Campus, Mumbai 400 032 |) | |
| | through its Registrar, |) | .. Respondents |

Mr. S. S. Patwardhan a/w Ruturaj Pawar, Advocate for the petitioners.

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 Petitioner college is imparting technical education on the basis of approval granted by Respondent-AICTE.

3 By this Petition, the Petitioners have challenged the impugned decision of Respondent No.1 and/or related action arising out of the same and further prayed for the related prayers as claimed in the Petition.

4 The submission is made by the learned counsel appearing for the Petitioners that this Petition is identically placed and heard along with other matters viz. (i) Saraswati Education Society's Saraswati College of Engineering Vs. All India Council for Technical Education (AICTE) (A.S. Writ Petition No. 4586 of 2015).

dated 14 August 2015, (ii) Vasantdada Patil Pratishthan Vs. All India Council for Technical Education (O.S. Writ Petition (Lodging) No. 1365 of 2015) dated 14 August 2015 and; (iii) Karmaveer Bhaurao Patil College of Engineering Vs. All India Council for Technical Education (A.S. Writ Petition No. 4620 of 2015) dated 14 August 2015), in which this Court has granted relief as prayed for.

5 We have gone through the present Writ Petition and the contents therein. We are inclined to dispose of the present Writ Petition for the same reasons as the facts and circumstances are quite similar, apart from law so expressed.

6 Petition was filed on 7th May, 2015. This Court (Coram:- Anoop V. Mohta & K. R. Shriram, JJ.), on 8th May, 2015 has granted ad-interim relief and permitted the Petitioners to participate in CAP admission for the current academic year 2015-16.

7 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.

8 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.

9 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.

10 Therefore, taking overall view of the matter, we are of the view that deficiencies referred above are curable in nature. They have already taken steps to remove such deficiencies as pointed out by AICTE. The submissions so advanced is supported by documents. So also deficiencies are not sufficient to take such drastic action against the Petitioners. We are convinced from the documents placed on record that such deficiencies including faculty and cadre ratio is maintained to great extent and no major deficiencies substantial in nature exist. In the facts and circumstances of the present case, we are of the view that the case is made out to grant similar reliefs, subject to conditions so recorded in Saraswati Education Society's Saraswati College of Engineering. (*supra*). Therefore, the following order.

ORDER

- a) Writ Petition is allowed in terms of prayer clause (A), (B) and (B-1).
- b) Interim order passed by this Court on 8th May, 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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