

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 33588 of 2015 (W)

PETITIONERS :

1. P.A.AZIZ COLLEGE OF ENGINEERING & TECHNOLOGY
GREEN HILLS, KARAKULAM, THIRUVANANTHAPURAM
REPRESENTED BY ITS CHAIRMAN AND
MANAGING TRUSTEE MUHAMMAD THAHA
2. PARENT TEACHER ASSOCIATION
P.A.AZIZ COLLEGE OF ENGINEERING & TECHNOLOGY, GREEN HILLS
KARAKULAM, THIRUVANANTHAPURAM
REPRESENTED BY ITS VICE CHAIRMAN JAYAKUMAR. K.V
3. STAFF ASSOCIATION, P.A.AZIZ COLLEGE OF ENGINEERING & TECHNOLOGY,
GREEN HILLS, KARAKULAM, THIRUVANANTHAPURAM
REPRESENTED BY ITS PRESIDENT, DR. SHERIF RAWTAR
4. STUDENTS UNION, P.A.AZIZ COLLEGE OF ENGINEERING & TECHNOLOGY,
GREEN HILLS, KARAKULAM, THIRUVANANTHAPURAM
REPRESENTED BY ITS PRESIDENT, SHINOY

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS :

1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT ,
KERALA GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001
2. KERALA TECHNOLOGICAL UNIVERSITY, CET CAMPUS,
THIRUVANANTHAPURAM-695 016, REPRESENTED BY ITS REGISTRAR
3. ALL INDIA COUNCIL FOR TECHNICAL EDUCATION, 7TH FLOOR CHANDERLOK
BUILDING, JANPATH, NEW DELHI.110 001 REPRESENTED BY ITS DIRECTOR
4. ADMISSION SUPERVISORY COMMITTEE FOR PROFESSIONAL COLLEGES
RAM MOHAN PALACE ERNAKULAM- 682 031, REPRESENTED BY ITS CHAIRMAN
5. KERALA UNIVERSITY PALAYALAM
THIRUVANANTHAPURAM, REPRESENTED BY ITS REGISTRAR - 659 001

R1 BY SR.GOVERNMENT PLEADER SRI.ROSHAN D.ALEXANDER

R2 & R3 BY ADV.SRI.S.KRISHNAMOORTHY

R4 BY ADV.SMT.MARY BENJAMIN, SC, ADMISSION SUPERVISORY COMMITTEE

R5 BY ADV.SRI.PAUL JACOB, SC, UNIVERSITY OF KERALA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: COPY OF THE INSPECTION REPORT DT. NIL

EXT.P2: COPY OF THE MINUTES OF THE MEETING DT. 4/4/15

EXT.P3: COPY OF THE LETTER OF THE 1ST RESPONDENT DT. 16/4/15

EXT.P4: COPY OF THE APPROVAL OF AICTE DT. 30/4/15

EXT.P5: COPY OF THE ORDER OF THE 2ND RESPONDENT DT. 15/5/15

EXT.P6: COPY OF THE INSPECTION REPORT DT. 16/6/15

EXT.P7: COPY OF THE LETTER OF THE PETITIONER DT. 19/6/15

EXT.P8: COPY OF THE LETTER OF THE PETITIONER DT. 3/7/15

EXT.P9: COPY OF THE ORDER OF THE SUPREME COURT DT. 28/7/15

EXT.P10: COPY OF THE ORDER OF THE 4TH RESPONDENT DT. 12/08/15

EXT.P11: COPY OF THE ORDER OF THE 4TH RESPONDENT DT. 14/10/15

EXT.P12: COPY OF THE ORDER OF THE 5TH RESPONDENT DT. 17/10/15

EXT.P13: COPY OF THE NOTICE OF THE 3RD RESPONDENT DT. 10/9/15

EXT.P14: COPY OF THE ORDER OF THE 3RD RESPONDENT DT. 13/10/15

EXT.P15: COPY OF THE COMPLAINT OF THE 4TH PETITIONER DT. 28/10/15

EXT.P16: COPY OF THE LETTER OF CONFIRMATION DT. 14/10/15

EXT.P17: COPY OF THE COMPLAINT OF THE 3RD PETITIONER DT. 19/10/15

EXT.P18: COPY OF THE RESOLUTION OF THE 2ND PETITIONER DT. 22/10/15

EXT.P19: COPY OF THE RESOLUTION OF THE 3RD PETITIONER DT. 23/10/15

EXT.P20: COPY OF THE RESOLUTION OF THE 4TH PETITIONER DT. 22/10/15

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE

**K. SURENDRA MOHAN
&
SHAJI P.CHALY, JJ.**

W.P.(C).No.33588 of 2015

Dated this the 4th day of November, 2015.

J U D G M E N T

Surendra Mohan, J.

The petitioners have filed this writ petition seeking the following reliefs :

- a. quash Exhibits.P-10, P-11, P-12 and P-14 by the issue of a writ of certiorari or such other writ or order or direction.*
- b. direct the respondents to grant continuous approval to the petitioner college by the issue of writ of mandamus or such other writ or order or direction.*
- c. direct the university to permit the students of the college to write their examination and complete their course from the petitioner college by the issue of a writ of mandamus of such other writ or order or direction.*

2. The 1st petitioner is a Self Financing Engineering College represented by its Chairman. The 2nd petitioner claims to be the Parent Teacher Association of the College. The 3rd petitioner claims to be the Staff Association and the 4th petitioner claims to be the Students Union of the said College. The petitioners are aggrieved by the withdrawal of the extension of approval granted to it by the 3rd respondent. The

extension of approval has been withdrawn by Ext.P14 order dated 13.10.2015. The other orders that are under challenge are passed by the 4th respondent, the Admission Supervisory Committee for Professional Colleges. The impugned orders were issued in the following facts and circumstances.

3. The 1st petitioner is the Manager of P.A.Aziz College of Engineering & Technology and the Managing Trustee of P.A.Azeez Trust which is constituted mainly for conducting Educational Institutions in the State. According to the petitioners, the promoters of the Trust are part of the Sun Group of Companies operating in U.A.E for the last 30 years exercising control over 18 companies. The College according to him is set up in an extent of 37 acres of land located 7 k.ms from Kowdiar Palace having a built up area of more than 2 lakhs Sq.Ft. It is also alleged that, the College maintains "International Standards". The College has been granted ISO 9001/2008 by the BUREAU VERITAS QUALITY INTERNATIONAL, the only College to be granted with such a certificate. The approved intake of students for B.Tech Course is 360 spread over various disciplines.

4. According to the petitioners, on the basis of complaints

made by certain vested interests, action was initiated against the College. Minor deficiencies and defects were searched out and given exaggerated importance to level allegations against the College and the manner in which it was being run. A Committee appointed by the Government has found as evidenced by Ext.P6 that, the College was possessed of all the necessary facilities. Therefore, it was recommended that the existing batches could be continued in the College itself. In spite of Ext.P6, according to the petitioners complaints appear to have been made by the Government to the 3rd respondent as well as the 4th respondent. On the basis of such complaints, without even providing an opportunity to the college authorities of being heard, the impugned orders have been passed. With respect to Ext.P14, order passed by the 3rd respondent, it is contended that the same was issued without even conducting an inspection of the College or assessing the facilities that were available there. Therefore, it is contended that the impugned orders are unsustainable and are liable to be set aside. According to Adv.Sri.R.Krishna Raj who appears for the petitioners, the College in question has been functioning for the past 14 years. The College has been maintaining a consistent

record of academic excellence, producing rank holders at the University Examinations, year after year. According to the learned counsel, such exemplary results in academics could not be produced, without the necessary facilities being available at the College. Though it is true that the College had encountered its own financial difficulties in the recent past, resulting in non payment of salary to the faculty members for a small period of time, the deficiencies have been rectified, arrears of salaries have been paid. At present, the students, the staff as well as the parents are all of the considered opinion that, the students presently studying in the College need not be shifted to any other institution. In spite of the above, the 4th respondent has directed the University to issue orders shifting the existing students to other institutions nearby. The counsel also alleges that, the orders are the result of an orchestrated campaign of vilification mounted against the College by two Abkari Contractors who are conducting Engineering Colleges nearby. On the basis of the above contentions, the counsel seeks the intervention of this Court to permit the students to continue their studies in the College and to appear for the examinations that are approaching. According to the learned counsel, since

the students and the teachers are demanding that they be retained in the College, it is only in the fitness of things that the impugned orders are stayed and the College be permitted to function.

5. The learned Senior Government Pleader Sri.Roshan D.Alexander who appears for the 1st respondent points out that, the impugned orders were passed after a series of deliberations and meetings spread over a period of more than four months. The College had been issued directions to take remedial action to redress the grievances of the teachers, students and the parents. However, despite grant of repeated opportunities, the defects continued to subsist. The situation was taken note of by the 3rd respondent, who is statutorily empowered authority to grant permission to run the College and by Ext.P14, the extension of approval granted to the College has been withdrawn. The 4th respondent had examined various aspects of the issue involved at meetings convened specially for the purpose and by Exts.P10 and P11 orders, action has been initiated keeping in mind the best interests of the students. Therefore, it is contended that no interference with the said proceedings is called for.

6. Adv.Smt.Mary Benjamin who appears for the 4th respondent submits that, the impugned orders Exts.P10 and P11 were the culmination of the efforts put in by the said respondent over more than four months. The 4th respondent had taken up the issue acting on the written complaints received from the students, staffs as well as the parents. All the concerned parties were heard in person, in the presence of the 1st petitioner, opportunities were given to set right matters and to attend to the grievances of the students, teachers and parents. The impugned orders were passed when all efforts for rectifying the situation, failed. It is therefore contended that, the said orders are all justified in the facts and circumstances of the present case.

7. Adv.Sri.S.Krishnamoorthy who appears for respondents 2 and 3 supports the contentions of the counsel for the other respondents and points out that, the deficiencies noted in Ext.P12 are serious and are matters that require serious attention and rectification. Since the College authorities had not taken any action in the matter, there was no other option for the 3rd respondent except to withdraw the extension of approval. The withdrawal is not with respect to any particular

course or speciality but is with respect to the institution itself. In view of the above, it is contended that the order directing the students to be shifted to other Colleges is perfectly justified.

8. Adv.Sri.Paul Jacob who appears for the 5th respondent University also has put forward similar contentions.

9. Heard. It is true that, as per Ext.P6, after an inspection carried out by a committee appointed by the Government, it has been recommended on 16.06.2015 that, the existing batches could be confined to the College itself. It is the sheet anchor of the contention of the counsel for the petitioner that, the Government itself having found that, the College was possessed sufficient facilities for permitting the existing batches to continue, there was no justification for the subsequent complaints made by the authorities. The counsel has pointed out that, the reference in Ext.P13 by the 3rd respondent is to a complaint received from the Additional Secretary, Government of Kerala. Therefore, it is contended that the entire action was motivated by pressure exerted by other external forces on the Government. Though it is not clear from the records as to why the Government had not accepted

the recommendation of the committee contained in Ext.P6, the fact remains that there were a lot of complaints from all quarters, regarding the manner in which the 1st petitioner was conducting the College. A perusal of Ext.P10 shows that, pursuant to complaints received from the students, teachers and parents of the students of the College, a special meeting had been convened. Ext.P10 states that, the said meeting was convened for the purpose of ascertaining whether the complaints made after 06.06.2015 were true. Therefore, a meeting was convened by the 4th respondent where a number of persons were also invited as special invitees. The meeting assessed the situation that was prevailing, after listening to the complaints that arose from different quarters and considering the explanation of the 1st petitioner to the complaints. Thereafter, a number of decisions were taken with the object of redressing the complaints and rectifying the deficiencies and defects that were pointed out. The said order is seen to have been passed on 12.08.2015. The 4th respondent has noted that, though the complaints were serious in nature, it was decided to give one more opportunity to the 1st petitioner to nurse the ailing Engineering College back to proper health.

10. However, the next order Ext.P11 has noted with regret that, the complaints were not redressed by the 1st petitioner and that, the directions issued by the 4th respondent on 06.06.2015 and 12.08.2015 were not complied with. It was faced with the above situation that Ext.P11 order was issued directing the students studying in the College to be shifted to other Colleges. Ext.P11 order has been passed, taking into consideration the plight of the students whose future were at stake. The defects noted show that, there was serious deficiency in the availability of teachers in various disciplines. There was no proper hostel facility with regular supply of water and electricity. It has been found that, though the College had been functioning for more than a decade, it had no electric connection and it was depending on generators for its electricity supply. Lack of security for the female students, allegations regarding misbehaviour of senior male students with female students, apart from allegations personally against the 1st petitioner of his misbehaviour with females are mentioned in Ext.P10. It was taking note of the above, aspects and the further fact that, there was no improvement in the situation even on 14.10.2015 that, Ext.P11 order appears to

have been passed. In the meantime on 13.10.2015, the 3rd respondent who is the statutory authority had also withdrawn the extension of approval to the College. Pursuant to Ext.P14, on 17.10.2015, the 5th respondent University has passed an order calling upon the students to exercise their options regarding the Colleges to which they would prefer to be admitted.

11. Though the counsel for the petitioners has taken considerable strain to convince us that, the situation has been remedied thereafter, that a verification of the assertions made could be conducted by this Court by appointing an expert committee for the purpose, we are not persuaded to undertake such an exercise. This is for the reason that, without the statutory extension of approval of the 3rd respondent, the 1st petitioner and his College cannot be permitted to conduct the same. If the 1st petitioner has rectified all the defects and is confident that, he has provided all the necessary facilities for the grant of approval, it is for him to move the said statutory authority with necessary applications and to obtain approval for his institution. This is a case in which, all the statutory authorities including the Admission Supervisory Committee

constituted under Act 19 of 2006 maintain in unison that, the College of the 1st petitioner is seriously lacking in facilities. We also notice that, the decision to shift the students has not been taken all of a sudden but that, ample opportunities had been provided to the 1st petitioner to remedy the situation and to set right matters. It is only in the wake of non-compliance with the orders consecutively passed by the 4th respondent on 06.06.2015 and 12.08.2015 that, Ext.P11 order has been passed directing that the students be shifted to other Colleges. Since the students have been directed to indicate their options regarding the institutions to which they would prefer to be shifted, the allegation that they would be sent to non-standard institutions cannot be accepted.

12. It is clear from the above that, there has been proper deliberation and consideration of the various aspects of the problem that was raised not only by the 4th respondent but also by respondents 1, 3 and 5, at various levels before the impugned action was initiated. We bear in mind the fact that, what is of paramount importance is the maintenance of standards of excellence in educational institutions. It is necessary to ensure that, students are provided with proper

facilities before a College could be permitted to conduct a professional course. It should be ensured that, there is a secure environment in which the students both male and female are able to pursue their academic pursuits without being plagued by uncertainties. Absolutely, no material or evidence has been placed before us to justify a conclusion that, the respondents have passed the impugned orders, without proper application of mind or attention to the problems raised by the students, parents and teachers.

For the foregoing reasons, we do not find any grounds to admit this writ petition or to grant any of the reliefs sought for. The same is therefore, dismissed.

Sd/-
K. SURENDRA MOHAN, JUDGE

Sd/-
SHAJI P.CHALY, JUDGE