In the High Court of Judicature at Madras

Dated: 13.04.2015

Coram:

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition No. 13297 of 2014
and
M.P. Nos.1 of 2014 & 1 of 2015

Ka.So.Ka. Polytechnic Institute
rep. by its Correspondent
No.115, T. Palur Road
Karadikulam Post, Udaiyarpalayam Taluk
Ariyalur District 621 802. ... Petitioner

vs.

All India Council for Technical Education
rep. by its Member Secretary
7th Floor, Chandralok Building
Janpath, New Delhi 110 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in its order dated 26.04.2014 in F.No.1-411390181/SRO/2011, quash the same and consequently direct the respondent to grant extension of approval to the petitioner Institution for the academic year 2014-2015.

For Petitioner : Mr. R. Muthukumarasamy, Sr. Counsel
for Mr. A. Jenasenan

For Respondent : Ms. A.L. Ganthimathi
Standing Counsel.

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O R D E R

By consent of both sides, the main writ petition itself is taken up for final disposal. Heard Mr.R.Muthukumarasamy, learned Senior Counsel for the petitioner and Ms.A.L.Gandhimathi, learned Standing Counsel for the respondent.

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2. The petitioner, a Polytechnic College, seeks to quash the order passed by the respondent-All India Council for Technical Education (AICTE), dated 26.4.2014, wherein the AICTE, accepting the recommendations of the Standing Complaint Committee, dated 19.04.2014 and examining the facts and circumstances and in terms of provision of the Approval Process Hand Book and Guidelines and also in terms and conditions mentioned in the Letter of Approval, decided not to grant extension of approval for the academic year 2014-2015 to the petitioner-Polytechnic College. Aggrieved by the same, the petitioner has filed the writ petition.

3. This Court, while entertaining the writ petition, by order dated 08.05.2014, granted an order of interim stay. In the light of the interim order, the petitioner had admitted the students for the academic year 2014-2015, though this Court did not grant such permission. The petitioner challenges the impugned proceedings on the ground of violation of principles of natural justice. It is submitted by the learned Senior Counsel for the petitioner that the impugned order does not contain any reasoning or basis on which the order was passed and the only reference made by the AICTE is to the one-line recommendation of the Standing Complaint Committee that extension of approval be not granted. Therefore, it is submitted that the impugned order suffers from gross violation of principles of natural justice and deserves to be set aside. It is further submitted that even the recommendation made by the Standing Complaint Committee (SCC) or other documents relied upon by the respondent have not been furnished to the petitioner till date and it is incumbent upon the respondent to furnish copies of those documents. As regards the deficiencies, it is submitted by the learned Senior Counsel that none of deficiencies pointed out by the Expert Visiting Committee (EVC) arose and whatever minor deficiencies that existed have already been rectified and that the report of the EVC for the academic year 2015-2016 shows that there are no deficiencies. Further, the learned Senior Counsel, by referring to the inspection report for Polytechnic Colleges, as directed to be conducted by the Commissioner of Technical Education, vide proceedings dated 24.6.2014, submitted that the report clearly certifies that for the academic year 2014-15, the petitioner has adequate number of class rooms, laboratory, workshop, computer centre, adequate library plus reading room, adequate volume of books in the library and the building plan was approved by the competent authority and adequate staff members are available as per requirement. It is also submitted that the report submitted by the Commissioner of Technical Education is relevant document and based on which, the respondent should grant extension of approval for the academic year 2014-2015.

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4. Learned Standing Counsel appearing for the AICTE submitted that the deficiencies pointed out by the Expert Visiting Committee were serious and that was the reason why the report of the SCC was accepted by AICTE and extension of approval was refused for 2014-2015. It is further submitted that deficiencies noted in respect of class rooms, labs, workshop area, library and faculty etc. are basic necessities and these cannot be ignored by AICTE. The EVC visited the institution on 08.04.2014 and filed a report wherein several deficiencies were found and hence, AICTE sent a letter to the petitioner on 16.04.2014 stating that there were several deficiencies in the EVC report and the said report is placed before the SCC for consideration and the petitioner was asked to appear before the SCC on 19.04.2014 along with the original records. It is submitted that the petitioner appeared before the SCC on 19.04.2014 and submitted a representation and after considering the same, the impugned order has been passed. In this regard, the learned counsel for the respondent referred to the typed-set filed by the respondent, containing the report of the Expert Visiting Committee and the declaration by the Standing Complaint Committee.

5. This Court has given careful consideration to the submissions of both sides and the materials placed on record. Firstly, it is to be noted that extension of approval sought by the petitioner is for the academic year 2014-2015. The report submitted by the EVC shows there are no serious deficiencies for the academic year 2015-2016 and the AICTE is free to take decision in the light of the report for extension of approval for the academic year 2015-2016. Now, we are concerned with the issue of extension of approval for the academic year 2014-2015. The petitioner challenges the impugned order on the ground of violation of principles of natural justice. It is true that the petitioner has not been furnished with the copy of the report of the SCC, which appears to be the basis for passing the impugned order Though the impugned order contains more than 29 paragraphs, the AICTE passed the impugned order based on the recommendations of the SCC, dated 19.04.2014. Therefore, a copy of the report of SCC ought to have been furnished to the petitioner, so that the petitioner would have been in a better position to put forth their contentions. However, an opportunity of hearing was given to the petitioner to appear before the SCC on 19.4.2014, which was prior to the report being submitted by the SCC and ultimately, the AICTE has taken a decision in the matter. The report or recommendations made by the Committee should have been made known to the petitioner. Then only they would be in a position to place materials before the AICTE before a decision is taken on the report. This procedure appears to be not followed in the present case.

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6. Be that as it may, the petitioner having admitted students for the academic year 2014-2015 on the strength of the interim order granted by this Court, this Court is of the view that the respondent-AICTE should re-consider the matter, more particularly in the light of the inspection report submitted prior to the impugned order, which was directed to be conducted by the Commissioner of Technical Education. This report cannot brushed aside, as being irrelevant or insignificant. For the purpose of establishing a Polytechnic college, the approval of the Commissioner of Technical Education is required, as they are the authority to affiliate the institution. Therefore, the report submitted by the affiliating body would definitely have a persuasive effect though not a binding effect on AICTE. Since the main grievance of the petitioner is that there has been violation of principles of natural justice, the petitioner should be granted one more opportunity to submit their objections. The respondent has enclosed a copy of the report of the SCC for the academic year 2014-2015 in the typed-set of papers. Therefore, the petitioner can very well note down the deficiencies pointed out in the report and submit their representation as to what steps were taken during the relevant point of time to remedy the deficiencies pointed out in the report.

7. In the light of the facts and circumstances of the case, this Court is of the view that instead of setting aside the impugned order, the matter can be remitted back to the respondent for fresh consideration. Accordingly, the writ petition is disposed of, directing the petitioner to submit a representation pointing out the compliance which they have effected with regard to the report of the SCC for the academic year 2014-2015, and also make other submissions with regard to the infrastructure and other facilities and the inspection conducted by the team constituted by the Commissioner of Technical Education vide proceedings dated 24.06.2014 with relevant records to the AICTE within a period of two weeks from the date of receipt of a copy of this order. On such representation being filed, the AICTE shall consider the same and take a conscious decision after referring to the findings of the affiliating body, namely, Commissioner of Technical Education, and pass orders in accordance with law, within a period of four weeks thereafter. No costs. Consequently, M.P. Nos.1 and 2 of 2014 and 1 of 2015 are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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Copies to;

1. The Member Secretary
   All India Council for Technical Education
   7th Floor, Chandralok Building
   Janpath, New Delhi 110 001.

2. The Commissioner of Technical Education,
   Government of TamilNadu,
   Guindy, Chennai - 25.

+1cc to M/s.A.L.Gandhimathi, Advocate, S.R.No.20655
+1cc to M/s.A.Jenasenan, Advocate, S.R.No.20206

W.P. No. 13297 of 2014

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CA(23/04/2015)

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