

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.06.2015

Delivered on: 10.07.2015

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.1775 and 14379 of 2015
and M.P.Nos.1 and 2 of 2015

Archana Institute of Technology represented
by its Chairman D.Jeyapal,
No.7, Salem Main Road, Thimmapuram,
Krishnagiri District. ... Petitioner in both W.Ps.

Vs.

1.All India Council for Technical Education,
Represented by its Advisor-I, (Approval),
7th Floor, Chanderlok Building,
Janpath, New Delhi-110 001. ... 1st Respondent in both W.Ps.

2.Anna University of Technology,
Rep by its Registrar,
Guindy,
Chennai-600 025 ... 2nd respondent in
W.P.No.14379/2015

Prayer in W.P.No.1775 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the respondent by their proceedings F.No.Southern/2010/1-3483543/AB dated 16.01.2015 and quash the same.

Prayer in W.P.No.14379 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to the order in F.No.Southern/2010/1-3483545/AB dated 30.04.2015 and quash the same and direct the first respondent to grant extension of approval for the academic year 2015-2016 to the petitioner's institute.

For Petitioner : Mr.N.R.Chandran, Senior Counsel
for Mr.R.Kannan

For Respondents : Mr.A.R.L.Sundaresan, Senior Counsel
assisted by
Mrs.A.L.Gandhimathi for R1 in both W.Ps.
Mr.M.Vijayakumar
for Anna University

COMMON ORDER

By consent, both these writ petitions are taken up for final disposal.

2. In W.P.No.1775 of 2015, challenge is made to the order dated 16.01.2015 passed by the first respondent, in and by which withdrawal of extension of approval for the academic year 2014-2015 accorded to the petitioner institution was withdrawn. In W.P.No.14379 of 2015, challenge is made to the order dated 30.04.2015 passed by the first respondent wherein it took a decision not to grant extension of approval for the academic year 2014-2015 to the petitioner institution. Facts relating to these writ petitions as well as the grounds of challenge are almost similar and identical and hence, both these writ petitions are disposed of by this common order.

3. The deponent of the affidavit is the Managing Trustee of Archana Educational and Charitable Trust and according to him, the said trust was established in the year 2008 by him to provide valuable and technical education to the downtrodden living in and around Krishnagiri and Dharmapuri Districts. The Chairman of the Trust has been conferred with Rajiv Gandhi Shiromani Award and Golden medal for the achievement of individual in the field of technical education for the year 2010 and he was also conferred with Indira Gandhi Sadbhavana award in recognition of his yeomen service in the field of education and earned very many awards. The petitioner would further state that the trust decided to start Engineering college and technical institution in the name and style of Archana Institute of Technology by providing six streams of courses, namely Mechanical, Civil, Electronics and Communication, Electrical and Electronic Engineering, Computer Science and Petroleum Engineering and providing Post Graduate courses in M.E. Computer Science and Structural Engineering and more than 650 students are studying in the said institution and is having 150 teaching and non-teaching staff with an aggregate area of 2,10,000 sq.ft. and it is also provided with all sophisticated facilities to the students such as air conditioned class rooms, High tech laboratory facilities etc.

4. The first respondent, on being satisfied with the infrastructure and other facilities, has granted approval dated 05.06.2009 for starting of a new technical institution and subsequently granted extension of approval for the years 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015. It is further stated by the petitioner that the first respondent rejected the extension of approval for the year 2013-2014 on the basis that Polytechnic College was functioning without the approval and it was clarified and extension of approval for the year 2013-2014 was granted on 30.04.2013. The first respondent, without proper verification of the records, has initiated proceedings against the petitioner institution during the academic year 2013-2014 and has directed its regional office by its letter dated 28.05.2013 to submit a report regarding the land documents, building plans, land use

certificate of the college without any proper notice and the Regional Office, vide letter dated 12.06.2014, has directed its Advocates to submit a report after verification of revenue records and it was also submitted on 20.06.2014.

5. The petitioner institution has received a letter dated 21.07.2014 calling upon it to present before the Standing Complaint Committee of the respondent on 24.07.2014 within 3 days from the date of receipt of the letter and the petitioner institution prayed for furnishing of reports of the Regional Committee and sought for time and it was also granted. The petitioner would state that the Chairman of the trust appeared before the Standing Complaint Committee on 04.09.2014, which in-turn directed the production of certain original documents and also directed the Southern Regional Office to submit all the original documents filed by the petitioner. However, the Standing Complaint Committee, without waiting for the reply of the petitioner, has forwarded the papers to the Standing Appellate Committee, which in-turn issued a notice dated 21.11.2014, calling upon them to appear before it. According to the petitioner, three members, who are the members of Standing Complaint Committee, had acted as members of the Standing Appellate Committee and the petitioner has offered plausible explanation and the Standing Appellate Committee seems to have satisfied that certain clarifications are required and directed the petitioner to produce latest Khasara Plan showing clear division of Survey No.78/3A as Survey Nos.78/3A1 and 78/3A2, latest land use certificate for S.No.78/3A2 ad-measuring to an extent of 1.08 acres, approved building plan in respect of the building located in S.No.78/3A2. The petitioner prayed for eight weeks time to produce as it was the time of Christmas and Pongal holidays. The petitioner prayed for further time and it was also granted, however to the shock and surprise of the petitioner institution, the impugned order came to be passed on 16.01.2015 and it is relevant to extract para 25 of the same as under:

"25. Whereas, the case records were placed before the duly constituted Standing Appellate Committee and the representatives of the said Archana Institute of Technology presented their case before the said Committee held on 24.12.2014. The Committee recommended to the said Archana Institute of Technology as under:

"Today the institute has given a different version vide their letter dated 23/12/2014 submitted to the Committee today. This letter states that their land on survey No.78/3A is divided into 78/3A1 (0.95 acres) and 78/3A2 (1.08 acres). The institute has building plans for 78/3 which are also not approved by Competent Authority on the side on which plans are projected but on the back side of the building plan. The trustees claim building stands on survey No.78/3A2 admeasuring 1.08 acres. They could not produce the following:-

I. Latest khasra plan showing clear division of survey No.78/3A as survey No.78/3A1 and 78/3A2.

- II. Latest land use certificate for 78/3A2 admeasuring 1.08 acres.
- III. Approved building plan on survey No.78/3A2.

Despite giving adequate opportunity to the institute even upto 3.00 pm today, the institute is seeking further adjournment and in the considered view of the SAC is not bonafide. The trustees of the institute have tried to mislead the Committee from time to time. Hence, taking overall view, Committee recommends withdrawal of EOA for 2014-15. Existing students be transferred as per AICTE norms to other AICTE approved institutions."

Therefore in view of the recommendations dated 24.12.2014 of the Standing Appellate Committee and after examining the entire matter in the facts and circumstances mentioned herein above, and in terms of the provisions of Approval Process Hand book and guidelines and also terms and conditions mentioned in the Letter of Approval dated 05.06.2009, the Council have decided to 'withdrawal the extention of Approval for the AY 2014-15' accorded to Archana Institute of Technology, Thimmapuram Village & Post Kaveripattnam (via), Krishnagiri Tk and District-638112, Tamilnadu."

and as already stated above, it is the subject matter of challenge in W.P.No.1775/2015.

6. It is stated by the petitioner that on 28.02.2015, it submitted an application for extension of approval for the academic year 2015-2016 and according to them, the first respondent issued no deficiency report on 01.03.2015, which would indicate that the application is in order. The first respondent made a publication in its website on 07.04.2015, rejecting the application submitted by the petitioner seeking for extension of approval for the academic year 2015-2016. The order published in the website would state that any one of the following as applicable to the institute as the reason for rejection:

- 1.Due to overall deficiency observed based on the date uploaded by the institute on the portal.
- 2.Receipt of CBI/CVC/CVO/FIR references.
- 3.Deficiency found in the Surprise visit and pending compliance against the show cause notice, and further recommendations of SAC.
- 4.Excess admissions in previous academic years
- 5.Break in Extension of approvals in the previous years.
- 6.Institute kept under No admission category.
- 7.Complaints/Ragging/Grievances/pending Court matter.

8.Charge sheet filed by CBI.

9.Applied for more number of increases or mismatch in course names.

10. Affiliated to More than 1 affiliating body

11.Applied first time on portal (No permanent I.D)

12.Not eligible

13.Processing fess not received

14.Affiliated to private University.

15.Withdrawal of approval

16.Incorrect data entered on the portal

17.Hard-copy/Affidavit not received at regional office.

18.Detailed reasoned final LOR will be given on or before 30th April 2015.

7. The petitioner, challenging the said decision, filed W.P.No.11142 of 2015 before the High Court of Delhi on 14.04.2015 and it was adjourned to 01.05.2015 and on that day, the first respondent produced the operative portion of the final order. The Delhi High Court held that since connected writ petitions are pending on the file of this Court, granted liberty to avail its remedies before the Madras High Court and challenging the legality of the order, W.P.No.14739 of 2015 is filed.

8. Mr.N.R.Chandran, learned Senior Counsel appearing for the petitioner would submit that both the impugned orders are bristle with arbitrariness and are per se in violation of the principles of natural justice and no proper opportunity of personal hearing was afforded to the petitioner institution. It is further submitted that the first respondent failed to follow the procedure contemplated under the AICTE Act and rules and regulations framed therein and by placing reliance upon the report of the Appellate Committee and without affording any opportunity to the petitioner institution to put forth their case, has passed the impugned orders. It is also the submission of the learned Senior Counsel appearing for the petitioner that the first respondent has not properly appreciated the facts and would submit that the lands admeasuring to an extent of 1.08 acres in S.No.78/3A was sold to the Managing Trustee of the Trust by means of registered Sale Deed dated 24.08.2007 and it was settled in favour of the Trust by another sale deed dated 18.03.2008 and subsequently, the land was sub divided into S.Nos.78/3A1 and 78/3A2 and after subdivision also, the entire extent of land is owned by the petitioner Trust and without understanding the scope and purport of

the sale deed, production of patta is being instituted without understanding the legal position that the patta is not a document of title as against registered sale deeds. It is also contended by the learned Senior Counsel appearing for the petitioner that the petitioner institution has been singled out on account of unfair treatment for obvious and malafide reasons and the impugned order, which is the subject matter of challenge in W.P.No.14379/2015 was received by the petitioner only on 05.05.2015 and by adopting such a method, the first respondent has followed the judgment of the Hon'ble Supreme Court of India in Parshvanath Charitable Trust v. All India Council for Technical Education [(2013) 3 SCC 385] and that apart, the documents relied upon by the first respondent to reach the conclusion have not been furnished to the petitioner at all and would further submit that whatever the deficiencies pointed out, have been complied with and rectified and taking into consideration the interest of the students, teaching and non-teaching staff, the impugned orders have to be quashed with appropriate direction for grant of extension of approval for the academic year 2015-2016 so as to enable them to admit fresh batch of students.

9. Per contra, Mr.A.R.L.Sundaresan, learned Senior Counsel appearing for the first respondent has drawn the attention of this Court to the counter affidavit filed on behalf of the AICTE in W.P.No.1775 of 2015 and would submit that extension of approval was granted to the petitioner institution till 2013-2014 and several irregularities such as approval of the Directorate of Town and Country Planning (DTCP) submitted by the petitioner institution found to be a forged document and there was no such approval at all and therefore, Polytechnic college was put on lock and seal and encumbrance certificate was also verified and there is an attachment in respect of 32 cents of land in S.No.371/1 of Thimmapuram Village and were also not transferred in favour of the Trust and verification of the records with the Local body would also reveal that plan approvals are not genuine one and the local body official has not clearly stated that no such resolution was passed on the dates i.e., 23.03.2008 and 18.01.2010 and taking note of the above facts only, the notice dated 21.07.2014 was issued in favour of the petitioner calling upon it to appear before the Standing Complaint Committee on 20.07.2014 and the petitioner has sent an e-mail communication dated 23.07.2014 requesting to provide two copies of the documents viz., Search report along with its enclosures and prayed for further time and a decision has been taken to sent the documents as requested by the petitioner along with the notice and those documents were also furnished to the petitioner. The Standing Complaint Committee, during the course of hearing, has also verified the entire land records and found that only in August 2014, the land in S.No.78/3A2 was transferred in favour of the Trust and further found that S.Nos.78/3A and 78/3A2 are two different land areas and sale deed for S.No.78/3A2 has not been shown to the Committee and whatever time sought for by the petitioner was granted, however he did not cooperate and recommendation of the Standing Appellate Committee as well as copies of the Search Report along with enclosures were also sent to the petitioner to present his version in the meeting to be held on

24.12.2014 and the petitioner institution was unable to produce the documents to establish that latest kazara plan showing the division of survey number as well as land due certificate with regard to the approved building plan in respect of superstructure in S.No.78/3A2. The learned Senior Counsel appearing for the first respondent further contended that inspite of reasonable opportunities given, the petitioner institution did not avail the same and repeatedly asked for time for the purpose of protracting the proceedings and they were not able to produce the latest kazara plan showing sub division of survey numbers and latest land due certificate and having found that the conduct of the petitioner in not providing any plausible explanation, the impugned orders came to be passed and prays for dismissal of these writ petitions.

10. This Court has carefully considered the rival submissions and also perused the materials placed before it.

11. W.P.No.1775/2015 was admitted on 27.01.2015. In respect of students who have joined college, examinations were conducted and shifting of centre was ordered and this Court, vide order dated 19.04.2012 made in W.P.No.10899 of 2012 has granted an order of interim direction directing Anna University to conduct the examinations in the petitioner institution for the present semester with appropriate direction to the police authorities to provide security to the staffs deployed, leaving it open the other issues relating to payment of salaries to staff, remuneration etc. Similar prayer was made in W.P.No.11142 of 2015 and this Court, vide order dated 20.04.2015 made in M.P.Nos.1 and 2 of 2015, has passed interim direction directing the Anna University to conduct the theory as well as practical examinations in the petitioner institution for the present semester without prejudice to the rights and contentions of either parties with a further direction to the jurisdictional police to provide adequate security to the staff deputed by the University to attend their duties and left it open the issues relating to salary/honorarium/remuneration to the staff deputed by the University for supervising the theory and practical examinations being conducted in the petitioner institution in pursuant to the interim orders and accordingly, examinations were also conducted in the petitioner institution.

12. A perusal of the typed set of documents filed by the petitioner as well as the first respondent would disclose that very many opportunities have been granted to the petitioner institution. The Standing Complaint Committee in its meeting held on 04.09.2014, recommended as follows:

"Ms.Shagufa Salim, Advocate appeared for Archana Institute of Technology Thimmapuram. She has filed letter of authority, which is taken on record. She has moved an application for seeking adjournment and requested to supply the documents relied upon in the notice. Her request is bonafide and the same is granted. Four weeks time may be given for appearance. Document may be sent

along with the notice for hearing."

The Committee recommended for six weeks time to the petitioner institution to produce the documents and appearance before the Standing Appellate Committee was fixed on 24.12.2014 and on 24.12.2014, the representatives of the petitioner institute appeared and presented their case and the Committee made the following recommendations:

"Today the institute has given a different version vide their letter dated 23/12/2014 submitted to the Committee today. This letter states that their land on survey No.78/3A is divided into 78/3A1 (0.95 acres) and 78/3A2 (1.08 acres). The institute has building plans for 78/3 which are also not approved by Competent Authority on the side on which plans are projected but on the back side of the building plan. The trustees claim building stands on survey No.78/3A2 admeasuring 1.08 acres. They could not produce the following:-

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Despite giving adequate opportunity to the institute even upto 3.00 pm today, the institute is seeking further adjournment and in the considered view of the SAC is not bonafide. The trustees of the institute have tried to mislead the Committee from time to time. Hence, taking overall view, Committee recommends withdrawal of EOA for 2014-15. Existing students be transferred as per AICTE norms to other AICTE approved institutions."

It also noted that the institution has failed to produce any proof against the deficiencies/allegations and the case records pertaining to the institute were placed before the Standing Appellate Committee meeting held on 30.04.2015 and it made the following recommendations:

- * On the basis of recommendations of the last SAC meeting held on 24/12/14, the documents pertaining to the deficiencies could not be presented by the said institute.
- * A SCN has been issued to the Archana Institute of Technology, Krishnagiri District, Tamil Nadu by Anna University, Chennai dated 16/3/2015, for alleged irregularities and malpractices committed by faculty members and management in the conduct of examination.
- * The Institute could not present any satisfactory documents, inspite of many opportunities granted to them.
- * Because of no rectification of deficiencies status quo of AY 2014-15 should be maintained for AY 2015-16 also.
- * EOA for AY 2015-16 not recommended."

13. It is the specific case of the petitioner that whatever deficiencies pointed out have been rectified and it is also their specific stand that Survey No.78/3A was subdivided into S.Nos.78/3A1 and 78/3A2 and insofar as transfer of building plan is concerned, the

seal of approval is put on the rear side of the plan and therefore, it cannot be said that no such approval has been granted to the building. It is also contended that the Hon'ble Supreme Court in the decision in Parshvanath Charitable Trust v. All India Council for Technical Education [(2013) 3 SCC 385] held that the order granting or refusing approval should be positively passed by 10th April of the relevant year and appeal should be filed within one week thereafter and the Appellate Committee should hear the appeal and decide the same by 30th April of the relevant year and admittedly, the impugned order which is the subject matter of challenge in W.P.No.14379 of 2015 dated 30.04.2015 was received only on 05.05.2015 and since the time schedule mandated by the Hon'ble Supreme Court judgment have been violated, the impugned orders have to be set aside.

14. As already pointed out, the Standard Appellate Committee, in its meeting held on 04.09.2014, has pointed out certain deficiencies pertaining to sub-division of land in S.No.78/3A into S.Nos.78/3A1 and 78/3A2 as well as non approval of the competent authority with regard to building plan and according to the petitioner, all the deficiencies pointed out have been rectified and inspite of it, the impugned orders came to be passed. A perusal of the impugned orders, which are the subject matter of challenge in these writ petitions, would disclose that many opportunities have been given to the petitioner institution to put forth their version and the deficiencies appear to be narrowed down the subdivision of the land as well as seal of approval, which has been put on the rear side of the plan. If the petitioner institution is sure of the fact that they have complied with all the deficiencies, they may approach the concerned authority for re-inspection, subject to compliance of norms/regulations.

15. This Court has also taken note of the submission made by the learned Senior Counsel appearing for the first respondent that whatever copies of the documents/reports relied upon by the first respondent while reaching the conclusion have been furnished to the petitioner and reasonable opportunities of hearing was also afforded to the petitioner institution by granting them very many adjournments, but they did not avail the same. This Court, on going through the typed set of documents filed by the first respondent as well as the impugned orders, is of the view that a fair and reasonable opportunity has been afforded to the petitioner institution to put forward their case. The points urged on behalf of the petitioner mainly pertain to sub-division of S.No.78/3A, location of the building and building plan approval and if the petitioner is confident and sure of their stand that they have complied with all deficiencies and is having tenable reasons, they are free to approach the concerned authorities for re-inspection.

16. The Hon'ble Supreme Court of India in very many decisions held that in case of absence of infrastructure facilities and other requirements stipulated under relevant statutes, withdrawal of recognition would be justified and the students cannot be allowed to continue in such unrecognized institutions solely on the basis of

sympathetic considerations. The points urged by the petitioner also involve disputed questions of fact and as such, this Court is not in a position to adjudicate the same.

17. This Court, on going through the materials placed before it and on an independent application of mind, is of the view that the impugned orders warrant no interference.

18. In the result, both the Writ Petitions are dismissed. However, if it is permissible under law, it is always open to the petitioner to approach the concerned authority seeking for re-inspection and as and when, such an application is filed, it is open to them to deal with the same in accordance with the relevant rules and regulations/norms. It is also open to Anna University to approach the petitioner institution regarding the issues pertain to payment of salary/honorarium/remuneration of the staff deputed for supervising the theory and practical examinations conducted in the petitioner institution in the light of the orders dated 19.04.2012 made in W.P.No.10899 of 2012 as well as the interim order dated 20.04.2015 made in M.P.Nos.1 and 2 of 2015 in W.P.No.11142 of 2015. No costs. Consequently, connected miscellaneous petitions are closed and the interim orders, already granted, are vacated.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

jvm

To

1.Advisor-I (Approval)

All India Council for Technical Education,
7th Floor, Chanderlok Building,
Janpath, New Delhi-110 001.

2.The Registrar,

Anna University of Technology,
Guindy, Chennai-600 025.

2 ccs to Mr.R. Kannan, Advocate, Sr. 35274

3 ccs to Mr.R. Kannan, Advocte, Sr. 34838

in W.P.Nos.1775 and
14379 of 2015

RV (CO)

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