

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.Nos.20367 and 21591 of 2015

W.P.No.20367 of 2015:

Suthanthira Polytechnic College,
rep.by its Chairman P.Asok Kumar
No.143, First Main Road,
K.K.R.Garden, Madhavaram,
Chennai - 600 060.

..... Petitioner

Vs.

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

2. The Regional Officer,
All India Council for Technical Education,
Shastri Bhavan, 26, Haddows Road,
Nungambakkam,
Chennai.

..... Respondents

W.P.NO.21596 of 2015:

Suthanthira Polytechnic College,
rep.by its Chairman P.Asok Kumar
No.143, First Main Road,
K.K.R.Garden, Madhavaram,
Chennai - 600 060.

..... Petitioner

Vs.

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

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2. The Director (Approval Bureau),
All India Council for Technical Education,
7th Floor, Chandralok Building,
Janpath, New Delhi - 110 001

3. The Regional Officer,
All India Council for Technical Education,
Shastri Bhavan, 26, Haddows Road,
Nungambakkam,
Chennai.

.... Respondents

PRAYER: Writ Petition in W.P.No.20367 of 2015 is filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus to direct the respondents to consider the representation dated 26.6.2015 and grant extension of approval (EOA) to the petitioner institution for the academic year 2015-2016.

Writ Petition in W.P.No.21591 of 2015 is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to impugned proceedings dated 7.4.2015 made in No.F.No. Southern/1-2451662542/2015/LOR-Chapter 2 by the 1st respondent and dated 30.04.2015 made in F.No.Southern/2015/1-2451662542/LOR of 1st respondent and dated 2.7.2015 made in File No.SRO/2011-12/1-423082411 by 2nd respondent and quash the same and consequently further direct the respondents to grant extension of approval for the academic year 2015-16 to the petitioner.

For Petitioner : Mr.K.Ramasamy
in both W.Ps

For Respondents : Ms.AL.Ganthimathi
in both W.Ps

COMMON ORDER

As the relief sought for in W.P.No.20367 of 2015 is incidental to the relief sought in W.P.No.21591 of 2015, they have been taken up and disposed of by a common order.

2. The petitioner is an existing Engineering College. For four courses, the petitioner made application for extension of approval. The application was made on 2.3.2015 online and it appears that by mischief said to have been done by the staff of the petitioner, the option of 'closure' was clicked instead of 'extension', though the prescribed fee of Rs.1 lakh has been paid for extension of approval, as against the fee of Rs.2 lakhs for 'closure'. After coming to know of the same, the petitioner sent E-mail to the 1st respondent on 16.3.2015.

3. Treating the application of the petitioner as one for 'closure', the same was rejected by the respondents. It was followed by several representations. However, the earlier stand was reiterated. The petitioner also made another representation to the respondent on 26.6.2015 and thereafter come before this Court.

4. Learned counsel for the petitioner submitted that it was a mischievous act done by the staff of the petitioner. The fact that the petitioner paid Rs.1 lakh for extension of approval itself is a clear indication of the same. The request has been followed by Email dated 16.3.2015. The cut-off date fixed for application and for consideration would not apply to the case on hand, as it is a case of extension of approval application having been made in time. Therefore, appropriate orders will have to be made.

5. Learned counsel appearing for the respondents submitted that the declaration makes it very clear that in the event of any mistake committed in submitting the application online the respondent will not be responsible and it is the sole responsibility of the applicant concerned. The cut-off date is also over. The request made by the petitioner was rejected treating it as closure. Therefore, no interference is required.

6. The petitioner has enclosed the prescribed fee of Rs.1 lakh. It only shows that the application of the petitioner is only for extension of approval. It is not a new institution, but an institution seeking extension of approval. Admittedly, the mistake made by the petitioner was sought to be rectified by Email dated 16.3.2015, The impugned order dated 7.4.2015 has been passed by the 1st respondent after receipt of Email by treating the application as one for closure. No order has been passed on merit. Therefore, the cut-off date cannot be put against the petitioner, more so, in view of the Email dated 16.3.2015. The said reasoning would also apply as the petitioner is an existing institution seeking extension of approval. The cut-off date fixed has to be applied on the facts and circumstances of each case. Though a declaration states about the consequences, it has to be read on factual context, particularly when the earlier mistake is sought to be rectified by Email and the date of Email is within the time. It is not the case of the respondents that on the date the Email was sent, the last date for making applications has expired. What the petitioner wants is a consideration of merit. The mistake in the application is something, which has to be seen at the time of considering the application. In other words, a mere mistake in the making of application by itself will not make the applicant ineligible for consideration, provided the same is rectified before it is actually taken up for consideration.

7. Considering the above facts, the writ petitions are allowed and the orders impugned are set aside and the respondents are directed to consider the application of the petitioner for Extension of Approval (EOA) within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chairman,
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Nungamabakkam,
Chennai.

+1 cc to Mr.K.Ramasamy Advocate sr.49782

+2 ccs to Mrs.A.L.Gandhimathi, Advocate sr.49525

W.P.Nos.20367 and
21591 of 2015

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