

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-03-2015

Coram :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

WP No. 2097 of 2015
and
M.P. Nos. 2 and 3 of 2015

K.K.C. College of Engineering and Technology
Represented by its Correspondent
K.K.C. Kalvi Valagam
Jayankondam
Ariyalur District - 621 802 ... Petitioner

Versus

1. All India Council for Technical Education
Represented by its Advisor-1 (Approval)
7th Floor, Chandralok Building
Janpath, New Delhi - 110 001
2. Anna University of Technology
Represented by its Registrar
Chennai - 600 113
3. Southern Regional Office, AICTE
Represented by its Regional Officer
26, Haddows Road, Shastri Bhavan
Nungambakkam, Chennai - 600 006
4. The Director of Technical Education
Directorate of Technical Education
Sardar Patel Road, Guindy
Chennai - 600 025

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the first respondent in order dated 03.07.2014 in F.No.07/08/TN/E&T/2009/26, quash the same and consequently direct the respondents to consider the case of the petitioner institution and grant extension of approval for the academic year 2015-2016 on merits and in accordance with law.

For Petitioner : Mr. R. Muthukumarasamy, Senior Advocate
for Mr. A. Jenasenan

For Respondents : Ms. A.L. Ganthimathi for RR1 and 3

ORDER

I have heard the learned Senior counsel appearing for the petitioner, the learned Standing counsel appearing for the respondents/All India Council for Technical Education as well as the second respondent/Anna University.

2. The petitioner is an Engineering college and the challenge in this writ petition is to the order passed by the first respondent dated 03.07.2014. By the impugned order dated 03.07.2014, the first respondent pointed out certain deficiencies based on the recommendation of the standing appellate Committee and a decision was taken to withdraw the approval granted to the petitioner.

3. Before going into the grounds of challenge, a small preview regarding the factual position will be necessary. Earlier, All India Council for Technical Education (hereinafter called as AICTE) withdrew the recognition granted to the petitioner institution by an order dated 30.04.2013 and that was put to challenge by the petitioner by filing WP No. 14533 of 2013 before this Court. Even prior to the order dated 30.04.2013 passed against the petitioner institution, on 25.04.2013, the Honourable Supreme Court rendered a decision in the case of Association of Management of Private Colleges vs. All India Council for Technical Education and others reported in 2013 (8) Supreme Court Cases 271 holding that AICTE has no role to play and it is for the university to consider the applications for affiliation for institutions like the petitioner. In the light of such decision rendered by the Honourable Supreme Court, WP No. 14533 of 2013 filed by the petitioner institution was disposed of by this Court on 27.06.2013 directing the petitioner institution to approach the University. Thus, the correctness of the order dated 30.04.2013 withdrawing the recognition given to the petitioner institution was not gone into by this Court wherein the petitioner, apart from other grounds raised, contended that the order was passed in violation of the principles of natural justice as no notice was issued to them. Thereafter, the second respondent/University considered the application for affiliation of the petitioner and granted provisional affiliation to the petitioner institution on 31.05.2013 for the session 2013-2014. Subsequently, the correctness of the decision of the Honourable Supreme Court rendered in the case of Association of Management of Private Colleges mentioned supra was doubted and the Honourable Supreme Court, by an order dated 09.04.2014 referred the matter for consideration by a Larger Bench. Subsequently, in another case namely Orissa Technical Colleges Association vs. AICTE and another-Special Leave Petition (Civil) No.7277 of 2014, the Supreme Court granted interim direction on 17.04.2014 stating that pending decision by the Larger Bench, AICTE shall continue to exercise their regulatory powers and they shall consider applications for grant of recognition. Therefore, by virtue of the order dated 17.04.2014 of the Honourable Supreme Court, the petitioner had to necessarily go back to AICTE for processing their application for recognition. The Honourable Supreme Court, while passing the interim order dated 17.04.2014, directed that the guidelines issued by AICTE for grant

of recognition for the session 2013-2014 shall also be valid for the subsequent year i.e., 2014-2015. In the light of such decision rendered by the Honourable Supreme Court in the case arising from the State of Orissa, the petitioner approached this Court by filing WP No. 15722 of 2014 praying for a direction to the AICTE to consider their application and grant extension of approval to the petitioner institution for the academic year 2014-2015. By order dated 24.06.2014, this Court disposed of the writ petition directing AICTE to consider the application of the petitioner on merits. Hardly within 10 days from the date of receipt of the order dated 24.06.2014 in WP No. 15722 of 2014, the first respondent/AICTE passed the order dated 03.07.2014 rejecting the application for recognition based on the decision taken by the Standing appellate committee and by pointing out the very same deficiency pointed out earlier thereby refused to revoke the order withdrawing approval on 30.04.2013. Therefore, the reasons assigned in the order dated 30.04.2013 has to be necessarily tested.

4. Though several grounds have been raised in this writ petition, the primary ground on which the impugned order is questioned by the learned senior counsel for the petitioner is that the order dated 30.04.2013 has been passed by the first respondent without affording an opportunity of hearing to the petitioner and without conducting any inspection. It is further stated that the objection, which led to the passing of the said order, is the basis for withdrawal of recognition granted to the polytechnic college run by the petitioner institution and that was put to challenge and ultimately it was stated that the authorities were convinced that the reports submitted do not hold good and eventually recognition was granted to the polytechnic college.

5. The learned standing counsel for AICTE made elaborate submissions referring to the counter affidavit and submitted that the deficiencies taken note of by the standing appellate committee is the basis for the order of rejection. It is further stated that there are serious violation committed by the petitioner and inspite of the petitioner institution having been granted time to obtain approval from the Directorate of Town and Country Planning authorities, it has not been obtained till date. That apart, there are certain discrepancies in the affidavit filed by the petitioner institution and therefore the first respondent is fully justified in refusing to revoke the order withdrawing the letter of approval.

6. Heard the learned counsel for the parties.

7. On perusal of the counter affidavit filed by the respondents 1 and 3, it is seen that the contentions of the petitioner that they were not heard by the first respondent before passing the order dated 30.04.2013 has not been specifically denied. In any event, there was a direction issued by this Court on 24.06.2014 in WP No. 15722 of 2014 filed by the petitioner specifically directing AICTE to consider the application of the petitioner on merits. Therefore, the first respondent/AICTE ought to have taken into consideration the submissions of the petitioner

before passing the impugned order refusing to revoke the order withdrawing the letter of approval. This is all the more necessary as the allegations, which are pointed out in the impugned order dated 03.07.2014, are the same which was the basis for passing the order dated 30.04.2013 withdrawing letter of approval granted to the petitioner. Even though the correctness of the order dated 30.04.2013 was questioned by the petitioner by filing WP No. 14533 of 2013, the said writ petition was disposed of without going into the correctness or otherwise of the said order dated 30.04.2013 in view of the decision rendered by the Honourable Supreme Court mentioned supra and liberty was granted to the petitioner to approach the affiliating University for necessary approval. Therefore, at this juncture, it is necessary that the allegations in the impugned order and the correctness of the same are required to be tested. That apart, in the interregnum, approval was granted by AICTE to the polytechnic college run by the petitioner institution, which was earlier rejected, said to be on the very same set of allegations which formed the basis for passing the impugned order and the order dated 30.04.2013. Therefore, this Court concludes that the petitioner was not afforded a reasonable opportunity to put forth their contentions before withdrawal of recognition. However, on these grounds, this Court is not inclined to set aside the impugned order dated 03.07.2014 of the first respondent. Instead, a direction can be issued to AICTE to consider the contentions raised by following the procedures under their regulations. Since the allegations made against the petitioners in the order dated 30.04.2013 which was also the basis for passing the impugned order dated 03.07.2014, the petitioner is directed to treat the impugned order dated 03.07.2014 as a show cause notice and submit their objections along with documentary evidence in support of their defence within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the first respondent shall consider the objections of the petitioner, conduct an inspection and pass orders on the application of the petitioner for grant of recognition for the session 2015-2016 within the time stipulated under their Regulation. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. All India Council for Technical Education
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Sardar Patel Road, Guindy
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1 cc to Government Pleader, Sr.No15839

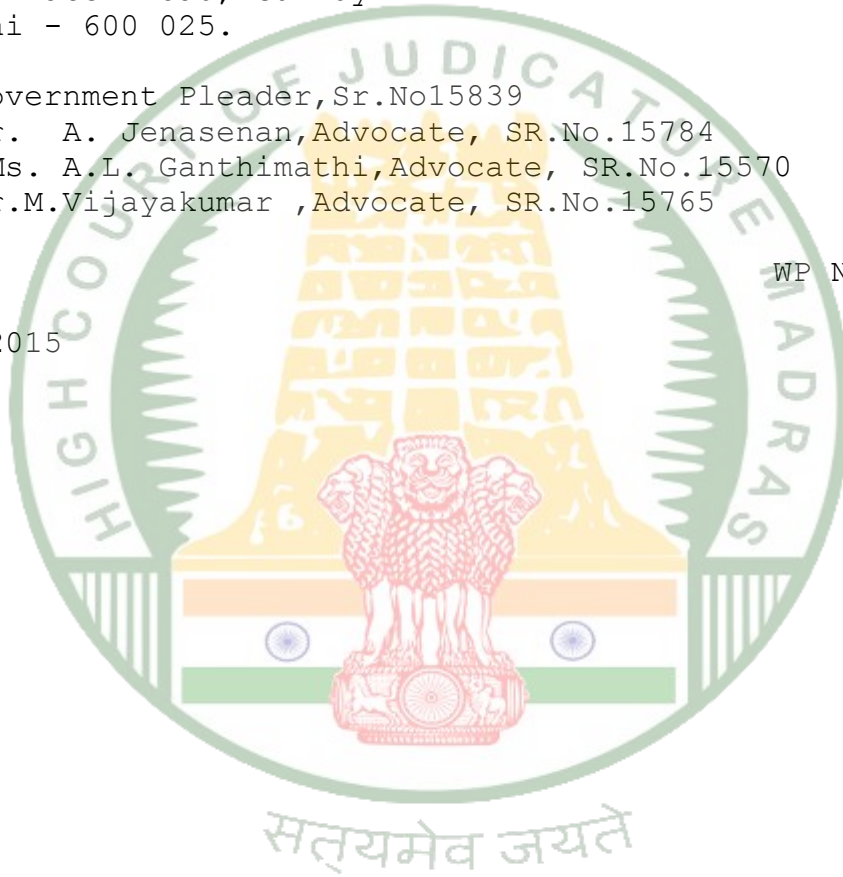
1 cc to Mr. A. Jenasenar, Advocate, SR.No.15784

1 cc to Ms. A.L. Ganthimathi, Advocate, SR.No.15570

1 cc to Mr.M.Vijayakumar, Advocate, SR.No.15765

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