

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.26755 OF 2014
and M.P.No.1 of 2014

John Bosco Polytechnic College
represented by its Founder and Chairman
having office at John Bosco Building
No.2B, Babu Jagan Street,
Kannan Bala Nagar, 100 Feet Road,
Arumbakkam, Chennai - 600 106. .. Petitioner

Vs.

All India Council for Technical Education
represented by its Chairman/Advisor - I,
7th Floor, Chanderlok Building,
Janpath, New Delhi - 100 011. .. Respondent

* * *

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the respondent in their letter of rejection F.No.Southern/1-455243423/2014/AB, dated 09.08.2014, quash the same and consequentially direct the respondent to process the application for approval of the petitioner institution for the academic year 2014-2015 and grant approval to the petitioner institution for the academic year 2014-2015. सत्यमेव जयते

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For Petitioner : Mr.M.L.Ramesh

For Respondent : Ms.AL.Gandhimathi
Standing Counsel

O R D E R

Heard Mr.M.L.Ramesh, learned counsel for the petitioner and Ms.AL.Gandhimathi, learned Standing Counsel for the respondent and perused the materials placed on record.

2. The petitioner is a polytechnic college and challenge in this writ petition is to the order of the All India Council for Technical Education (hereinafter referred to as "AICTE") dated 09.08.2014 in F.No.Southern/1-455243423/2014/AB, rejecting the request made by the petitioner for grant of approval of the polytechnic for the year 2014-2015.

3. The following facts are relevant for the disposal of this writ petition :

(i). The petitioner institution was established in the year 2000 and approval was granted by the AICTE for the year 2000-2001. The petitioner was entitled to admit 360 students per year in five branches of study. It is not in dispute that the approval was extended periodically on a year to year basis from 2000-2001 upto 2013-2014. For the extension of approval for the year 2013-2014, as per the schedule of dates, the application should have been filed on or before the end of February 2014.

(ii). However, a challenge was made to the jurisdiction of the AICTE before the Hon'ble Supreme Court and a decision was rendered by the Hon'ble Supreme Court in the case of Jayamatha Engineering College Vs. Union of India by the judgment dated 26.06.2014 in WP(Civil) No.538/2014 holding that the AICTE has no jurisdiction to impose restrictions or even grant approval and due to the said decision, there appears to have been a lot of confusion with the institutions as to whether they should apply for approval at all.

(iii). Admittedly, the petitioner was also in such a confused state of affairs and the petitioner did not file its application within the cut off date in during February 2014. Subsequently, the AICTE extended the last date for approval upto 18.05.2014. It is not in dispute that this extension of approval was in respect of engineering colleges as well as polytechnic colleges. It appears that the petitioner did not choose to avail this opportunity, though there was sufficient public notice issued by the AICTE in this regard.

(iv). In order to get over the situation that arose on account of the order passed by the Hon'ble Supreme Court, the AICTE filed an application before the Hon'ble Apex Court in I.A.No.6 of 2014 in SLP (Civil)No.7277 of 2014. The Hon'ble Apex Court passed the order on 26.06.2014, by virtue of the said order, the AICTE was granted seven days to take a decision on all the applications pending before it and it shall first take up the applications in which it has already expressed willingness to grant approval but have not done so in deference of the orders of the Hon'ble Supreme Court. Thereafter, the concerned Universities/State Authorities/bodies which have the powers of granting affiliation shall take a decision on that subject

within one week. Further, it was observed that it is for these reasons that the first round of counseling/admission for allotment of seats which was to be completed by 30th June 2014 will now be completed by 15th July 2014. The second round of counseling shall be completed on 22.07.2014 and the last round by 29.07.2014. In that manner, it was directed that the date of commencement of the academic session, as laid down by the Hon'ble Supreme Court, shall not be disturbed. Accordingly, the application filed by AICTE was allowed.

(v). Pursuant thereto, a public notice was issued by AICTE, intimating all the stakeholders, about the order of the Hon'ble Supreme Court.

(vi). It is not in dispute that the petitioner made application on 23.06.2014. According to the petitioner, the web portal for polytechnic colleges of the AICTE was not open, though web portal was opened for engineering colleges upto 18.05.2014. Therefore, the petitioner had sent the application manually by post and it has reached the AICTE on 26.06.2014, whereas, the stand of the AICTE is that it has reached the AICTE on 27.06.2014.

(vii). While the situation remains thus, the petitioner has moved the Hon'ble Supreme Court by filing a writ petition under Article 32 of the Constitution in W.P.(Civil) No.694 of 2014. The said writ petition was dismissed by the Hon'ble Supreme Court holding that there is no fundamental right involved. However, there was no decision taken by the Hon'ble Supreme Court on the merits of the petitioner's contention.

(viii). Now, the petitioner is before this Court stating that for 13 long years they had approval and AICTE had been continuously granting approval and on account of peculiar facts, which occurred in the year 2014-15, the petitioner's application should be considered and extension of approval may be granted.

4. The learned Standing Counsel for the respondent / AICTE vehemently opposed the prayer contending that even upto the extended date of 18.05.2014, the petitioner did not file the application and their application dated 23.06.2014 which was sent by post and not uploaded in the web portal. Furthermore, the benefit of the order passed by the Hon'ble Supreme Court was available only to such of those technical engineering colleges, whose application was pending for consideration before the AICTE and in respect of the petitioner's case there being no such application, the question of granting extension of approval does not arise.

5. I have carefully considered the submissions of both sides and perused the material placed on record.

6. The allegation made by the petitioner that the web portal for polytechnic colleges did not open till 18.05.2014 has not been specifically denied in the counter-affidavit. Furthermore, though the cut off date for filing the application was fixed as February 2014, on account of the order passed by the Hon'ble Supreme Court, several institutions have not applied and not pursued their application or some of them did not even apply before February 2014. The jurisdiction of AICTE to grant such approval itself was put on hold because of the orders passed by the Hon'ble Supreme Court and that order equally apply to both the engineering colleges as well as polytechnic colleges. The AICTE on their own volition extended the cut off date upto 18.05.2014. It is stated that the public notice was issued in this regard. However, the specific plea of the petitioner is that the date was extended upto 18.05.2014 only for engineering colleges and the web portal for polytechnic colleges did not open, there is no specific denial by the AICTE. However, the petitioner has submitted his application on 23.06.2014. This application could not be uploaded in the web portal, since the web portal did not open. This is not denied by the respondent. The application sent by the petitioner manually has been delivered in the office of the AICTE on 26.06.2014. The cut off date as extended by the Hon'ble Apex Court in the application filed by AICTE in I.A.No.6 of 214 was upto 26.06.2014. The petitioner could not remit the requisite fee within the time, because the payment had to be made online and the web portal did not open beyond the cut off date. In view of these peculiar circumstances and considering the fact that the institution has been in existence for the past 13 years and AICTE was fully satisfied with the infrastructure facilities available with the petitioner institution, this Court is of the view that the petitioner is entitled to a remedy before this Court.

7. However, it is made clear that this order shall not be a precedent, since this order has been passed considering the extraordinary and peculiar circumstances, in which the petitioner institution has been put into and the petitioner cannot be wholly blamed for the delay occurred.

8. Taking into consideration all these facts and circumstances of the case and in view of the above discussion, the petitioner is entitled for extension of approval to be granted for the year 2014-2015.

9. Accordingly, this writ petition is allowed and the impugned order is quashed and the petitioner is directed to re-submit the application along with Demand Draft, which has been returned to the petitioner and on receipt of the same, the respondent AICTE shall

consider and grant approval for the year 2014-15 within a period of two weeks from the date of resubmission. No costs. Consequently, connected miscellaneous petition is closed.

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-s/d-

Assistant Registrar (CS-II)

Dt:11/2/2015

True Copy

Sub-Assistant Registrar

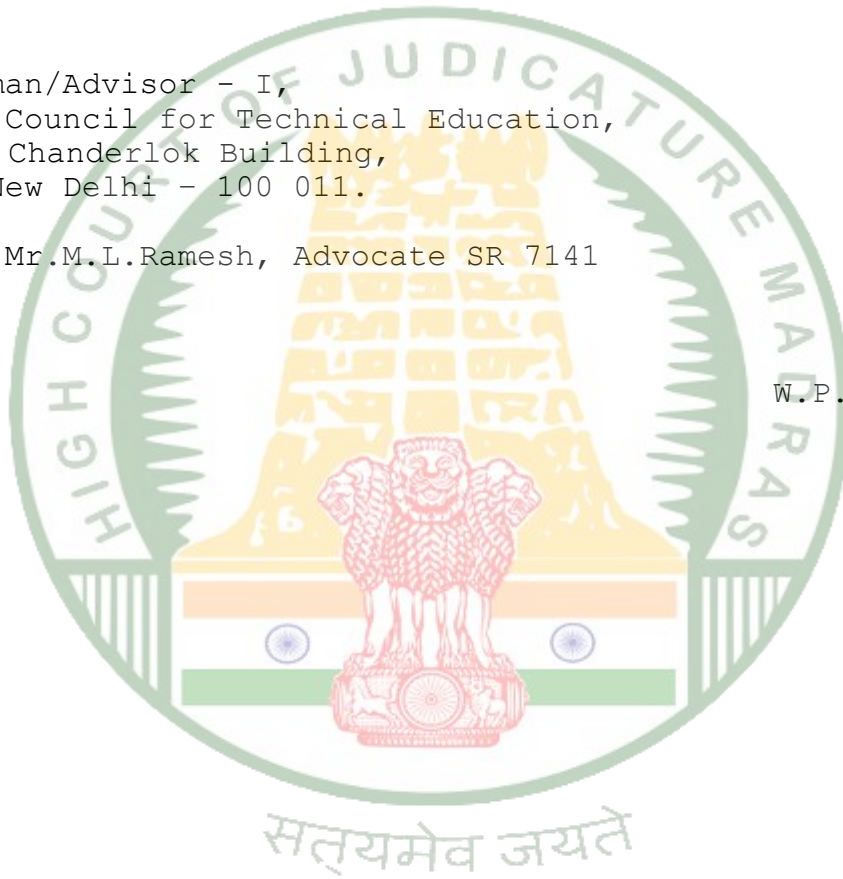
To

The Chairman/Advisor - I,
All India Council for Technical Education,
7th Floor, Chanderlok Building,
Janpath, New Delhi - 100 011.

+ 1 cc to Mr.M.L.Ramesh, Advocate SR 7141

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