

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No. 30432 of 2015
and
M.P.Nos. 1 to 3 of 2015

Vethamonickam Memorial C.S.I. Polytechnic College
Viricode, Marthandam,
Vilivancode Taluk, Kanyakumari District,
Rep. by its Chairman/Bishop
Rt. Rev.G.Devakadasham

... Petitioner

-Vs-

1. All India Council for Technical Education
7th Floor, Chandralok Building, Janpet,
New Delhi - 110 001
Rep. by its Chairman
2. The Regional Officer
Southern Regional Office
All Indian Council for Technical Education
Sastri Bhavan, Chennai.
3. The Principal Secretary
Education Department
Government of Tamil Nadu
Chennai - 600 009.
4. The Commissioner of Technical Education
Directorate of Technical Education
Guindy, Chennai - 600 025.
5. The Registrar
Board of Examination
Directorate of Technical Education
Guindy, Chennai - 600 025.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for

the records relating to the impugned proceedings F.No.Southern/1-425753461/2012 dated 10.09.2015 issued by the first respondent and quash the same as null and void and consequently direct the first respondent to grant continuous approval for the academic year 2015-2016 for the petitioner college.

For Petitioner : Mr.Mr.V.Lakshminarayanan
for M/s.S.Bharathirajan

For RR 1 & 2 : Mrs.AL.Ganthimathi

For RR 3 to 5 : Mrs.P.Rajalakshmi

O R D E R

The petitioner is running an Institute having due approval from the year 2009 onwards. By an order dated 30.04.2015, the extension sought for approval was rejected for the academic year 2015-2016 on the ground that sale deed has not been registered in the name of CSI Kanyakumari Diocese Trust Association as against the name of the individual, who is the deponent of the affidavit filed in this Writ Petition.

2. A challenge was made to the said order in W.P.No. 14620 of 2015 before this Court. By the order dated 18.06.2015 the said Writ Petition was allowed by observing hereunder:-

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

7. A perusal of the registered conveyance deed, dated 03.06.2009, would disclose that on behalf of Church of South India Trust Association only, the deponent of the affidavit, in his capacity as the Bishop, has signed the document. Further, the Land Conversion Certificate and the Land Usage Certificate, which are available at page Nos. 69 and 70 respectively of the Typed Set, would also indicate that the properties stand in the name of CSI Trust Association.

8. Therefore, in the considered opinion of this Court, the reason assigned by the first respondent in the impugned order and thereby rejecting the extension of approval for the

petitioner college for the academic year 2015-2016 warrants interference.

9. In the result, the Writ Petition is allowed and the impugned proceedings, dated 07.04.2015, on the file of the first respondent, are quashed. The first respondent is directed to consider the application of the petitioner institution for extension of approval for the academic year 2015-2016, if the papers are otherwise in order, and pass orders after taking into account the observations made in this order, within a period of three weeks from the date of receipt of a copy of this order and communicate the decision taken thereon to the petitioner. No costs. Consequently, the connected M.P.Nos. 1 to 4 are closed."

3. Thereafter, the impugned order was passed once again rejecting the extension sought for approval for the academic year 2015-2016 on three grounds:-

"(i) The first ground being the transfer deed stands in the name of the deponent of the affidavit filed in the present Writ Petition;

(ii) the other grounds are to the effect that the petitioner has not produced khasra plan and approved building plan and insisted to produce the irrelevant village map."

Challenging the said order, the present Writ Petition has been filed.

4. Mr.V.Lakshminarayanan, learned counsel appearing for the petitioner submitted that the order impugned cannot be sustained in the eye of law. It is not open to the 1st respondent to review the order passed by this Court. Therefore, the said reason assigned, cannot be countenanced. In so far as the other grounds for rejection are concerned, the learned counsel submitted that the petitioner has produced the document with respect to the approved plan from the local authority dated 15.03.2003. As the petitioner has been in vogue from 2009 onwards, the subsequent amendment requiring approval from the Town and Country Planning Authority is not required. What the petitioner seeks is only an extension. The learned counsel further submitted that what is not available in the earlier order, is found in the subsequent one. Therefore, the order impugned has to be set aside.

5. Per contra, the learned counsel appearing for the respondents submitted that there is a discrepancy in the sale deed with respect to the original one in Tamil and the translated one in English. The petitioner has not produced the relevant documents with respect to the plan of the building. Therefore, no interference is required.

6. The decision rendered by this Court is binding on the parties including the petitioner. In fact, the deponent filed an affidavit dated 17.08.2015 stating that the property is belonging to the petitioner, namely, Church of South India Trust Association Kanyakumari Diocese. The incidental documents with respect to the said issues were also taken note of by this Court in the earlier occasion. Certainly, the finding given by this Court and the affidavit filed would bind the petitioner. In other words, when the deponent of the affidavit himself states that the property does not belong to him as per document No. 432/2009 as against the title of the Association, the objection raised in the impugned order in this regard, cannot be sustained.

7. As the cloud is removed that too at the instance of the deponent of the affidavit filed in the present Writ Petition, there cannot be any bar for considering the application for extension of approval for the academic year 2015-2016 on merits. Coming to the other two objections regarding the plan, the petitioner has produced the plan to the local authority dated 15.03.2003. Admittedly relying upon the same, the initial approval was granted. What is sought for is only an extension. Thus the petitioner cannot be insisted for production of approval from different authorities at this point of time. These two conditions were not found in the earlier order. Even otherwise but for the non compliance of the document evidencing sale in favour of the petitioner, the extension of approval would have been granted even earlier. It is not as if the construction put up is not adequate both in terms of structure or otherwise. Therefore, the said objections raised in the impugned order also cannot be sustained.

8. Accordingly, the order impugned is set aside and the Writ Petition is allowed and the respondent concerned is directed to pass appropriate orders granting extension for the academic year 2015-2016 to the petitioner within a period of 8 weeks from the date of receipt of a copy of this order without rejecting it on the ground of the non production of khasra plan and building and the question of title on the interpretation of the sale deed in Document No. 432 of 2009. The petitioner is also directed to furnish the copy of the proceedings of the Nalloor Municipality Authority dated 15.03.2003 to the respondents within a period of

two weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsg

To

1. The Chairman
All India Council for Technical Education
7th Floor, Chandralok Building, Janpet,
New Delhi - 110 001
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Directorate of Technical Education
Guindy, Chennai - 600 025.

+1cc to Mrs.A.L.Ganthimathi, Advocate, S.R.No.55771
+2cc's to Mr.'S.Bharathirajan, Advocate, S.R.No.55397
+1cc to the Government Pleader, S.R.No.55706

W.P.No. 30432 of 2015
and
M.P.Nos. 1 to 3 of 2015

JSV(CO)
CA(13/10/2015)