

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25091 of 2012

and

M.P.No 2 of 2012

Surabi Educational and Charitable Trust,
Rep. By its Managing Trustee,
P.Jothi Murugan

... Petitioner

vs.

1.The All India Council for Technical Education,
Rep. By its Member Secretary,
Chandralok Building, Janpath,
New Delhi 110 002.

2.The Regional Officer,
All India Council for Technical Education,
The Southern Regional Office,
Shastri Bhavan, No.26, Haddows Road,
Chennai - 600 006.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records of the 1st respondent to quash the impugned order passed and communicated vide email dated 16.05.2012 bearing Application ID No.1728198651 on the file of the first respondent and also direct the 1st respondent to grant approval on the basis of the Rectification Report submitted by the petitioner dated 04.06.2012 to the Institute viz., Surabi Polytechnic College, Nagal Nayakkan Patti, Dindigula District.

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

For Respondents : M/s.A.L.Ganthimathi

O R D E R

Heard Mr.N.R.Chandran, learned Senior Counsel for Mr.R.Kannan, learned counsel appearing for the petitioner and M/s.A.L.Ganthimathi, learned Standing Counsel for All India Council for Technical Education (AICTE) and with the consent of both parties, this Writ petition is taken up for final disposal.

2. The petitioner is an Educational and Charitable Trust established in the year 2003 with the object of promoting higher education in the spheres of Engineering, Technology, Medicine, Business Management, Agriculture etc. The petitioner's Trust was desirous to start a Polytechnic College under the name and style of Surabi Polytechnic College. It submitted an application to the respondent on-line on 30.01.2012 and paid a sum of Rs.5 Lakhs towards the processing fee. The petitioner's application was scrutinized and report was submitted by the Scrutiny committee on 13.02.2012, wherein certain deficiencies were pointed out. According to the petitioner, these are all minor deficiencies. The petitioner said to have produced certain documents and requested them to conduct a re-scrutiny. Thereafter, another report was submitted on 23.02.2012. According to the petitioner, in which also the Scrutiny Committee pointed out the same deficiencies. Ultimately, the petitioners applications were rejected by order dated 15.04.2012. The petitioner filed an appeal before the Standing Appellate Committee (SAC) and appeared before the Committee and produced the records, which were verified on 22.04.2012. A three member committee was appointed to visit the institution and they have submitted an inspection report. The grievance of the petitioner is that though they have complied with all the conditions and rectified all the deficiencies pointed out and explained to the satisfaction of the visiting Expert Committee, the petitioner's appeal was rejected by a non speaking order dated 16.05.2012 communicated by email without affording an opportunity. Therefore, the said order is questioned in this writ petition.

3. Learned Senior Counsel appearing for the petitioner submitted that the impugned order is in violation of the principle of natural justice and outcome of total non application of mind and the respondent did not take into consideration the views of the Expert Committee, which visited the institution and the rejection is arbitrary and untenable.

4. This writ petition was admitted by this Court on 13.09.2012. However, no interim order was granted and the matter has remained as such.

5. The learned standing counsel appearing for the respondents (AICTE) submitted that the application submitted by the petitioner was for the academic year 2012-13 and as on date, the session is

already over and the question of examining the correctness of impugned order does not arise. Further it is submitted that the Regulations has been amended and new Regulations has been come into force from 2014 onwards and if the petitioner applies afresh under the new Regulations, the same will be considered.

6. The submission made by the learned counsel for the respondent is partially correct. However, it cannot be stated that the entire relief sought for in the writ petition has become infructuous merely on account of efflux of time. It may be true that the Academic session is over yet the petitioner seeks to challenge the impugned proceedings on the ground that it is violation of the principle of natural justice and the correctness of the impugned proceedings could be examined for the limited aspect so that the petitioner should not be put into disadvantageous position, if the petitioner is directed to apply afresh under the new Regulation. Admittedly, the impugned communication is only an email communication and does not contain any reasons except to state that the reports referred to in the communication contained deficiencies and it was available on web portal. There appears to be no discussion as to the manner in which the Expert committee evaluated the infrastructure available with the petitioner's institution and furthermore, there was no opportunity to the petitioner to rebut the allegation, based on which the rejection order was passed. Therefore, this is Court is inclined to accept the submission of the learned Senior Counsel for the petitioner that the impugned proceedings are in violation of the principle of natural justice. Admittedly, even if the impugned order is set aside, the question of granting approval with retrospective effect for the academic year 212-2013 is not feasible, more so, when the petitioner is a new institution, therefore, necessarily, the petitioner has to apply afresh to the respondent by submitting their application in the new form at as per 2014 Regulations of the AICTE, which shall be considered for the next academic session i.e., 2016-2017.

7. Accordingly, this writ petition is disposed of with the direction to the petitioner to submit a fresh application for the academic year 2016-2017 in accordance with the procedure prescribed under the new Regulations of AICTE and if the same is done, the respondents shall consider the petitioner's application in accordance with the new Regulations without in any manner being influenced by any observation, finding or report submitted earlier. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Member Secretary,
All India Council for Technical Education,
Chandralok Building, Janpath,
New Delhi 110 002.

2.The Regional Officer,
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The Southern Regional Office,
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+1 cc to Mr.R.Kannan, Advocate sr.37311/15

+1 cc to M/S.A.L.Gandhimathi Advocate sr.37586/15

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aa12/08/2015



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