

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

**WRIT PETITION Nos.18332, 18342, 18500 and
18721 of 2015**

COMMON ORDER:

Heard learned Senior Counsel, Sri C.V.Mohan Reddy, for the petitioners in W.P.Nos.18332 and 18342 of 2015, Sri S.Niranjana Reddy for the petitioners in W.P.No.18500 and 18721 of 2015 and Sri A.Abhishek Reddy, learned Standing Counsel for the respondents.

The petitioners are educational institutions imparting technical education and seeking affiliation from the first respondent for the academic year 2015-16. The first respondent invited applications for affiliation and extended the date for such purpose and fixed the last date for receipt of application as 07.05.2015. The applications were invited through online process. All the above petitioners applied for affiliation.

This Court considered the regulations framed by the first respondent for affiliation and the steps involved in affiliation process as indicated in paragraph 26.1 of the Regulations. Though the Supreme Court in **Parshvanath Charitable Trust v. All India Council for Technical Education** ^[1] fixed the last date for granting or refusing approval by University/State Government as 15th May, the first respondent has not adhered to the schedule and allowed the receipt of applications till 07.05.2015 with another period of nearly 45 days for completion of affiliation process as per the regulations. If the first respondent was allowed to follow its own time schedule, it would have

involved postponement of the academic session apart from committing breach of the schedule fixed by the Supreme Court. Since various steps are involved in affiliation process as per the Regulations framed by the first respondent and keeping in view the time schedule fixed by the Supreme Court in **Rungta Engineering College, Bhilai v. Chhattisgarh Swami Vivekanand Technical University**^[2], the steps involved in the affiliation process were adjusted to the time schedule available and this Court fixed the schedule for affiliation, counseling and commencement of academic year by order dated 12.06.2015 in W.P.No.14743 of 2015 and batch.

At the time of passing of the said order, several institutions received letters of deficiencies and those institutions were given an opportunity for preferring an appeal on or before 20.06.2015 as per the regulations. The appellate authority was directed to consider the appeals and dispose of the same on or before 28.06.2015. But, the said order was breached by both sides. The first respondent conducted re-verification, contrary to the Regulations and the petitioners did not prefer an appeal in spite of clear orders of this Court. It is stated by the learned Counsel for the petitioners that the said re-inspection was conducted by treating the objections filed to the deficiencies as an appeal and re-inspection was done. However, now it is admitted by both the parties that a re-inspection was conducted by the first respondent in respect of institutions in W.P.Nos.18332 and 18342 of 2015 and the report of the teams is available with the first respondent.

During the course of arguments in the present cases, the petitioners sought time for filing an appeal in view of the earlier order

dated 12.06.2015. The request of the petitioners is declined as the petitioners had not availed the benefit given to them on the earlier occasion and it is not possible to adhere to the time schedule fixed earlier. However, when the petitioners were declined of the said relief, they prayed that they should be provided with a copy of the re-inspection report and have an opportunity of hearing by the Appellate Committee before taking a decision by the Appellate Committee when the first respondent considered the objections as an appeal and re-inspection was done. Learned Counsel for the respondents objected to the process of hearing and submitted that Regulations do not provide for any hearing before passing an order by the Appellate Committee.

Learned Counsel for the petitioners submitted that if an opportunity of being heard is not afforded, the entire proceedings would be vitiated as held by the High Court of Madras in **The Principal, R.V.S.College of Engineering and Technology v. All India Council for Technical Education**^[3]. While dealing with the questions raised therein, the High Court of Madras held that in view of the ratio laid down by the Supreme Court in **Sahara India (Firm), Lucknow v. Commissioner of Income Tax, Central-1**^[4] and **Swamy Devi Dayal Hospital and Dental College v. Union of India**^[5], the requirement of giving a reasonable opportunity of being heard before an order is made, should be read into the provisions of statute, particularly when the order has adverse civil consequences for the party affected and a copy of the report must be furnished to the institutions in order to satisfy the principles of natural justice.

From the papers submitted to this Court and the submission made by the learned Standing Counsel, it appears that an Appellate Committee, as directed by this Court, was constituted on 17.06.2015 and a hearing was given to the parties on 19.06.2015 and 20.06.2015. It is also submitted by the learned Counsel for the respondents that re-inspection of majority of the institutions was already completed. But, that hearing was given before re-inspection. The petitioners are entitled to a copy of the report of re-inspection, if any, and an opportunity of hearing, as any decision of the appellate committee, if it is taken adverse to the interest of the petitioners, would have civil consequences. The entitlement of the petitioners in the counseling process would be affected by the said decision. These rights cannot be extended to all who are going to be affected by the decision of the appellate committee in view of paucity of time and involvement of several institutions in the decision making process. Hence the relief is confined to the petitioners only.

In the circumstances, all these Writ Petitions are disposed of with the following directions:

- (i) The request of the petitioners to avail the remedy of appeal at this stage against the deficiencies pointed out on 09.06.2015 is declined in view of non-availment of such remedy pursuant to the order of this Court dated 12.06.2015 but filing objections by the petitioners already.
- (ii) Since the Appellate Committee is constituted and a re-inspection of the institutions in respect of W.P.Nos.18332 and 18342 of 2015 was done after submission of objections by the respective institutions pursuant to communication of

deficiencies on 09.06.2015, the first respondent is directed to upload/communicate the report consequent to the re-inspection forthwith and the appellate Committee shall hear the above petitioner institutions, except the second petitioner in W.P.No.18332 of 2015, before passing an order. It is open to the petitioners to submit their written submissions after going through the report of re-inspection team. The said exercise shall be completed on or before 28.06.2015 in view of the schedule fixed in the earlier order dated 12.06.2015.

The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

25.06.2015

Note: Issue C.C today.
B/o.
vs

[\[1\]](#) (2013) 3 SCC 385

[\[2\]](#) 2014 (9) SCJ 425

[\[3\]](#) (2014) 5 MLJ 648

[\[4\]](#) (2008) 14 SCC 151

[\[5\]](#) AIR 2014 SC 284