

CWP No.12445 of 2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.12445 of 2015
Date of decision:13.07.2015**

Aastha Educational & Charitable Trust (Regd.) ...Petitioner
Versus
All India Council for Technical Education and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Anil Kshetrapal, Sr. Advocate, with
Mr. Maninder Singh, Advocate, for the petitioner.

Mr. S.K.Sharma, Advocate,
for respondents no.1 and 2.

Mr. Rajesh Sheoran, Advocate,
for respondent no.3.

Rakesh Kumar Jain, J.

The petitioner has prayed for the issuance of a writ in the nature of *mandamus*, directing respondent no.1 to condone the delay in depositing the processing fee and grant extension of approval for the session 2015-16 for existing courses, while accepting the extension fee along with late fee.

In brief, the petitioner is running the polytechnic-diploma courses in the name of Aastha Polytechnic, village Bhagwanpura, Sub-Tehsil Mustafabad, District Yamuna Nagar. An educational institution is required to seek extension of approval before start of each next academic session. The petitioner has intake capacity of 300 students in total 4

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disciplines every year and has been continuously granted extension of approval for the years 2011-12, 2012-13, 2013-14 and 2014-15. The polytechnic-diploma level technical institution is also required to obtain affiliation from the Haryana State Board of Technical Education constituted under the Haryana State Board of Technical Education Act, 2008.

The All India Council for Technical Education-respondent no.1 (hereinafter referred to as the “AICTE”) issued an Approval Process Handbook-2015-2016 (hereinafter referred to as the APH-2015-16”), prescribing the formalities required to be completed by an existing institute seeking extension of approval. As per clause 3.3 of the APH-2015-16, the fee for extension of approval for the petitioner-institute was ₹1 lac. There is also a provision for deposit of the process fee with late fee of ₹2 lacs, but the payment options were made available only through the Corporate Internet Banking and applications for extension of approval were to be accepted subject to realization of the payment. It is also provided in clause 3.5 of the APH-2015-16 that submission of an application for extension of approval on web-portal on or before the last date as mentioned in the schedule is mandatory.

It is averred by the petitioner that the requisite processing fee could not be paid in time because the Chairman of the Trust was diagnosed with lung cancer and, therefore, he requested one of his friends, namely, Sh. Laksh Malik to pay the requisite processing fee of ₹1 lac to the AICTE from his account. The attempt made by the said person to transmit the processing fee from his account was well within time, but the amount was

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not transmitted. It is further alleged that the petitioner tried to deposit the processing fee of ₹1 lac even with the late fee of ₹2 lacs, but the same was not accepted. Hence, the present writ petition.

In the reply filed by respondents no.1 and 2, it is averred that in the decision of the Supreme Court in the case of **Parshava Nath Charitable Trust vs. AICTE and others**, 2013(2) SCT 194, the time schedule has been fixed for granting or refusing approval i.e. 10th April by the AICTE and 15th May by the University/State Government. It is also averred that in para 43 of the said judgment, it has been declared that the admission dates mentioned in para 41 of the judgment have to be strictly adhered to by all concerned and none of the authorities shall have the power or jurisdiction to vary these dates of admission.

On merits, it is averred that public notice for approval process for the session 2015-2016 was issued on 23.01.2015, inviting applications from all the technical institutions for extension of approval and fresh applications for new technical institutions upto 20.02.2015. However, on the demand of some institutions, the last date for submission of application was extended upto 27.02.2015 and it was further extended upto 02.03.2015. However, a specific note was given in the notice extending the last date for submission of application upto 02.03.2015 that *“no applications will be accepted beyond 05th March 2015 under any circumstances even with late fee”*. Keeping in view that some institutions like the petitioner failed to deposit the processing fee in time, the respondents sent an e-mail to the petitioner on 13.03.2015. The text of the said e-mail is as under:-

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**“AICTE ON-LINE APPROVAL PROCESS FOR THE
ACADEMIC YEAR 2015-16-FINAL REMINDER**

1 message

aicte.admin@aicte-india.org <aicte.admin@aicte-india.org>

To: aasthapolytechnic@gmail.com

Fri, Mar 13, 2015 at 6:51 PM

Dear Principal/Director,

In compliance with the Hon'ble Supreme Court of India's order dated 15.12.2014, in SLP Civil No.7277/2014, AICTE has issued a Public Notice for Approval Process 2015-16 which has been published in all leading Newspapers on 24.01.2015 & 25.01.2015 and same has been communicated through e-mail and also displayed on AICTE website (www.aicte-india.org) along with necessary detailed information on procedural aspects. Subsequent public notifications in connection with extension of last date and information regarding simple steps to be followed for online submission of the application along with payment through AICTE portal in time was also communicated through e-mail and SMS (to your registered e-mail and mobile number).

Despite all the necessary steps taken by AICTE, your institution so far has submitted the online application but not paid the processing fee for getting Extension of Approval (EOA) for 2015-16 for the programs/Courses being conducted presently (academic year 2014-15).

In view of the above, you are requested to **MAKE THE PAYMENT IMMEDIATELY** (as applicable), **FAILING WHICH AICTE APPROVAL FOR THE PROGRAMS/COURSES WILL NOT BE GIVEN FOR THE ACADEMIC YEAR 2015-16.**

Regards,
AICTE
New Delhi.”

Counsel for the respondents has also relied upon a judgment of this Court passed in the case of **Jiwan Jyoti Polytechnic College Jalalabad vs. All India Council for Technical Education and others,**

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CWP No.13108 of 2013, decided on 02.08.2013, in regard to extension of approval with late fee, which was declined by the respondents. The said writ petition was dismissed because the petitioner therein did not deposit the application for extension of approval with late fee before the cut-off-date.

I have heard learned counsel for the parties and examined the available record.

The petitioner-institute has been seeking extension of approval every year from respondent no.1 and very well knew that the processing fee is necessary with the application for extension of approval, without which no action can be taken by respondents no.1 and 2. It was otherwise also made clear in the APH-2015-2016 that the payment option would be only through Corporate Internet Banking and the applications would be accepted subject to realization of payment. Besides this, all the stakeholders were specifically informed that submission of their application for extension of approval on web-portal on or before the last date as mentioned in the schedule is mandatory.

The argument made by learned counsel for the petitioner that the application was submitted in time and it was only the processing fee which could not be deposited because of the illness of the Chairman of the Trust and an attempt was made by a friend of the Chairman to transfer the processing fee from his account, cannot be accepted as one of the excuses to comply with the mandatory provisions of the APH-2015-16, especially when the petitioner has not denied to have received letter/e-mail dated 13.03.2015, asking the petitioner to make the payment immediately

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apprising them categorically that their failure to deposit the payment would result into denial of approval for the programs/courses of the academic year 2015-16, but still it is alleged by the petitioner that the attempt was made by it to transmit the processing fee in the first week of April, 2015 from his account, knowing fully well about the public notice by which the time for filing application for extension of approval was extended upto 02.03.2015 in which it was also specifically provided that *“no applications will be accepted beyond 05th March 2015 under any circumstances even with late fee”*.

Thus, in these facts and circumstances, the petitioner cannot be allowed to argue that it could not deposit the processing fee along with late fee in time because of ill health of the Chairman of the Trust.

In view thereof, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

July 13, 2015
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(**Rakesh Kumar Jain**)
Judge