

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7353 OF 2016

Aurangabad College of Engineering

...Petitioner

versus

All India Council for Technical Education
and others

...Respondents

.....

Mr. A.M. Karad, advocate for the petitioner
Mr. S.V. Adwant, advocate for respondent Nos. 1 and 2
Mr. P.N. Kutti, A.G.P. for respondent Nos. 3 and 4.

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**CORAM : S. S. SHINDE AND
V. K. JADHAV, JJ.**

**Date of Reserving
the Order :13.07.2016**

**Date of pronouncing
the Order :20.07.2016**

ORDER (PER V.K. JADHAV, J.)

1. Heard finally with consent of the parties.
2. The petitioner is an educational institute and also a trust registered under the provisions of Maharashtra Public Trust Act 1950. The said Trust runs Aurangabad College of Engineering. Presently, the college is functioning with various Degree courses in Engineering; so also, Diploma level courses.
3. The petitioner, by way of present writ petition, is challenging the action of respondent Nos. 1 and 2 granting extension of approval

for the academic year 2016-17 with reduction in intake, originally granted in the previous academic year and also total reduction in intake of two diploma courses i.e. Computer Science and Engineering and Mechanical Engineering.

4. Brief facts giving rise to the present writ petition are as under:-

The petitioner college was granted approval by the AICTE for the first time for the academic year 2010-2011 by approval letter dated 13.7.2010 with intake of 60 students each for the course of Civil Engineering, Mechanical Engineering, Electronics and Communication, Computer Science and Engineering. The State of Maharashtra also issued necessary Government Resolution dated 30.6.2010 by which approval was granted to open and establish the Engineering College with intake capacity in consonance with the approval granted by the ACITE. As per the procedure prescribed in Approval Process Handbook, published by the AICTE, the petitioner institute applied for extension of approval. Such extension of approval was granted with intake capacity of 60 students each for the courses already existing in the institute so also granted approval for the Diploma level courses in Mechanical Engineering and Commuter Science Engineering with the same intake capacity from the academic year 2012-13. Even in the academic year 2013-14, the

AICTE has granted extension of approval by its letter dated 11.3.2014 and granted approval to the Diploma level courses run by the petitioner institute in Second Shift with intake capacity of 60 seats each.

5. The petitioner institute has received a communication dated 11.3.2016 from AICTE giving reference to the inspection conducted by the Director of Technical Education, Maharashtra State. It was mentioned by the Director (Approval) of the AICTE that Inspection Committee of the State Government noticed following deficiencies:-

- (i) Built-up area (Required – 9411 Sq. m.; Available – 9190 Sq. m.)
- (ii) Faculty (Required – 112, Available - 51)

6. The petitioner institute was directed to submit the present status of Compliance Report on the above discrepancies on an affidavit to the Regional Officer, AICTE, Mumbai urgently and latest by 18.3.2016 positively. The petitioner institute filed its reply on 17.3.2016. So far as the deficiencies noticed in respect of the built-up area is concerned, the petitioner categorically mentioned that at the time of inspection, the construction work was going on and now all the construction work is completed and total built up area of 14000

sq. mt. is available, which is more than that of the required norms. So far as the other deficiency mentioned in the letter dated 11.3.2016, the petitioner institute explained that the required faculty members are as per the intake capacity, however, the faculty recruited at the relevant time was as per the strength of the admitted students. The petitioner further pointed out that the petitioner institute has submitted letters to the University for granting permission for recruitment of faculties as per the Government policy. Accordingly, the University has granted permission by letter dated 5.3.2016 for publication of advertisement for the faculty to be recruited according to the Government policy. Even the petitioner institute has published the advertisement for recruitment of faculty in a daily newspaper. The petitioner institute, thus, assured the AICTE that necessary faculties will be recruited before commencement of the next academic year.

7. According to the petitioner institute, though a detail reply was submitted to the respondent AICTE, the said authority, while granting extension of approval for the academic year 2016-17, by letter dated 30.4.2016, reduced the intake capacity of Under Graduate Course i.e. Engineering Courses by 10% and further reduced the intake capacity of Diploma level courses, run by the petitioner institute in Second Shift, from 60 to 0 in both the courses i.e. Computer Science

& Engineering and Mechanical Engineering. The AICTE further, by communication dated 11.5.2016, recommended the closure of Second Shift w.e.f. 2016-17 and also recommended 10% reduction in the intake of all the courses in petitioner institute. Hence, this writ petition.

8. Learned counsel for the petitioner submits that the petitioner institute is running both the courses i.e. Degree level courses in Engineering as well as Diploma level courses in Engineering under the approval granted by the AICTE and necessary affiliation is also granted by the examining body. The Diploma level courses are altogether different and the examining body is Maharashtra State Board of Technical Education. The Diploma level course is of three years and as per the Approval Process Handbook, ratio of the faculty required to be maintained is 1:20. Thus, considering the intake capacity, which is sanctioned and approved by the AICTE for Mechanical Engineering as well as Computer Science Engineering as 60 students each, the petitioner institute has already recruited 18 faculties. As far as Diploma level courses are concerned, the strength of the faculty is consistent with the intake capacity and it satisfies the requirement.

9. Learned counsel submits that the petitioner institute is making

all possible efforts to cure the deficiencies in respect of faculties for Engineering courses and also initiated the process and as far as the Diploma level courses are concerned, it satisfies the requirement as per the norms of AICTE. The letter dated 11.5.2016 is an example of non application of mind. The decision is taken by the AICTE on the basis of letter dated 30.3.2016. However, the said letter in its Subject contemplates the final discrepancy report of the Degree Engineering Institute. Thus, without applying the mind and without considering any factual position, the Diploma level courses, which are in Second Shift, are recommended to be closed. This action on the part of ACITE is in violation of principles of natural justice and without considering the factual aspect. The report of the Director of Technical Education was restricted only to the extent of Degree level courses in Engineering. However, the authorities of AICTE reduced the strength of Diploma level intake capacity by 100% though 100% faculties, as prescribed in the Approval Process Handbook are appointed by the petitioner institute.

10. Learned counsel submits that by communication viz. e-mail dated 16.6.2016, received from respondent No.2/Regional Officer of AICTE, Mumbai, the petitioner institute was directed to appear before the Appellate Committee at New Delhi. Accordingly, the representative of petitioner institute appeared before the appellate

committee on the given date and submitted its reply alongwith supporting documents. However, the Appellate Committee Members orally informed the representatives of the petitioner institute to withdraw the appeal or otherwise they will pass order of further reduction in the intake capacity. Thus, the petitioner institute was left with no other alternative than to withdraw the appeal. In the circumstances, the petitioner institute is left with no other alternative but to file the present writ petition.

11. Learned counsel submits that though it is mentioned in the impugned order that opportunity was given and the documents submitted by the petitioner were considered, however, no fair opportunity was given to the petitioner to present its case. Thus, by way of this petition, the petitioner institute is seeking necessary directions to the respondents for restoring its intake capacity as far as Diploma level courses are concerned as it was for the academic year 2015-16. So also further seeking directions to allot the students through Centralized Admission Process (CAP) for the academic year 2016-17 to the diploma level courses in engineering as per intake capacity as was in the academic year 2015-16.

12. Learned counsel for respondent Nos. 1 and 2 submits that as per clause 1:1 of Chapter IV of the Approval Process Handbook

2016-17, in the event an institute, running any Programme/Course in Technical Education violates the Regulations or the prescriptions given in the Approval Process Handbook, shall be liable to appropriate action of reduction in sanctioned intake by the AICTE. The inspection of the petitioner institute was conducted in the month of September, 2015, pursuant to which, Discrepancy Report of the Degree Engineering Institutes was prepared by the Director of Technical Education and was submitted to respondent No.1 in the month of January, 2016, which shows serious deviation and violation of the AICTE Regulations. Consequently, the Director of Technical Education has issued show cause notice to the petitioner institute and also other institutes, who had flouted and violated the rule of law and has given them time of three months to remove the discrepancies. After getting status of compliance/non compliance of the discrepancies, the Director of Technical Education has submitted a further report to respondent No.1 for taking necessary action. The respondent No.1 has issued letters to 148 institutes, seeking clarification and compliance therefrom as it was *prima facie* found that the such institutes had serious deficiencies with respect to land – built up – faculty. On 11.3.2016, respondent No.1 has issued letter to the petitioner institute informing therein that the inspection team of the Director of Technical Education, Maharashtra has recorded deficiencies in Built-up area and faculty and further directing to

submit the status of compliance report with respect to the discrepancy by submitting an affidavit to the Regional Officer of the respondent No.1 urgently and latest by 18.3.2016 positively, so as to consider the grant of extension of approval or otherwise for the academic year 2016-17. Respondent No.1 has constituted a Standing Compliant Committee (SCC) and all the said institutes, including the petitioner, were directed to appear before the said committee at Mumbai on 18.4.2016/19.4.2016 to justify their position. The Standing Compliant Committee (SCC) has minutely scanned and scrutinized the entire record of the petitioner institute and has prepared a report recording that;-

“(1) Deficiency in faculty 47% No separate list of faculty. No Time Tables.”

And has commended -

- “(i) Recommended for Closure of II Shift w.e.f. 2016-17
- (ii) EOA for I Shift recommended with 10% reduction in intake of all courses.”

13. The AICTE has accepted the recommendations of Standing Complaint Committee and on 11.5.2016, has passed the impugned order. Thereafter, on receipt of request form the petitioner institute,

the matter was taken before the Standing Appellate Committee (SAC) on 17.6.2016 for enabling the petitioner institute to present its claim of compliance. The SAC has gone through every minute detail of the claim of the petitioner and declined to interfere in the previous order. Thus, considering the observations and recommendations of the SAC, the Council has then decided to maintain its earlier order passed on 11.5.2016. Learned counsel submits that the decision of percentage of reduction in the intake capacity and closure of Second Shift of the petitioner institute was arrived at on the basis of the volume of deficiencies in the institute, recorded by the Standing Complaint Committee (SCC). Thus, decision of the AICTE is based on the evidence and recommendations of the Standing Complaint Committee (SCC) and Standing Appellate Committee (SAC), which cannot be found fault with. The petitioner institute is one of the defaulters, which has violated the AICTE Regulations and has misrepresented to have complied with it. Thus, the decision of respondent No.1 is justified and warrants no interference. Learned counsel for respondent Nos. 1 and 2 therefore, submits that there is no substance in the writ petition and the same thus, liable to be dismissed.

14. We have perused the pleadings/grounds taken in the petition. With their able assistance, we have carefully considered the

submissions advanced by learned counsel for the respective parties.

15. The petitioner institute is running both the Degree level Engineering courses as well as Diploma level courses in Engineering under the approval granted by the AICTE and necessary permission and affiliation granted by the examining body. According to the petitioner institute, the Diploma level courses are altogether different and the examining body is Maharashtra State Board of Technical Education. It is the case of the petitioner that the petitioner institute has already recruited 18 faculties as far as the Diploma level courses are concerned, and as such, the strength of the faculty is consistent with the intake capacity to satisfy the requirement.

16. The petitioner college was granted approval by the AICTE for the first time in the academic year 2010-11 by approval letter dated 13.7.2010 for all course with intake capacity of 60 students each to Civil Engineering, Mechanical Engineering, Electronics & Communication and Computer Science Engineering. Thereafter, extension of approval as required under the provisions of All India Council for Technical Education Act, 1987 and the Regulations framed thereunder, so also as prescribed in the Approval Process Handbook issued by the AICTE, was granted to the petitioner institute for the academic year 2011-2012. In the academic year

2012-13, the petitioner institute made a request to the AICTE for grant of Diploma level courses in Engineering and Technology Programme in Second Shift. Thus, by letter dated 10.5.2012, the AICTE granted extension of approval for the courses already existing in the institute, so also granted approval for Diploma level courses in Mechanical Engineering and Computer Science & Engineering with intake capacity of 60 students each from the academic year 2012-13. On careful perusal of the copy of extension of approval Exh.C dated 10.5.2012, it appears that the approval was granted to the existing courses as well as to the Diploma level courses with intake capacity of 60 students each. We do not find any separate approval for existing courses and Diploma level courses respectively. Even in the academic year 2014-15, the AICTE granted extension of approval to the petitioner institute by its letter dated 11.3.2014 and granted approval to the Diploma level courses run by the petitioner institute in Second Shift with intake capacity of 60 seats each. Such extension of approval was also granted previously in the academic year 2013-14 and intake capacity was maintained. It thus appears from the copy of said extension of approval that approval to the Diploma level courses and extension of approval to such courses run by the petitioner institute was granted in Second Shift with intake capacity of 60 seats each.

17. In the light of the above, the letter dated 11.3.2016 issued by the Director (Approval), AICTE is quite significant. By giving reference to the inspection conducted to the institution by the Government of Maharashtra and in the light of the report received from the State Government, the petitioner institute was informed about the deficiencies in respect of the built-up area and the faculties. It is stated in the said communication dated 11.3.2016 that the required built-up area is 9411 sq. meters and available built-up area is 9190 sq. meters and faculty required is 112 however, faculty available is 51. We are not inclined to accept the submissions that the Director of Technical Education, Maharashtra conducted inspection in respect of Degree level courses alone in the Engineering Institutes in the State of Maharashtra. We fail to understand as to how the built-up area could be different for Degree level Engineering course and Diploma level Engineering course when the petitioner institute runs the Diploma level course in Second Shift in the same building. So also, about the requirement of faculties as per the norms prescribed by the AICTE. It is difficult to digest, so far as the Diploma level courses are concerned, that the strength of the faculty is consistent with the intake capacity and satisfy the requirement.

18. In response to the said communication dated 11.3.2016, the

petitioner institute has submitted a detail compliance report dated 17.3.2016 as regards the deficiencies pointed out vide the said letter. So far as the deficiencies pointed out with respect to the built-up area, it is submitted that the construction work was going on and now the construction work is completed and the total built-up area of 14000 sq. meters is available and the same is more than required norms of AICTE. As regards the deficiencies of faculty members, it is explained by accepting that the petitioner institute requires 112 number of faculty as per the intake capacity and since last three years, the institute is suffering from less admission status at entry level, as a result of which, the petitioner institute appointed faculty on the basis of the actual admission status. Further reference is made to the letters submitted to the University for grant of permission for recruitment of faculty etc. However, it is nowhere stated in the said explanation dated 17.3.2016 that so far as Diploma level courses are concerned, the strength of faculty is consistent with the intake capacity and satisfy the norms of requirement.

19. Learned counsel for the petitioner institute has repeatedly pointed out the letter dated 30.3.2016, wherein reference has been given to the Final Discrepancy Report about the Degree Engineering Institutes in the State of Maharashtra. Learned counsel submits that the deficiencies pointed out in the inspection report pertains to the

Degree Engineering Institutes in the State of Maharashtra and accordingly, show cause notices have been issued by the Regional Officers of the Technical Education, Maharashtra State, to such institutes to fulfill the discrepancies as pointed out. We do not find the name of any such Engineering institute as Diploma level Engineering Institute. Furthermore, there are no two separate entities such as Degree level Engineering courses and Diploma level Engineering courses run by one and the same institute.

20. As per clause 1:1 of chapter IV of Approval Process Handbook 2016-17, in the event an institute run any programme/course in technical education violates the Regulations or prescriptions given in the Approval Process handbook, shall be liable to appropriate action of reduction in sanctioned intake by the AICTE. Inspection of the institute was conducted in the month of September, 2015, pursuant to which the discrepancy report of such engineering institute was prepared by the Director of Technical Education, State of Maharashtra and was submitted to the respondent No.1 in January, 2016. In consequence of which, show cause notices have been issued to all such institutes who had flouted and violated the AICTE regulations and further three months time was granted to such institutes to remove the discrepancies. Furthermore, the Standing Complaint Committee (SCC) came to be formed by respondent No.1

and all such institutes were directed to appear before the said committee on specific dates to justify their position. The Standing Complaint Committee has minutely scanned and scrutinized the entire record of the petitioner institute and recorded the finding that the “Deficiency in the faculty in 47% No separate list of faculty. No Time Table” and accordingly recommended for closure of Second Shift w.e.f. 2016-17 with 10% reduction in the intake of all courses in First shift. Accordingly, the AICTE has accepted the recommendation of Standing Complaint Committee (SCC) and passed the order dated 11.5.2016 in the matter as recommended by the SCC. Even the Standing Appellate Committee (SAC) has declined to interfere in the said order dated 11.05.2016. It is to be noted here that the petitioner institute has not raised any of such ground pertaining to the Diploma level Engineering courses either before the Standing Complaint Committee or before the Standing Appellate Committee. We do not find any substance in the submissions that the petitioner institute was not knowing that the AICTE would take decision about the closure of Second Shift.

21. In the light of above, we do not find any substance in the writ petition. The writ petition is liable to be dismissed. Hence, the following order:-

O R D E R

- I. Writ Petition is hereby dismissed.
- II. In the circumstances, there shall be no order as to costs.

(V. K. JADHAV, J.)

(S. S. SHINDE, J.)

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