

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7094 OF 2016

New Horizon Education Society's
New Horizon Institute of Technology
and Management, Thane. ...Petitioner

Versus

All India Council for Technical
Education (AICTE) & Ors. ...Respondents

...

Mr. Rafiq Dada, Senior Advocate with Mr. S.S. Hardikar for the
Petitioner.
Ms Meena Doshi for Respondent No.1
Mr. V.M. Mali, A.G.P. for the Respondent No.3-State.
Mr. A.S. Shaikh i/b. Mr. Rui Rodrigues for Respondent No.6.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 4th JULY, 2016.

P. C. :

Heard the learned counsel appearing for the respective
parties.

2. By the order dated 11th May, 2016 the Respondent No.1-AICTE reduced the intake capacity in all courses run by the Petitioner Institution for academic year 2016-2017 by 10% in view of the deficiency in the faculty by 45%. This order was challenged by the

Petitioner before the appellate authority of the AICTE. The appellate authority by its order dated 14th June, 2016 not only dismissed the Petitioner's appeal but further reduced the intake capacity of the Petitioner from 10% to 25%. By this petition, the Petitioner has challenged both these orders.

3. During the pendency of this petition we directed the Petitioner to submit all the relevant records regarding the faculty to Respondent No.1-AICTE for verification. The Respondent No.1 was directed to consider the same afresh. This exercise was carried out by a committee and the report is submitted by Ms Doshi, the learned council for AICTE. The report shows that there is still deficiency in the faculty and therefore we are not inclined to interfere in the order of the AICTE dated 11th May, 2016.

4. So far as appellate order is concerned, Mr. Dada, the learned senior counsel submitted that the appellate authority could not have further reduced the intake capacity of the Petitioner's Institution, in the courses run by the Petitioner's Institution. He submits that show cause notice was not given to the Petitioner nor the appellate orders are supported by any reasons.

5. Ms Doshi, the learned counsel. however, supported the order. She submits that the appellate authority has powers to further reduce the intake capacity.

6. We find merit in the submissions of Mr. Dada. The said appeal was filed by the Petitioner. The appellate authority in our view could not have further reduced the intake capacity without giving an opportunity to show cause to the Petitioner. Admittedly, no such opportunity was given to the Petitioner. The appellate order is also not supported by any specific reasons as to why further reductions in intake capacity was necessary.

7. In the circumstances, on this limited ground we set aside the appellate order dated 14th June, 2016 so far as it relates to further reduction of intake capacity. This order is passed in the facts of this case and this may not be used as precedent.

8. The petition stands disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)