

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3725/2016

(MANAV KALYAN CHARITABLE TRUST, AKOLA & ANOTHER **VERSUS** THE STATE OF
MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.B. Kalwaghe, counsel for the petitioners.
Shri V.P. Gangane, A.G.P. for the R-1 to 3.
Shri R.S. Sundaram, counsel for the R-4.
Shri J.B. Kasat, counsel for the R-5.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : AUGUST 05, 2016.

By this writ petition, the petitioners challenge the order of the Appellate Authority of the All India Council for Technical Education, dated 23.06.2016 cancelling the permission to admit the students in the engineering courses for the year 2016-17, in the entirety.

The petitioner no.2-Institute is conducting engineering courses in several branches since the year 2015. The Director of Technical Education conducted an inspection of the colleges in which the courses were conducted, in February-2016. A report of the same was submitted to the All India Council for Technical Education and since there were certain deficiencies, the All India Council for Technical Education, by the orders dated 11.05.2016 and 30.04.2016, permitted the petitioners to conduct the courses with only 50% of the admissible capacity thereby reducing the intake capacity by 50%. The petitioners were aggrieved by the order of the All India Council for Technical Education and, therefore, an appeal was filed before the Appellate Authority of the All India Council for Technical Education challenging the order of reducing the intake capacity to the extent of 50%. During the pendency of the matter before the Appellate Authority of the All

India Council for Technical Education, the Appellate Authority by the impugned order dated 23.06.2016 recommended that no admissions whatsoever should be made by the petitioner no.2-Institute during the academic session 2016-17. The 'No Admission' order, dated 23.06.2016 is impugned in the instant petition.

Shri Kalwaghe, the learned counsel for the petitioners, submitted that the Appellate Authority of the All India Council for Technical Education was not justified in passing the order of 'No Admission' in the courses for the academic year 2016-17. It is stated that there was a reduction of intake capacity by 50% in terms of the orders dated 11.05.2016 and 30.04.2016 and the said order was challenged before the Appellate Authority of the All India Council for Technical Education. It is stated that the Appellate Authority, without there being any issue in regard to the cancellation of the rest of the intake capacity, passed the impugned order of 'No Admission' for the academic year 2016-17. It is stated that a party approaching the Appellate Authority with a particular grievance cannot be penalized more than it was penalized before approaching the Appellate Authority. It is stated that the Appellate Authority of the All India Council for Technical Education did not have the jurisdiction to cancel the entire intake capacity for the academic year 2016-17.

Shri Sundaram, the learned counsel for the respondent no.4, submits that before the impugned order is passed, the inspection of the respondent no.2-Institute and its infrastructure was made. It is stated that it is likely that the Appellate Authority of the All India Council for Technical Education thought that the petitioner no.2-Institute did not possess the requisite infrastructure for running the courses and that may be the reason for passing the impugned order. It is, however, fairly admitted that the impugned order does not record any reasons for passing the order of 'No Admission'.

On hearing the learned counsel for the parties, it appears that the impugned order is clearly arbitrary and the same cannot be sustained. The intake capacity of the petitioner no.2-Institute was reduced by 50% by the orders dated 11.05.2016 and 30.04.2016 and the petitioners had appealed against the said order before the Appellate Authority of the All India Council for Technical Education. In the appeal proceedings, the Appellate Authority did not have the jurisdiction to pass an order of cancellation of the entire intake capacity. The Appellate Authority could have only considered whether the order reducing the capacity by 50% was correct or not. The Appellate Authority did not have the jurisdiction to consider whether there could be any further reduction in the intake capacity. The Appellate Authority of the All India Council for Technical Education travelled beyond the issue that fell for consideration before the same and illegally passed the order dated 23.06.2016.

Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order dated 23.06.2016 is quashed and set aside. The Appellate Authority of the All India Council for Technical Education is free to decide the appeal filed by the petitioners in accordance with law. It is needless to mention that the petitioners would be entitled to admit the students to the extent of 50% of the intake capacity for the academic year 2016-17.

Order accordingly. No costs.

JUDGE

JUDGE

CERTIFICATE

I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.

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