

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.21782 of 2016

and

W.M.P.No.18625 of 2016

Thanapandiyan Polytechnic College,
Represented by its Chairman,
Mr.P.Thanavelan,
Thanapandiyan Nagar, Austin Patty Road,
Madurai - 625 008. .. Petitioner

- Vs -

1. The Commissioner,
The Directorate of Technical Education (DOTE),
Sardar Patel Road,
Guindy, Chennai - 600 025.
2. The Director (Approval),
The All India Council for Technical Education (AICTE),
7th Floor, Chanderlok Building,
Janpath, New Delhi - 110 001.
3. The Regional Officer,
Southern Regional Office - AICTE,
26, Haddows Road,
Shastri Bhawan,
Chennai - 600 006. .. Respondents

Prayer:- Writ petition filed under Section 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent made in File No.Southern/35/Misc/2016-17/AB dated 30.04.2016 and quash the same and consequently direct the 2nd respondent to grant the Extension of Approval for Admission for the academic year 2016-2017 for the petitioner institution.

For Petitioner : Mr.R.Muthukumarasamy
SC for Mr.A.Jenasenan

For Respondent 1 : Mr.A.N.Thambidurai
Special Government Pleader

For Respondents 2 & 3 : Mrs.Al.Gandhimathi

- - - -

O R D E R

The writ petition has been filed challenging the order of the 2nd respondent dated 30.04.2016 and for a consequential direction to the 2nd respondent to grant the Extension of Approval for Admission for the academic year 2016-2017 for the petitioner institution.

2. The main and only ground that has been raised by the learned counsel for the petitioner is that the impugned order dated 30.04.2016 has been issued without even notice to the petitioner, which violates the principles of Natural Justice. Even if they have received any communication from the University for de-affiliation, a mandatory requirement requires that they should have been intimated about this and they should be called to give an explanation and without any of these, summarily on the letter received from the University dated 01.04.2016, the present impugned order has been passed. Therefore, it violates the principles of natural justice, the learned counsel for the petitioner would contend. In this connection, he would also contend that as against the order dated 01.04.2016, withdrawal of the affiliation of the college, they have already moved a writ petition and the same is pending. When that be so, the present order is sought to be set aside. Yet another point which has been raised by the learned counsel for the petitioner is that when the AICTE has given approval for the current academic year 2016-17, the summary withdrawal pursuant to the order of the University is illegal.

3. The main contention learned counsel appearing for the AICTE is that it is not an independent act on the part of the AICTE. The AICTE taking note of the fact the communication issued by the University that the very affiliation for the academic year itself has been taken back, which was conveyed by a letter to the AICTE, its order is only a consequential order. In fact, the petitioner's theory that notice has to be issued would arise only if the AICTE has independently taken a decision in so far as the cancellation or withdrawal of the affiliation. Whereas, pursuant to the order of the University, this order has been passed and communication has been issued. Hence, she would contend that the order is not illegal. Furthermore, the question of notice does not arise as the petitioner himself was aware of the order of the University and he has even challenged the same. When this is only a consequential order and when he has not even obtained any stay order in that writ petition, naturally, he cannot admit any student for the academic year 2016-17. In that view of matter, the present letter stating that he cannot admit student is a valid one.

4. Heard both the parties.

5. The only question which arise is issuance of notice

before passing the impugned order. It is relevant to extract paragraphs 4 to 8 of the impugned order, which is as follows:

"4. Whereas, a letter No.47244/H4/2015 dated 01.04.2016, along with an order dated 17.03.2016, conveying "withdrawal of affiliation to Thanapandian Polytechnic College, Madurai, was received in the Council sent by the Director of Technical Education, Directorate of Technical Education, Chennai.

5. Whereas, as the affiliation for the AY 2016-17, in r/o the said Thanapandian Polytechnic College has been withdrawn by the Director of Technical Education, Chennai.

6. Whereas, Extension of Approval has already been granted to the said institute by the AICTE through online automated process.

7. Whereas, it has been decided to place the said letter dated 01.04.2016 and order dated 17.03.2016 sent by DoTE, Chennai before the duly constituted Standing Complaint Committee.

8. Whereas, the said letter dated 01.04.2016 and order dated 17.03.2016 were placed before the Standing Complaint Committee held on 30.04.2016 and after going through these documents, Committee has made the following recommendation in r/o the said Thanapandian Polytechnic College:

"Record perused. After according extension of approval to the institute, a letter dated 01.04.2016 was received from the Director of Technical Education informing that the institute has been deaffiliated on the ground of gross/serious charges.

Taking into consideration the above development, the committee recommends that the extension of approval be withdrawn and the institute be placed in "No admission" category for the AY 2016-17."

6. From this it is very clear that the AICTE has not passed any independent order in respect of the alleged

withdrawal or for the stoppage of the students for the academic year 2016-17. First of all, the AICTE received a letter dated 01.04.2016 along with an order dated 17.03.2016, from the University conveying the withdrawal of the affiliation to the college. Since AICTE can renew the approval only if there is an affiliation and without an affiliation the petitioner cannot admit students. In that view of the matter when the affiliation itself has been withdrawn by the University, which was communicated to the petitioner, the order passed by the AICTE is only a consequential order. Therefore, the argument of the petitioner that he ought to have been given notice before withdrawal of the said affiliation and stoppage of students does not arise. All the more so, when the petitioner himself has challenged the withdrawal of affiliation by the University, in another writ petition in W.P.(MD)No.6376 of 2016 before the Madurai Bench of this Court and the same is pending without any interim order. Therefore, he cannot admit any student for the academic year 2016-17. In such view of the matter, the decision taken by the AICTE in tune with the orders passed by the University for de-affiliation, I do not find any reason to interfere with the order. Even if a notice is issued, the petitioner can only say that he has moved a writ petition, when there is no stay order, where is the question of any violation of the principles of natural justice. As rightly pointed out, it is not an independent decision of the AICTE nor it is as stated by the petitioner a withdrawal of their earlier order. It is only a consequential order passed pursuant to the de-affiliation of the petitioner. Hence, I do not find any reason to interfere with the impugned order dated 30.04.2016.

7. In such view of the matter, the writ petition fails and the same is accordingly dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1. The Commissioner,
The Directorate of Technical Education (DOTE),
Sardar Patel Road,
Guindy, Chennai - 600 025.
2. The Director (Approval),
The All India Council for Technical Education (AICTE),
7th Floor, Chanderlok Building,
Janpath, New Delhi - 110 001.

3. The Regional Officer,
Southern Regional Office - AICTE,
26, Haddows Road,
Shastri Bhawan,
Chennai - 600 006.

+1 cc to Govt. Pleader, High Court, Madras SR.NO.62840/16.

W.P.No.21782 of 2016 and
W.M.P.No.18625 of 2016

MMP 28.12.2016



WEB COPY