



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 24.06.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)Nos.10682 and 10683 of 2016

M/s.Dhaya College of Engineering,
represented by its Authorised Signatory
G.Jayakaran Grubb,
Sivarakkottai Village,
Thirumangalam,
Madurai - 625 706.

..Petitioner in both W.Ps'
Vs

1.The Anna University,
Chennai - 600 025,
represented by its Registrar,

2.The Centre for Affiliation of Institutions,
Anna University,
Chennai - 600 025.

3.The Deputy Director,
Town and Country Planning,
Directorate of Town and Country Planning,
Madurai.

4.The Superintending Engineer,P.W.D.,
(I/C) Building(C&M) Circle,
Madurai

..Respondents in both W.Ps'

Prayer in W.P(MD)No.10682 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the fourth respondent to forth-wtih issue a Structural Stability Certificate for the Petitioner's Building without insisting on production of the approved revised plan of the third respondent.

Prayer in W.P(MD)No.10683 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the third respondent to pass orders on the Petitioner's application dated 30.7.2012 submitted for approval of the revised plan.

Reserved on :22.06.2016

Pronounced on :24.06.2016

For Petitioner :Mr.C.A.Diwarhar
in both W.Ps' for M/s.S.Sivaraman

For Respondents :Mr.K.Chellapandian
1 and 2 Additional Advocate General
in both W.Ps' Assisted by M.Rajarajan
Govt. Advocate.



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For Respondent-3 :Mr.K.Guru
in both W.Ps' Addl.Govt.Pleader

For Respondent-4 :Mr.K.Chellapandian,
in both W.Ps' Addl.Advocate General
Assisted by Mr.A.Muthukaruppan
Addl.Govt.Pleader

COMMON ORDER

Heard both sides.

W.P(MD)No.10682 of 2016

2.According to the Petitioner, the Petitioner applied for renewal of Provisional Affiliation for the academic session 2016-2017 and when the application for renewal was pending, the First Respondent in its non-booklet published in March 2016 deliberately failed to include its name in the list of affiliated Colleges printed therein, even though on the said date, the Petitioner was having provisional affiliation. It is further represented that the second list published by the First Respondent in April 2016 also did not contain the name of the Petitioner.

3.The stand of the Petitioner is that omission to mention the name of the Petitioner will have an adverse impact on the Petitioner and further that AICTE by its order, dated 5.4.2016 (posted on its Web-site) granted approval for the academic session 2016-2017 and included the Petitioner in the list of AICTE approved colleges. In fact, AICTE considered the Petitioner's plea for Structural Stability Certificate to grant approval. Added further, because of the exclusion of the Petitioner's name, the Petitioner submitted a representation, dated 20.4.2016 to the Respondents seeking inclusion of its name in the list of affiliated colleges, for which, there is no response from the First Respondent.

4.The plea of the Petitioner is that the only objection of the First Respondent is that the Petitioner had not submitted the approval of AICTE and therefore, they are unable to pursue the application for renewal. In this connection, it is to be pointed out that this Court by its order, dated 28.4.2016 directed the Petitioner to submit a fresh representation along with necessary documents including the printed down-loaded version of AICTE Approval Certificate and direct the Respondents to consider the approval granted by AICTE and to clear the formalities by 10.05.2016. Besides that, the Petitioner enclosed all the necessary documents for continuation of affiliation together with the application and submitted a letter, dated 28.04.2016 enclosing the down-loaded copy of the AICTE approval and called upon the First Respondent to grant renewal of affiliation for the year 2016-2017. However, the First Respondent in its letter, dated 02.05.2016, denied the receipt of copy of AICTE approval and called upon the Petitioner to submit a copy of the AICTE approval, so that an inspection team could be sent for verification of documents and facilities. In reality, the Petitioner submitted the down-loaded copy of the AICTE approval, as the original copy is yet to be received from AICTE.



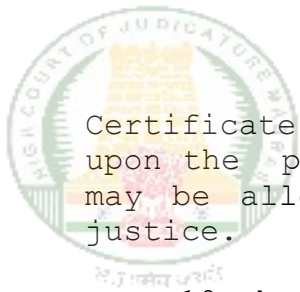
5.The main grievance of the Petitioner is that it has been requesting the Fourth Respondent from the year 2014 itself to issue Structural Stability Certificate, but the Fourth Respondent failed to issue Structural Stability Certificate citing issues not germane to issue Structural Stability Certificate to the building. Furthermore, the Petitioner sent a letter, dated 12.05.2016 once again, clarified all the queries raised earlier and prayed for issuance of Structural Stability Certificate without any further delay.

6.The Learned Counsel for the Petitioner brings it to the notice of this Court that in pursuance to the letter, dated 12.05.2016, the Fourth Respondent inspected the College on 17.05.2016 and finding no reason to deny the issuance of Structural Stability Certificate, the Fourth Respondent cited a letter, dated 23.05.2016 from the Third Respondent to claim that the Petitioner has not obtained approval from the Local Planning Authority for the deviation from the approved plan and Structural Stability Certificate may be issued only on the production of such approval from the Local Planning Authority for the deviation from the approved plan.

7.The Learned Counsel for the Petitioner proceeds to strenuously contends that the Petitioner submitted a revised plan as early as on 18.08.2014 and the same is pending with the Third Respondent till date and the Third Respondent is deliberately holding back the approval of the revised plan knowing fully well that the deviations are very minor (about 8.8% from the approved plan) and fell within the permissible limit of 50% in non-planning areas.

8.The core submission of the Learned Counsel for the Petitioner is that the Respondents are once-again acting in tandem on some way or other denying the continuation of affiliation to the Petitioner and in furtherance thereof, have sought to resurrect the issue of non-production of Structural Stability Certificate from the Fourth Respondent as a reason to deny the continuation of affiliation to the Petitioner. Apart from that, it is projected on the side of the Petitioner that this objection can no longer be a reason for denial of affiliation as the Honourable Supreme Court had found no limit for the said objection while directing the grant of provisional affiliation for the year 2014-15 and 2015-2016 and directing admission of students.

9.The Learned Counsel for the Petitioner takes an emphatic stand that the deliberate refusal to grant continuation of affiliation to the Petitioner for the year 2016-2017 will cause immense loss, suffering and hardship to the Petitioner and to all the students admitted pursuant to the orders of the Honourable Supreme Court. Also that, the continuance of the students for the academic sessions 2014-2015 and 2015-2016 made under the orders of the Honourable Supreme Court will be rendered untenable if the provisional affiliation for the year 2016-2017 is not continued. Therefore the submission of the Learned Counsel for the Petitioner is that given the conduct of the Respondents in the past, in the interest of justice, this Court would deem it fit to exercise its powers to grant provisional affiliation for the year 2016-2017. Hence the Writ filed by the Petitioner praying for passing of an order by this Court in directing the Fourth Respondent to issue Structural Stability



Certificate for the Petitioner's College building without insisting upon the production of the approved revised plan of the Third Respondent may be allowed by this Court, in furtherance of substantial cause of justice.

10. The Learned Counsel for the Petitioner informs this Court that for the year 2014-2015 and 2015-2016, there are 35 students for each academic batch and refusal to grant continuation of affiliation to the Petitioner/College for the year 2016-2017 would cause immense loss, suffering and hardship to the Petitioner and to the students admitted and therefore, the provisional affiliation for the year 2016-2017 has to be continued.

11. Per contra, it is the submission of the learned Additional Advocate General appearing for the respondents that the Petitioner has constructed the college building by deviating the approved plan and therefore, the construction is an unauthorized one. Also, it is represented on behalf of the Respondents that the Petitioner has not submitted any relevant details as requested by the Directorate of Town and Country Planning vide R.O.C.No.19887/2012/BA1, dated 15.11.2011 and without obtaining the relevant particulars, the Third Respondent cannot accord any technical approval.

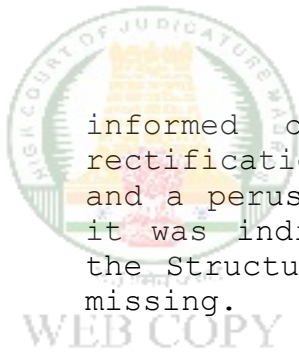
12. Furthermore, it is the contention of the Learned Additional Advocate General appearing for the Respondents that the Petitioner could not get the revised approval from the Local Planning Authority and the letter, dated 24.5.2016 of the Fourth Respondent's Office would clearly establish that the refusal was genuine. Moreover, the Fourth Respondent is to keep within its purview the rules contained in National Building Code, directions and instructions issued by the Chief Engineer and that the Chief Engineer had issued a detailed instruction in letter No.AEEII/C6/2014, dated 16.2.2015 regarding the procedures to be followed before the issuance of Structural Stability Certificate.

13. The Learned Additional Advocate General appearing for the Respondents brings it to the notice of this Court that the National Building Code Section 3 Para 11.1 (Doc.3) reads as under:

"No person shall carry out any development, erect, re-erect or make alterations or demolish any building or cause the same to be done without first obtaining a separate permit for each such development/building from the Authority".

It is the submission of the Learned Additional Advocate General that the application of the Petitioner was returned with remarks long back on 06.08.2014. As such, no application was pending with the Third Respondent.

14. The Learned Additional Advocate General for the Respondents brings it to the notice of this Court that the application submitted by the Petitioner-Institution was scrutinized by the Standing Committee to verify the fulfilment of statutory and academic requirements and a team of eminent and senior Professors formed and they inspected the college in the presence of representatives of the College on 6.5.2016 and they verified the documents and certificates submitted by the College and since four necessary documents were not submitted, the College was



informed of the same through a letter, dated 14.5.2016 and a rectification report was also received from the Petitioner/Institution and a perusal of the same would reveal that although in Serial No.4, it was indicated that the Certificate from Superintending Engineer for the Structural Stability of building was enclosed, the said document was missing.

15.As far as the present case is concerned, it transpires that the Fourth Respondent had addressed a letter, dated 24.05.2016 to the Correspondent of the Petitioner/College inter-alia stating that the Local Planning Authority approval of any building is very much essential for issuance of Structural Stability Certificate, as safety aspects have been looked into by the Local Planning Authority as per the Building Code Norms before approving the plan and that in the above circumstances, the Structural Stability Certificate may be issued only on receipt of Local Planning Authority approval for the deviations in the approved plan and hence the Petitioner's application is returned herewith for want of Local Planning Authority's approval for the revised plan. The Second Respondent/Anna University on 8.6.2016 had addressed a letter to the Principal of the Petitioner/College stating that before the start of counselling process, particulars of provisional affiliation for the academic year 2016-17, the necessary Structural Stability Certificate issued by the Public Works Department Superintending Engineer for all the buildings/structures constructed in the Petitioner/college has to be submitted, which is a mandatory and statutory requirement as per the Regulations 6.2 vide Section 5.5 of the Statutes for Affiliation(2004 of Anna University) was to ensure safety for the students.

16.At this stage, this Court very relevantly points out that the Honourable Supreme Court in its order, dated 28.07.2015 in SLP(C) No.21901/14, had among other things, observed as under:

'As per the provisions of Section 7 of the Anna University Act, affiliation is required to be obtained for each and every academic year. We make it clear that pursuant to the earlier affiliation order in favour of the Petitioner-institution by the respondent-University for the Academic years 20p14-2015 and 2015-2016, we confine the said order for those academic years. However, for the subsequent academic year(s) it is open for the Petitioner-institution to apply for the same to the first respondent-University in accordance with the statutory requirements''.

17.Also, this Court aptly points out that as per Section 7 of the Anna University Act, the affiliation to any college building and affiliation is required to be obtained for each and every academic year. Therefore, it is clear that the Petitioner is to obtain affiliation for the academic year 2016-2017 by applying before the University College in tune with the statutory requirements.

18.In the instant case, the categorical stand is that the revised plan was submitted as early as on 18.08.2014 and the same is pending with the Third Respondent till date, which fact is denied by the Third Respondent, to the effect that the Petitioner has not submitted any proposal on 18.08.2014 and also no revised drawings were received from him and the same was informed to the Superintending Engineer, Public



Works Department, Madurai on 23.05.2016. It cannot be gain-said that the Petitioner is to produce the revised approval from the Local Planning Authority in order to process its request for issuance of the Structural Stability Certificate.

19.Also, it is the case of the respondents that earlier even on 15.7.2014, the Directorate of Town and Country Planning, Chennai in his letter had returned the Petitioner's application, dated 1.6.2013, inasmuch as no particulars were received from him.

20.Be that as it may, on a careful consideration of the respective contentions and also, this Court taking note of the attendant facts and circumstances of the present case in an encircling fashion, comes to the resultant conclusion that the relief sought for by the Petitioner to direct the Fourth Respondent to issue forthwith the Structural Stability Certificate for the college building without insisting on production of an approved revised plan of the Third Respondent cannot be acceded to. Viewed in that perspective, this Writ Petition fails.

21.Accordingly, Writ Petition in W.P(MD)No.10862 of 2016 stands dismissed, leaving the parties to bear their own costs.

W.P(MD)No.10863 of 2016

22.Insofar as the plea of the Petitioner in the W.P(MD) No.10863/2016 praying for passing of an order in directing the Third Respondent to pass orders on the Petitioner's application dated 30.7.2012 submitted for approval of the revised plan once again before the Third Respondent(since the same is denied by the Third Respondent to the effect that the Petitioner has not submitted any proposal on 18.8.2014 and no revised plan received from the Petitioner, the Petitioner is directed to re-submit the revised plan to the Third Respondent within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the Third Respondent is directed to pass necessary orders based on the Petitioner's application dated 30.7.2012 within a period of ten days thereafter. Besides that, this Court pertinently points out that it is open to the Petitioner to re-submit its application which was returned by the Fourth Respondent for want of Local Planning Authority approval for the revised plan and to seek necessary relief thereto.

23.With the above said directions and observations, the Writ Petition in W.P(MD)No.10863 of 2016 stands disposed of. No costs.

Sd/

Assistant Registrar(CS-I)

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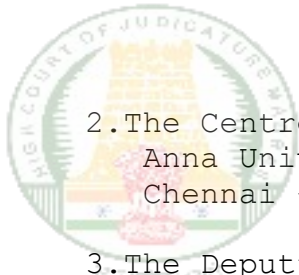
Sub Assistant Registrar.

To

1.The Registrar,

Anna University,

<https://hcservices.ecourts.gov.in/hcservices>
Chennai - 600 025.



2.The Centre for Affiliation of Institutions,
Anna University,
Chennai - 600 025.

3.The Deputy Director,
Town and Country Planning,
Directorate of Town and Country Planning,
Madurai.

4.The Superintending Engineer,P.W.D.,
(I/C) Building(C&M) Circle,
Madurai.

+2CC to M/S. M. Rajarajan, Advocate, SR.No. 32693, 32694

COMMON ORDER IN
W.P (MD) Nos.10682 and 10683 of 2016

24.06.2016

vsn
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