

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 21502 OF 2016

ORDER:

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The present writ petition is preferred questioning the proceedings in F.No.AICTE/AB/SCR/1-11554091/2016-17 dated 16.06.2016 issued by the second respondent ie. AICTE, whereby the members of the Committee recommended the petitioners' institutions be placed under the category of "no admission for all courses for the academic year 2016-2017."

The averments in the affidavit filed before this Court would show that the first petitioner society was found to impart educational training in polytechnic, engineering and post graduate course. The institutions was established after obtaining necessary permission from the All India Council for Technical Education (for short "AICTE") and got affiliated to Jawaharlal Nehru Technological University, Hyderabad (for short "the University"). During the academic year 2015-2016 AICTE granted approval vide proceedings dated 09.04.2015 and pursuant there to the petitioners applied for affiliation to the University. While granting affiliation to few courses the University rejected the affiliation in respect of B-Tech and M-Tech courses. Aggrieved by the same W.P.No.19976 of 2016 came to be filed. A learned Single Judge of this Court allowed the said writ petition which was carried by way of an appeal vide Writ Appeal No.589 of 2015 and Batch. By an order dated 15.07.2015, a Division Bench of this Court directed the AICTE to constitute committees for inspection of colleges with two members from the AICTE and one member from the University, however, allowed the counseling to go on as directed by the learned Single Judge. On 30.07.2015 a Joint Inspector was

conducted and pursuant thereto the University rejected the affiliation vide proceedings dated 25.08.2015. On 09.10.2015 a show-cause notice was issued indicating the deficiencies along with evaluation report prepared by Joint Experts directing the petitioners to appear before the Standing Appellate Committee (for short "SAC) on 12.10.2015. The petitioners are said to have appeared before the SAC and after hearing the petitioner it has withdrawn the approval granted to the petitioner. The said order came to be passed on 29.10.2015. Thereafter, for the academic year 2016.2017 the petitioners herein again made an application seeking restoration of intake of students. On 25.04.2016 the petitioners received a telephonic communication informing them about the visit of Expert Committee on 26.04.2016. On the next day the Expert Visit Committee (for short "EVC") inspected the facilities provided by the petitioners' institution. On 27.04.2016 the petitioners received an e-mail communication as well as a telephonic call informing the deficiencies pointed out by the EVC and accordingly the petitioners were asked to attend before SAC on 29.04.2016. Though the petitioners attended and clarified the deficiencies pointed out, but on 30.04.2016 the AICTE rejected the approval informing "no admission status for the academic year 2016-2017." Challenging the said rejection, the petitioners preferred an appeal before the appellate committee on 02.05.2016.

Repeated persuasions made by the petitioners lead to the visit of EVC to their institution on 24.05.2016, in spite of requesting them not to do so on that day as 24.05.2016 was declared as holiday. It is said that the EVC visited the college on 24.05.2016 and noted the deficiencies. Since the appeal filed by the petitioners was not considered, the petitioners were forced to approach this Court by way of W.P.No.17673 of 2016 challenging the proceedings dated

30.04.2016. On 10.06.2016 this Court was pleased to dispose of the said writ petition permitting the petitioners to submit all their objections by personally appearing before the appellate committee on 14.06.2016 and further directed the appellate authority to pass orders in accordance with law within three days.

It is alleged that without considering the objections raised and without even asking for clarification and after filing of contempt case in C.C.No.1113 of 2016, the appellate authority informed about the rejection vide order dated 16.06.2016. Challenging the said rejection order the present writ petition is filed.

Heard Sri L.Ravichander, learned Senior Counsel appearing for the petitioners, Sri K.Ramakantha Reddy, learned Standing Counsel appearing for AICTE, and Sri A.Abhishek Reddy, learned Standing Counsel appearing for the Convener.

Sri L.Ravichander, learned Senior Counsel appearing for the petitioners would submit that the order passed by the authority rejecting the permission for intake of students for the academic year 2016-2017 in all courses is on the face of it illegal and improper. He vehemently contends that the reasons given for rejection are varying from time to time and there is no consistency in the orders passed. Relying upon a judgment of the Apex Court in ***Rashmi Metaliks Limited and another Vs. Kolkata Metropolitan Development Authority and others***^[1] the learned Senior Counsel submits that the order under challenge needs to be interfered with. The same is opposed by Sri K.Ramakanth Reddy, learned Standing Counsel appearing for AICTE contending that when large number of deficiencies are found by the EVC, allowing

the petitioners for intake of students would be contrary to the Regulations and the Rules framed by the AICTE.

The petitioners' counsel also submit that without informing the deficiencies and without giving any opportunity of rectifying the defects the impugned order came to be passed.

The provisions of the All India Council for Technical Education Act, 1987 are intended to improve the technical education system throughout the country. The various authorities under the AICTE Act have been given exclusive responsibility to coordinate and determine the standards of higher education. It is a general power given to evaluate, harmonise and secure proper relationship to any project of national importance. Such coordinated action in higher education with proper standard is of paramount importance to the national progress. The provisions of the AICTE Act, including its Preamble, make it abundantly clear that AICTE has been established under the Act for coordinated and integrated development of the technical education system at all levels throughout the country and is enjoined to promote qualitative improvement of such education in relation to planned quantitative growth. AICTE is required to regulate and ensure proper maintenance of norms and standards in technical education system. AICTE is to further evolve suitable performance appraisal system for technical institutions and universities incorporating norms and mechanisms in enforcing their accountability. It is required to provide guidelines for admission of students and has the power to withhold or discontinue grants to such technical institutions where norms and standards laid down by it and directions given by it from time to time are not followed. The duty and responsibility cast on AICTE implies that the norms and

standards to be set should be such as would present isolated development of education in the country. –

xxxxxxxxxxxxxxxxxxxxxx- From the above principles, it is clear that AICTE has varied functions and powers under the AICTE Act.

It is a specialized body constituted for the purpose of bringing uniformity in technical education all over the country and to ensure that the institutions which are recognized by AICTE are possessed of complete infrastructure, staff and other facilities and are capable of maintaining educational standards for imparting technical education. (**Parshvanath Charitable Trust and others**

v. All India Council for Technical Education and others^[2])

With regard to fixing of time limit for intake of students the Apex Court in the above mentioned case observed as under:

“35. It is the requirement of law that there should be strict adherence to the time schedule for grant of approval as well as for admissions without exception. In exercise of the powers vested in AICTE, under sub-section (1) of Section 23 of the AICTE Act, it had made regulations, namely the All India Council for Technical Education (Grant of Approval for Starting New Technical Institutions, Introduction of Courses or programmes and Approval of Intake Capacity of Seats for the Courses or Programmes) Regulations, 1994.

36. Non-adherence of the schedule can result in serious consequences and can jeopardise not only the interest of the college students but also the maintenance of proper standards of technical education. The authorities concerned, particularly AICTE, should ensure proper and timely action upon the applications submitted to it. It must respond to the applicant within a reasonable time period and should not let the matter drag till the final date giving rise to avoidable speculations by all stakeholders. Thus, it would be appropriate for these authorities to bring to the knowledge of the parties concerned, the deficiencies, if any, and the defects pointed out by the

Expert Committee during the inspection within three weeks from the date of such inspection or pointing out of defects, as the case may be. For better administration, AICTE should also state the time within which such deficiencies/defects should be removed by the applicant. This will help in building of a coherent and disciplined method of working to ensure the proper implementation of the entire formulated scheme of technical education. AICTE will not have any jurisdiction or authority to issue approval for commencement of a new course or for additional intake of students beyond 30th April of the year immediately preceding the commencement of an academic year.”

From a reading of the above judgment, it is clear that the AICTE is the ultimate authority for coordinating and integral development of technical education system at all levels throughout the country, it being a non-Government body has been authorized to constitute expert committees to inspect the colleges and then take action in accordance with the Rules framed therein. The judgment referred to above further indicates that the entire process has to be completed by 30.04.2016 and AICTE should also state the time within which said deficiencies/defects should be removed by the institutions. It has been categorically held that it would be appropriate for the authorities to bring to the knowledge of the parties concerned the deficiencies if any and the defects pointed out by the EVC during the inspection within three weeks from the date of such inspection or pointing out defects as the case may be. Therefore, a reading of the judgment makes it very clear that even AICTE has to be vigilant in not only inspecting the institutions on complaint but also respond within a reasonable time period without allowing the matter to drag on till the final date.

In the instant case the entire process of objections/complaints etc. started on 09.04.2015. Pursuant to a Division

Bench Judgment of this Court on 15.07.2015, a joint Inspection was conducted on 30.07.2015 and a report was submitted rejecting the affiliation on 25.08.2015 and then the permission given by AICTE was withdrawn on 29.10.2015. The reason for withdrawal for the academic year 2015-2016 are as under:

- “ 1. 86% (Acute) deficiency of first year faculty.
2. 90% (Acute) deficiency of faculty of B.Tech Courses.
3. Principal's appointment has not been done by Following proper selection procedure.
Ph.D qualification is doubtful, and experience Certified not produced.”

Thereafter, the petitioners again applied for intake of the students for the academic year 2016-2017, A new journey has commenced after the receipt of telephonic communication dated 25.04.2016 about the visit of EVC on 26.04.2016. It is to be noted that present inspection done and the report submitted are for the academic year 2016-2017. On 27.04.2016 the AICTE addressed a letter to the petitioners asking them to appear before the Standing Appellate Committee on 29.04.2016. Deficiencies noted down by EVC on 26.04.2016 were as under:

1. Barrier free environment and toilets for the physically challenged (Ramp or working lift etc.) – Not ready/Not accepted.
2. General Insurance provided for assets against fire and other calamities Not ready/Not accepted.
3. Internet Bandwidth and printers, Not ready/not accepted
4. Library volumes, titles – inadequate
5. Instructional area classrooms-UG, Laboratories UG, Seminar Hall Not read/Not accepted

Pursuant there to the petitioners appeared and thereafter on 30.04.2016 an order came to be passed which is as under:

“In reference to the deficiencies, the institute was issued show cause notice, the institute representative has agreed that deficiencies exist. So for rectification of deficiency with regard to faculty, the institute has submitted documents before us. From the perusal of the documents, it is found as many faculty members are having only B-Tech. qualification and they are not being paid as per AICTE norms. In fact they are being paid consolidated salary and majority of them are underpaid. Besides, as per the institution, the salary is being paid in cash which is also not acceptable. Then taking an overall consideration as referred to above, the committee recommends no restoration and the institute be remain placed under No admission category for academic year 2016-2017.”

From a reading of the above two proceedings referred to above, it is clear that on 25.04.2016 when EVC visited the premises they found five deficiencies and the five deficiencies which were asked to be answered do not form part of the reasons given in the order dated 30.04.2016. The deficiencies pointed out by EVC and the reasons given for rejection are different, which is clear from the above. Thereafter, a representation was said to have been given by the petitioners asking the competent authority for a visit of EVC to verify the claims made by the petitioners. As stated earlier, EVC visited the petitioners' institution on 25.04.2016 in spite of an objection raised by the petitioners stating that it was holiday. The deficiencies noted pursuant to the visit was placed before the SAC on 14.06.2016, in the presence of the representative of the petitioners which led to passing of the impugned order, wherein number of deficiencies, some of which do not form part of earlier proceedings were made the basis for

placing the institution under the category of “no admission for academic year 2016-2017.”

A perusal of the impugned order reveals that the petitioners were never given an opportunity of explaining the deficiencies noted by the authorities before passing the order. As observed earlier, the deficiencies which were pointed out in the proceedings dated 27.04.2016 and 30.04.2016 are inconsistent with each other and the subsequent deficiencies noted in the impugned order dated 14.06.2016 add further. But on fact which is to be observed is that the petitioners were not put to notice about the deficiencies found during inspection or calling for their explanation to the deficiencies noted before passing the impugned order. It is true that if the deficiencies as pointed out by the EVC on 14.06.2016 are correct and are in existence, definitely the petitioners are not entitled for any relief, but before doing so an opportunity ought to have been given to them to explain the deficiencies noted.

Therefore, treating the impugned order as notice, the petitioners shall submit their explanation forthwith explaining their stand on the deficiencies pointed out, in which event the AICTE shall consider the same and pass orders in accordance with law as early as possible, preferably, within a week from today, after hearing the petitioners, so as to enable them for the benefits which they are entitled to if any order is passed in their favour by AICTE.

Accordingly, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand cancelled.

19.07.2016
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[\[1\]](#) (2013) 10 SCC 95
[\[2\]](#) (2013) 3 SCC 385