

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.9639 of 2016
Decided on :11.08.2016**

Shivalik Polytechnic, Kalesar, Yamuna Nagar

... Petitioner

Versus

All India Council for Technical Education and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. G.C. Shahpuri, Advocate
for the petitioner.

Mr. K.K. Gupta, Advocate
for the respondents.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks the quashing of the condition of payment of penalty to the tune of ₹2 lakhs imposed on account of extension of approval for the petitioner-institute for the year 2016-2017.

The present writ petition has been filed on account of the reply to the legal notice dated 26.04.2016 (Annexure P-3) issued by the respondent. A perusal of the same would go on to show that the reasoning for demanding ₹2 lakhs of penalty was on account of the late submission of the application, since the petitioner had deposited the required ₹1 lakh on 03.03.2016 instead of 29.02.2016.

The case of the petitioner is that it is duly affiliated to State Board of Technical Education, Haryana (SBTE) and approved by the respondent-Council for the last more than 8 years and imparting quality education. As per the procedure, renewal for the academic year 2016-2017

had to be done and while trying to submit the same on their web-portal, a request had been made on 25.02.2016 for intimating their password to enable them to feed the data, since the password assigned to the petitioner by the respondent-authority was not functioning. The petitioner deposited the “forget password fees” of ₹5,000/- and accordingly on 26.02.2016 a new password was sent to the petitioner via email. The grouse of the petitioner is that the same was not received and, accordingly, they had visited the Regional Office, Chandigarh and made a request for providing the password, but was told that it was not possible to help them. They had been advised to visit the Delhi office, as the password could not be provided on another email address.

It is not disputed that on 03.03.2016, the petitioner-institute had deposited Rs.1 lakh for the extension of the approval, well before the cut-off-date i.e. 05.03.2016. However, only on account of the fact that it was beyond 29.02.2016, the additional amount of ₹2 lakhs has now been sought. The specific case of the petitioner is that it was not at fault for late submission of the application fee as the petitioner-institute was not able to log on with the respondent-authority through their old password, as they found that the password issued to them was not traceable.

It is not disputed that the petitioner-institute served a legal notice on 01.04.2016 (Annexure P-2), in which it has been specifically mentioned that petitioner-institute had visited the respondent office of the respondents on 27.02.2016, 28.02.2016 and 29.02.2016 asking for the password on the helpdesk.

In the reply to the legal notice itself it is admitted by the respondents that the new password under the forget password had been sent only to the registered email id of the institution and cannot be shared with other email id and, therefore, there was no question of supplying new password through the email id received in helpdesk.

It is, thus, apparent that petitioner's request for the password on a separate email id was being made well before the cut-off-date. But only on account of the fact that it had been sent on the registered email id, the password had not been supplied on the other email. In the meantime the cut-off-date was fast approaching and the delay which has thus occurred in depositing the amount is apparently on a very justifiable reason.

Thus, there is sufficient cause which has been shown by the petitioner-institute in the delay in the deposit of which the respondents are now seeking to impose late fees to the tune of ₹2 lakhs.

Counsel for the respondents has vehemently submitted that the schedule fixed cannot be varied. There is no dispute for the said proposition. The last date was 05.03.2016. The amount stands deposited well before that. It is only the issue of late fees, which is the consideration of the present case.

In view of the fact that the sufficient cause has been shown, on account of the issue of the new password and it is admitted itself by the respondents in their reply to the legal notice that the petitioner-institute had been approaching the office of the respondents on

27.02.2016, 28.02.2016, 29.02.2016 well before the last date, this Court is of the opinion that demand of ₹2 lakhs which has been imposed is not justified and cannot be sustained.

Accordingly, the writ petition is allowed. The demand of ₹2 lakhs is quashed. The petitioner-institute will be registered for the EOA for the academic session 2016-2017 as necessary fee of ₹1 lakh has already been deposited and necessary formalities will be completed by respondent-council for the present academic session immediately.

AUGUST 11, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No