

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.2573 of 2017

Vivekanandhaa College of Architecture for Women
administered by Angammal Educational Trust,
Rep. by its Chairman ad Secretary
...Petitioner

-Vs-

1. Anna University,
Rep. by its Registrar,
Chennai - 600 025.
 2. The Director,
Centre for Affiliation of Institutions,
Anna University,
Chennai - 600 025.
- Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate Writ, Order or Direction in the nature of a Writ, calling for the records of the Respondents, relating to the order passed by the 2nd Respondent in LR.No.212/CAI/AU/2016-7 dated 21.07.2016 and quash the same in so far as insistence of Approval of Director of Town and Country Planning for existing buildings of the Petitioner and consequently direct the Respondents to grant affiliation for the 5 year B.Arch course of the Petitioner's college from the academic year 2017-18 by accepting the planning permission for the building granted by Unjanai Village Panchayat dated 05.01.2006, in the light of the order dated 31.08.2016 in W.P. No.20890 and 20891 of 2016.

For Petitioner : Mr. Kandhan Duraisami
For Respondents : Mr.M. Vijayakumar
Standing Counsel for Anna University.

O R D E R

This writ petition has been filed challenging the order passed by the second respondent in LR.No.212/CAI/AU/2016-7 dated 21.07.2016 and quash the same in so far as insistence of

Approval of Director of Town and Country Planning for existing buildings of the Petitioner and consequently direct the Respondents to grant affiliation for the 5 year B.Arch course of the Petitioner's college from the academic year 2017-18 by accepting the planning permission for the building granted by Unjanai Village Panchayat dated 05.01.2006, in the light of the order dated 31.08.2016 in W.P. No.20890 and 20891 of 2016.

2. The case of the petitioner is that the petitioner is a College of Architecture for Women run by Angammal Educational Trust. The said trust had purchased 4.10 acres of land in Unjanai Village, Tiruchengodu Taluk, Namakkal District and constructed 11.184 Sq. meters of building. The president of the local panchayat had granted the planning approval to the building by approval letter dated 05.01.2006 and entire construction was completed as early as 2006-2007.

3. The case of the petitioner is that petitioner trust started running Master of Business Administration (MBA) course in the year 2007 and Master of Computer Application(MCA) Course in the year 2008, after obtaining necessary approval from the All India Council for Technical Education (AICTE) vide order dated 14.08.2007 and after getting affiliation from the Anna University vide order dated 05.01.2006 and the same had been closed by the closure order issued by the All India Counsel for Technical Education (AICTE) on 31.01.2014. Therefore, the petitioner trust had applied to the Council of Architecture to start a new Architectural institution. The Council of Architecture, vide order No.CA/5/Academic-TN89 dated 29.04.2016 granted permission for running Five Year Full Time Bachelor of Architecture Programme with an annual intake of 80 students for the year 2016-2017. Thereafter, the petitioner applied for affiliation to the first respondent for running Architectural institution. Thereafter, the second respondent, by the communication dated 20.06.2016, pointed out certain deficiencies and calling upon the petitioner to comply with the said deficiencies. One of the aspects was that with respect to existing building plan approved by the DTCP. It is its further case that buildings of the petitioner institution have been constructed long back during the year 2006-2007 before coming into force of Section 47-A of Tamil Nadu Town and Country Planning Act. Therefore, there is no obligation for the petitioner to comply with either with the provisions of Section 47-A of the Act or the orders and instructions issued in pursuance thereof. It is further stated that in a similar situation, this court in Writ petitions No. 20890 & 20891 of 2016 had elaborately considered this issue and held that approval by the DTCP is not required, in the light of the prospective operation of the Tamil Nadu Amendment Act 46 of 2010 inserting Section 47-A which is prospective in nature, as it came into effect only on 01.11.2011. The petitioner herein had

submitted his building plan approval as approved by the Unjanai Village Panchayat dated 05.01.2006 and therefore the second respondent could not insist on the DTCP approval from the petitioner.

4. Heard both sides and perused the materials on record.

5. When the matter was taken up for hearing on 05.04.2017, the learned counsel appearing for the respondents-Anna University has produced a letter dated 10.03.2017, in which, it is stated that it is open to the petitioner to submit a fresh on-line application through the web portal of the Anna University in the prescribed format of the University, as per Sections 6 and 7 of the Statutes of Affiliation (2004) towards Grant of Provisional Affiliation for the academic year 2017-2018. Since, the said letter was not communicated to the petitioner, this Court has permitted the petitioner to apply fresh on-line application, within a period of two weeks from the date of receipt of a copy of the said order and the Anna University was directed to pass orders, within two weeks from the date of receipt of the application from the petitioner.

6. It is now stated by the learned counsel for the petitioner that pursuant to the interim order passed by this court on 05.04.2017, the petitioner had made an application for affiliation in the Anna University. However, now the same was rejected by an order dated 18.04.2017, stating that it is mandatory for the college seeking affiliation for its academic programme (s) or every college applying for affiliation for academic programme (s) should produce the letter (s) of approval from AICTE as per the provisions of AICTE Act. Besides, the programme being Architecture Education, the petitioner is directed to produce the letter (s) of approval from the Council of Architecture for the academic year 2017-18 and then submit the application in the prescribed format.

7. In fact, the petitioner had furnished Letter of approval from Council of Architecture dated 29.04.2016, for the year 2016-17. However, as the academic year had come to an end the University has requested for the approval for the year 2017-2018 to be obtained from the Council of Architecture and submit a fresh application in the prescribed format.

8. At this juncture, the learned counsel for the petitioner says that already the process had been commenced and they may be getting approval from the council of Architecture, shortly.

9. The learned counsel for the first respondent University also submitted that it is only the renewed approval from the Council of Architecture for the further period, which is pending.

10. In view of the same, the petitioner is directed to produce the copy of the approval from the Council of Architecture to the second respondent for the year 2017-2018 and the second respondent may consider the same and pass orders, on merits and in accordance with law and also in the light of the order of this court in W.P.Nos. 20890 & 20891 of 2016 dated 31.08.2016.

11. This Writ Petition is disposed of with the above directions. No costs.

-s/d-

Assistant Registrar (CS-VIII)

True Copy

Sub-Assistant Registrar

To

1. Anna University,
Rep. by its Registrar,
Chennai - 600 025.
2. The Director,
Centre for Affiliation of Institutions,
Anna University,
Chennai - 600 025.

+1 CC to M/s. Muthumani Doraisamy, Advocate sr 24629

+1 CC to M/s. M. Vijatakumar, Advocate sr 24789

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