

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 17.08.2017

Delivered on 18.08.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.19542 of 2017

and

W.M.P.No.21106 of 2017

Paavai Varam Educational Trust
No.64-C, Rotary Nagar
Namakkal Road, Rasipuram-637 408
Namakkal District, Tamil Nadu
Rep. by its Chairman Mr.V.Natarajan
Establish and Administering
(Paavai College of Architecture and Planning) .. Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary,
Department of Higher Education,
Fort St.George,
Chennai.
2. The Registrar,
Anna University,
Sadar Patel Road,
Guindy, Chennai - 600 025.
3. The Director,
Centre for Affiliation of Institution,
Anna University,
Chennai - 600 025.
4. The Secretary,
Tamil Nadu Engineering Admissions (TNEA),
Anna University,
Chennai - 600 025.
5. The Registrar,
Council of Architecture,
(Autonomous Statutory Body of Government
of India under Architecture Act 1972)
Indian Habitat Centre, Core-6,
1st floor Lodhi Road,
New Delhi-110 003.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed in Lr.No.142/CAI-3/AU/2017 dated 01.07.2017 by the 2nd respondent and quash the same and direct the 2nd and 3rd respondent to conduct inspection and grant affiliation to the petitioner College, (Paavai College of Architecture and Planning, Paavai Nagar, No.7, Pidaripatti Village, Pachal Post, Namakkal Taluk & District, Namakkal-637 018) for starting new College of Architecture for the academic year 2017-2018.

For Petitioner: Mr.K.Sridhar

For Respondents: Mr.A.Kumar,
Special Government Pleader for R1
Mr.M.Vijayakumar,
Standing counsel for R2 to R4.
Mr.N.Murali Kumaran,
Standing Counsel for R5

O R D E R

The petitioner is aggrieved against the order dated 01.07.2017 passed by the 2nd respondent, wherein and whereby, the 2nd respondent University informed the petitioner that they are not empowered to conduct the inspection for starting the petitioner's new B.Arch. Institution for the academic year 2017-2018. Consequently, the petitioner seeks for a direction to the respondents 2 and 3 to conduct inspection and grant affiliation to the petitioner's College for starting a new College of Architecture for the year 2017-2018.

2. The case of the petitioner, in short, is as follows:

The petitioner Trust established Paavai College of Architecture and planned to conduct B.Arch. Degree Course from the academic year 2017-2018 with an intake of 40 students. The petitioner Trust filed an application for grant of approval with the 5th respondent council on 14.02.2017 to conduct B.Arch. Degree Course from the academic year 2017-2018 with an intake of 40 students. The petitioner Trust also submitted an application with the affiliating University, namely, the 2nd respondent on 13.04.2017 seeking for affiliation to conduct B.Arch. Degree Course from the academic year 2017-2018 with an intake of 40 students. The 2nd respondent University, through letter dated 25.04.2017, called upon the petitioner to produce letter of approval from the Council of Architecture and then to submit the application to the University. The 3rd respondent, suddenly, through communication dated 04.05.2017, informed the petitioner that Inspection Committee will visit the Institution on

12.05.2017 to verify the fulfillment of the academic and statutory requirements as per norms and standards of Anna University, Chennai, for grant of provisional affiliation for the academic year 2017-2018. The petitioner, through their communication dated 10.05.2017, informed the 2nd respondent that they are awaiting for approval from the 5th respondent Council and therefore, requested the 2nd respondent University to conduct the inspection after the approval is obtained from the 5th respondent. The 5th respondent had inspected the College on 23.06.2017 and immediately on the same day, the petitioner informed the respondent University that they were ready for inspection. However, the 2nd respondent University passed the impugned communication declining inspection for starting the said course for the academic year 2017-2018. However, the 5th respondent through their proceedings dated 11.07.2017, issued a letter of approval for starting 5 years Full Time B.Arch. Course with an intake of 40 students for the academic year 2017-2018.

3. The 2nd 3rd and 4th respondents filed a counter affidavit wherein it is stated as follows:

The petitioner submitted an application for grant of affiliation to the University on 15.04.2017 for the academic year 2017-2018. The University sent an intimation on 25.04.2017 informing that the application submitted without the mandatory prior approval from the 5th respondent was deferred. As the deadline fixed by the Honourable Supreme Court for grant of affiliation fell on 15.05.2017, the University sent another letter dated 04.05.2017 informing the proposed inspection on 12.05.2017. However, the petitioner failed to co-operate with the University and informed that they were not ready for inspection at that time. In the letter dated 04.05.2017, the University has specifically intimated that it was not possible to re-schedule the date of inspection under any circumstances. The entire process of granting affiliation were to be completed for all the new and existing affiliated colleges before 15.05.2017 as per the Honourable Supreme Court's order fixing the schedule. The University is not empowered to conduct the inspection after 15.05.2017, being the last date for grant of affiliation.

4. Mr.K.Sridhar, learned counsel appearing for the petitioner submitted that when the petitioner has made the application in time and when the 5th respondent has also granted approval for the academic year 2017-2018 to conduct the Bachelor of Architecture Degree Course, the respondent University is not justified in refusing to conduct the inspection for the present academic year 2017-2018. He further submitted that the dead line, namely 15.05.2017 referred to in the impugned order is not applicable to the present course, for which, the petitioner has

applied and on the other hand, it applies to various other Engineering Courses warranting AICTE approval.

5. On the other hand, the learned counsel appearing for the respondent University submitted that admittedly, at the time of making the application seeking for affiliation, the petitioner did not process the approval from the 5th respondent and such approval was granted only on 11.07.2017, by which time, the last date for considering and passing order on the application for affiliation was over by 15.05.2017. He also invited this Court's attention to certain communications viz., exchange between the petitioner and the respondent University to show that the petitioner was not ready to submit themselves to the inspection even though the University was willing to do the same before the said cut off date so as to consider the application for affiliation and pass orders on the same. He further submitted that the decision rendered by the Apex Court in Parshvanth Charitable Trust vs. All India Council for Technical Education reported in 2013 (3) SCC 385 fixing the time schedule is being followed by the respondent University in respect of the present course as well and therefore, the petitioner is not entitled to contend otherwise.

6. Heard both sides.

7. The petitioner sought for affiliation to start a new College of Architecture from the academic year 2017-2018. The said application was made on 13.04.2017 to the respondent University. Admittedly, on the date of making such application, the petitioner was not possessing the approval from the 5th respondent, even though it is stated that the petitioner made an application before the 5th respondent as early as on 14.02.2017. The fact remains that the said approval was granted by the 5th respondent only on 11.07.2017. At this juncture, it is pertinent to note Section 6 of Statutes and Regulations for Affiliation of Anna University which reads as follows:

6. PRE-REQUISITE FOR APPLYING FOR AFFILIATION:

Any new college seeking affiliation for its academic programme(s) or every college applying for affiliation for academic programme(s) or for variation in intake in an already affiliated programme(s) should produce the letter(s) of approval from the AICTE as per provisions of the AICTE Act.

8. From a perusal of the above said provision of the said Regulation, it is evident that to apply for affiliation from the respondent University, the pre-requisite is to get a letter of approval from the AICTE as per the provisions of the AICTE. No doubt, in this case, instead of AICTE, the Council of

Architecture is the concerned body which has to grant such approval. When this is the only Regulation which is being followed by the respondent University, the learned counsel for the petitioner is not justified in saying that, since the above Regulation refers only to AICTE, the same is not applicable to the petitioner who seeks for affiliation to start the B.Arch. Course where the approval is to be granted by the Council of Architecture. Needless to say that both are coming under the Technical Education and hence, the University cannot be found fault with in following such Regulation to the petitioner's case as well. As rightly pointed out by the learned counsel for the respondent University, the Honourable Supreme Court in the Parshvanth Charitable Trust case has fixed the time schedule for the University to grant/decline the approval/affiliation to an Institution and as per the said schedule, the last date for passing order either to grant or refuse approval by the University is fixed as 15.05.2017.

9. In fact, the University through communication dated 25.04.2017 though informed the petitioner that their application submitted without the mandatory prior approval from the Council of Architecture is deferred in view of Section 6 of the Statutes and Regulations for Affiliation, has however, called upon the petitioner to produce the pre-requisite document, namely, approval by the 5th respondent for the academic year 2017-2018 at the time of inspection. Subsequently, by communication dated 04.05.2017, the University informed the petitioner that the inspection committee will visit the Institution on 12.05.2017. In the said communication, the University specifically indicated that it was not possible to re-schedule the inspection under any circumstances. The petitioner was not ready for such inspection which is evident from their communication dated 10.05.2017 addressed to the University. In the said letter, the petitioner has requested the University to conduct the inspection after they obtain the approval from the 5th respondent. Thereafter, the petitioner made a request on 23.06.2017 to conduct the inspection by stating that the 5th respondent has already completed their inspection on that day. By that time, the last date for granting or refusing the approval by University was already over. Thus, it is evident that though the respondent University was ready to inspect on 12.05.2017, the petitioner was not ready for the same and on the other hand, they only sought postponement of the inspection to some other day. When such being the factual position, I find that the impugned communication rightly sent by the University does not require any interference.

10. No doubt, the learned counsel for the petitioner submitted that since the counselling has not taken place so far for the present academic year, the respondent University may be directed to allow the petitioner to take part in the counselling

since the 5th respondent has granted approval for the present academic year. I do not think such relief could be granted in this case. First of all, it is to be noted that the very inspection by the respondent University has not taken place. In the absence of any inspection, that too, within the dead line fixed for doing so and by considering the fact that the last date for considering the application for affiliation is also over for the present academic year, I do not think that the petitioner can seek any indulgence from this court at this point of time. Accordingly, I find no merits in this writ petition and thus, the same is dismissed. However, it is open to the petitioner to seek affiliation for the academic year 2018-2019 by following the due procedure and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Secretary, Government of Tamilnadu,
Department of Higher Education,
Fort St.George, Chennai.
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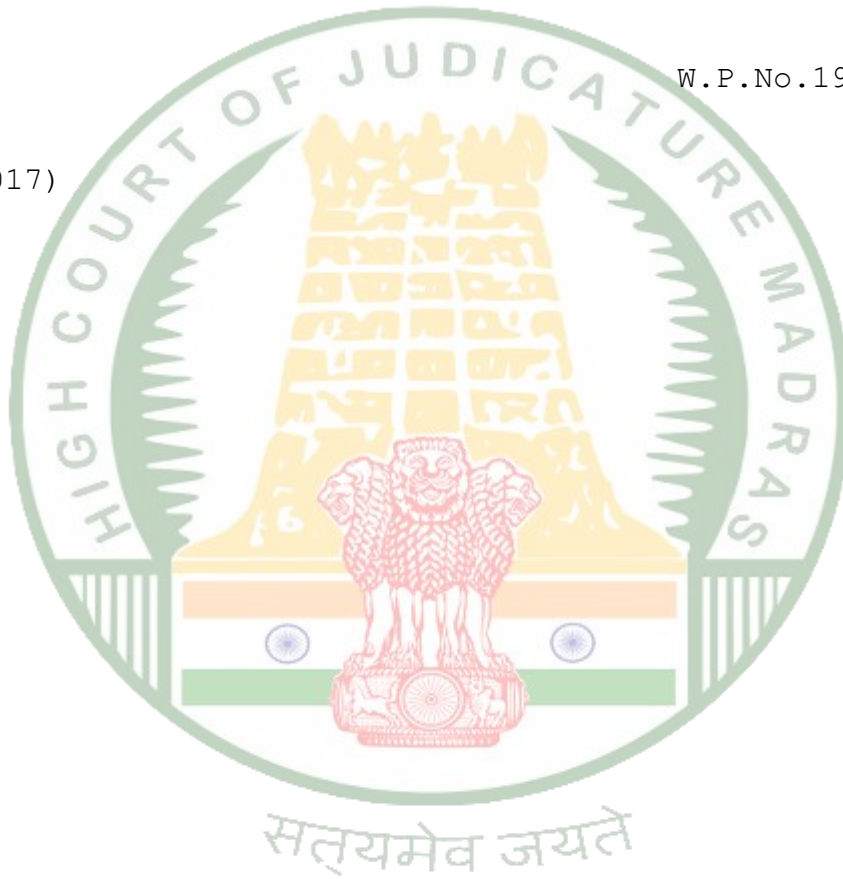
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1st Floor Lodhi Road,
New Delhi-110 003.

+1cc to Mr.R.Sridhar,Advocate sr.59508

+1cc to Mr.M.Vijayakumar,Advocate sr.59382

W.P.No.19542 of 2017

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ss(18/8/2017)



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