



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2017

Date of Reserving the Judgment	Date of Pronouncing the Judgment
06.06.2017	14.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.1435 of 2016
and
C.M.P.(MD) No.10898 of 2016

Ponnaiayah Ramajayam Institute
Of Science and Technology University
(PRIST University)
through its Registrar
Vallam
Thanjavur District

... Appellant

-vs-

The Director
National Assessment and Accreditation Council
P.O.Box No.1075
Nagarbhavi, Bhangalore-560 072
(Cause Title amended vide Court
order dated 07.02.2017 made in
C.M.P.(MD) No.1196 of 2017)

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 02.11.2016 made in W.P.(MD) No.20814 of 2016, on the file of this Court.

Prayer in WP(MD) . 20814/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent to grant the A Grade to the petitioner deemed to be university.

For Appellant : Mr.Isaac Mohanlal, Senior Counsel
for Mr.K.K.Ramakrishnan

<https://hcservices.ecourts.gov.in/hcservices/>
For Respondent : Mr.Puhazh Gandhi

**J U D G M E N T****T.S.SIVAGNANAM, J.,**

WEB COPY This writ appeal is directed against the order, dated 02.11.2016, in W.P.(MD) No.20814 of 2016, filed by the appellant - University, wherein they sought for a direction upon the respondent to grant "A" Grade to their Institution, which is a deemed University.

2. In the writ petition, the respondent was shown as the Secretary to the National Assessment and Accreditation Council, University Grants Commission, New Delhi. The learned counsel appearing for the respondent submitted that in the writ petition, the respondent was wrongly described as National Assessment and Accreditation Council, University Grants Commission (UGC), whereas the respondent is an independent authority and wrongly described as UGC and therefore, they had no notice of the proceedings and the counsel, who had appeared before the Writ Court was not the Standing Counsel of the respondent and therefore, an application was filed in this appeal to amend the cause-title with correct description, which was ordered by this Court on 07.02.2017.

3. Before the Writ Court, the case of the appellant is that the appellant - Institution is a deemed University by virtue of an order, dated 04.01.2008, passed under Section 3 of the University Grants Commission Act. Pursuant to the orders passed by the Honourable Supreme Court, the respondent - Council was directed to accredit the appellant - Institution and to assess their ranking for which purpose fee was remitted by the appellant - Institution and a Peer Committee was constituted to inspect the appellant - Institution and the Peer Committee submitted a report and awarded "B" Grade with 2.95 grade points, which is less by 0.05 to qualify for "A" grade.

4. The appellant - Institution submitted a representation, dated 22.12.2015, expressing its intention to file an appeal and requested that they may be furnished the format and the prescribed fee so as to review the gradation awarded to them. The Chairman of the Peer Committee is stated to have submitted a report that the appellant - Institution would have been awarded 3.17 grade points and by virtue of which they would be eligible to be graded as an "A" Grade Institution. The appellant submitted another representation on 05.04.2016. The respondent - Council, by communication dated 29.07.2016, expressed their intention to revisit the appellant - Institution and called upon the appellant - Institution to furnish the required particulars, which was duly complied with by the appellant on 09.08.2016. However, the revisit did not take place nor the appellant - Institution was



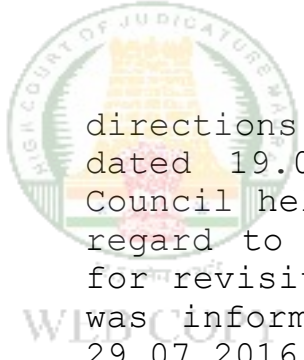
accredited as an "A" Grade Institution by taking into consideration the report, dated 12.12.2016. Therefore, they sought for a direction upon the Council to grade their Institution as an "A" Grade Institution.

5. The Writ Court, after taking into consideration the facts and the submissions made by the learned counsel, who had appeared in the writ petition for the respondent, directed the respondent to fix a date for personal visit and intimate the appellant of the same within a period of two months from the date of receipt of a copy of the order and pass orders pursuant thereto within a period of one month thereafter. The Writ Court recorded that the counsel for the appellant / writ petitioner submitted that it would suffice if the respondent is directed to consider their representation, dated 05.04.2016.

6. Mr. Isaac Mohanlal, learned Senior Counsel instructed by Mr. K.K. Ramakrishnan, learned counsel for the appellant, submitted that the Writ Court ought to have granted the prayer sought for without directing a fresh visit to the Institution in the light of the fact that the Review Committee's report favours the appellant, wherein they were awarded 3.17 grade points. In this regard, the learned counsel referred to the quality profile of the appellant - Institution to demonstrate that they are entitled to be graded as an "A" Grade Institution. Further reference was made to the representation given by the appellant, dated 27.01.2016, wherein reference was made to the Peer Team Report.

7. The sheet anchor of the submissions of the learned Senior Counsel is by placing reliance on an e-mail, dated 12.02.2016. In the said e-mail, which is addressed to Dr. (Mrs.) Rama, the Chairman of the Peer Committee opined that in the earlier assessment, human error of 5 - 10% cannot be ruled out. The computation of cumulative grade point average as in the opinion of the Chairman of the Peer Review Committee was referred to show that the revised CGPA should be 3.17 and the revised grade of the appellant - Institution should be "A". Thus, the appellant - Institution claimed that they should be graded as an "A" Grade Institution based on the report submitted by the Chairman of the Peer Review Committee.

8. Mr. P. Puhazh Gandhi, learned counsel appearing for the respondent, would submit that on the basis of the assessment report by the Peer Team, the appellant - Institution was granted "B" Grade, which is valid upto 15.11.2020. Being aggrieved by the grade granted by the respondent - Council, the appellant - Institution challenged the same before the Appeals Committee and while the same was pending, the appellant moved the Honourable Supreme Court by filing W.P. (C) No. 142 of 2006 seeking for review of the grade granted by the respondent - Council. Pursuant to the



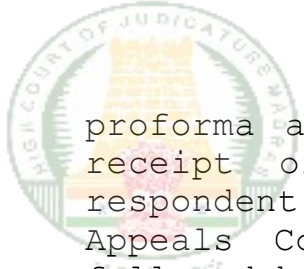
directions issued by the Honourable Supreme Court in its order, dated 19.04.2016, the Executive Committee of the respondent - Council held a meeting on 12.07.2016 and made recommendations with regard to nine Deemed Universities and the Committee recommended for revisit of the Peer Team to the appellant - Institution. This was informed to the appellant - Institution vide letter, dated 29.07.2016 and sought for a suitable period for revisit by the Peer Team. This communication was acknowledged by the appellant - Institution and they provided suitable dates vide their letters, dated 09.08.2016, 20.08.2016 and 31.08.2016. While so, the present writ petition has been filed and the Writ Court directed revisit by the appropriate body.

9. With regard to the e-mail communication referred to by the appellant - Institution sent by the Chairman of the Peer Committee, namely, Prof. Prakash Singh Bisen, the respondent has expressed their surprise as to how the appellant came in possession of the said e-mail. It is submitted that the contents of the said e-mail is only an opinion of an individual, which is not a collective opinion or an evaluation of the Peer Committee and such confidential communication could not have come into possession of the appellant, for which they propose to conduct an enquiry. Further, it is submitted that the respondent - Council is always ready and willing to follow the procedure to re-evaluate the appellant - Institution by revisiting the Institution through a different Peer Committee. Therefore, it is submitted that the writ petition filed by the appellant was thoroughly misconceived.

10. The learned counsel for the respondent - Council has drawn the attention of this Court to the guidelines framed by the respondent - Council and in particular the manner in which the appeal petitions would be dealt with and the respondent - Council has been scrupulously following the said guidelines, which confer on the respondent - Council a statutory duty. Further, it is submitted that this Court will not issue writ of mandamus to enforce a personal e-mail and when the respondent - Council is strictly adhering to the directions issued by the Honourable Supreme Court, the attempt of the appellant - Institution to resist the revisit is not tenable.

11. Heard the learned counsel for the parties and perused the materials placed on record.

12. The fact that the appellant - Institution was given "B" Grade by the respondent - Council is not in dispute and such accreditation is valid upto 15.11.2020. In terms of the guidelines framed by the respondent - Council, the aggrieved Institution is entitled to make a representation to the Director of Higher Education, Government of Tamil Nadu, within a period of thirty days from the date of receipt of the Accreditation Certificate in the

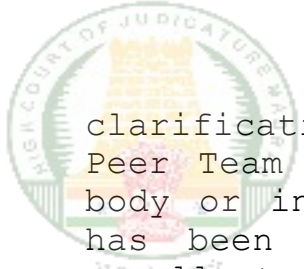


proforma as given in Annexure-I along with requisite fee and on receipt of the written representation, the Director of the respondent - Council will scrutinize the same and refer it to the Appeals Committee for further process. The procedure to be followed by the Appeals Committee is as hereunder:

"3. Appeals Committee (AC)

- The written appeal made by the institution along with the SSR and peer team report will be placed before the AC. The AC at its discretion may call for additional information or seek clarification through the chairperson, from the institution or the peer team members individually or collectively or from any other body or individuals who can be of help.
 - If the AC decides to provide an opportunity for the institution to present their case, the Chairperson of the peer team that visited the institution will also be called for the hearing.
 - After the hearing, the Appeals Committee will take necessary action to address the grievance. If the AC is satisfied that there is a possible error in judgment / perception of the peer team which visited the institution, it may constitute a review team or identify a peer or a NAAC officer to visit the institution, depending on the nature of data to be verified and validated. If the AC recommends a visit to the institution, expenses towards the same will be borne by the NAAC.
 - The AC would consider the recommendations of the review team. The AC would recommend a change in the grade, if any, for consideration and approval of Executive Committee.
4. The Executive Committee of NAAC will be the final authority to decide on the recommendations of the Appeals Committee. The decision of the EC will be notified to the institution.
5. The institution that would like to make an improvement in the institutional grade may volunteer for reassessment after completing at least one year of Accredited status by meeting the accreditation costs as per regulation."

13. The appellant submitted a written representation in the appropriate proforma and also paid the requisite fees. The next step is to place the papers before the Appeals Committee along with the SSR and Peer Team Report and the Appeals Committee at its discretion may call for additional information or seek



clarification through the Chairperson from the Institution or the Peer Team Members individually or collectively or from any other body or individuals, who can be of help. The Appeals Committee has been given discretion to provide an opportunity for the appellant - Institution to present their case and the Chairperson of the Peer Team that visited the Institution will also be called for the hearing. Thus, the Chairperson of the Peer Team would be called for the hearing, only if the Appeals Committee decides to provide an opportunity for the Institution to present their case and not otherwise. After hearing, the Appeals Committee will take necessary action to address the grievance. If the Appeals Committee is satisfied that there is a possible error in judgment / perception of the Peer Team, it may constitute a Review Team or identify a peer or an officer to visit the Institution, depending on the nature of data to be verified and validated. If the Appeals Committee recommends a visit to the Institution, expenses will be borne by the respondent - Council. Thereafter, the Appeals Committee would consider the recommendations of the review team and would recommend a change in the grade, if any, for consideration and approval of the Executive Committee. The Executive Committee is the final authority to decide on the recommendations of the Appeals Committee and take a decision, which will be notified to the Institution. In the event the Institution would like to make improvement in the institutional grade, they may volunteer for reassessment after completion of at least one year of accredited status by meeting the accreditation costs as per regulation. Thus, the matter pertaining to the appellant - Institution is now pending before the Appeals Committee. Therefore, the personal e-mail of the Chairman of the Peer Committee can at best be taken as his personal opinion, which in the discretion of the Appeals Committee could be called for. Therefore, no right accrues in favour of the appellant - Institution based on the comments / opinion of the Chairman of the Peer Committee and the e-mail, dated 12.02.2016, would in no manner advance the case of the appellant to be entitled to "A" Grade as a matter of right.

14. We find that the respondent - Council has proceeded strictly in accordance with the directions issued by the Honourable Supreme Court in the case of **Viplav Sharma vs. Union of India and others, W.P. (C) No.142 of 2006**, dated 19.04.2016, wherein the following directions were issued:

"Having heard learned counsel for the parties, we accept the NAAC assessment. However, a submission has been made by learned counsel for the respondents that the institutions which have been accredited less than 'A' may be permitted to appeal to NAAC for upgradation. We have been apprised that NAAC has a Grievance Redressal



16. In the counter affidavit, the respondent - Council has stated that as per the reevaluation norms, they are willing to follow the procedures to reevaluate the appellant - Institution by revisiting the appellant - Institution through a different Peer Committee.

10. In the result, the writ appeal fails and it is dismissed with a direction to the respondent - Counsel to proceed in



accordance with their guidelines. No costs. Consequently,
connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

+1cc to M/s.K.K.Ramakrishnan, Advocate, SR.65547

JUDGMENT

IN

W.A. (MD) No.1435 of 2016

and

C.M.P. (MD) No.10898 of 2016

14.07.2017

KRK/IA

KK/SKN RSK/SAR1/28.07.2017/8P-2C/