

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.22242 of 2017

ORDER:

Questioning the proceedings dated 03.06.2017 issued by the second respondent as violative of principles of natural justice, the present Writ Petition came to be filed.

2) The first petitioner/College was granted letter of intent of formal acceptance for establishment of private un-aided vocational junior college from the Academic Year 2000-2001. It is said that since then it has been granting provisional permission and provisional affiliation for running the vocational courses. It was also granted provisional affiliation for the academic years 2011-12 to 2016-17 which is inclusive of Ophthalmic Technician courses. Similarly, the second petitioner/college was established on 24.06.2006 and provisional affiliation was granted vide proceedings Rc.No.27199/61365/C23-1/2007-2008 dated 27.04.2017 for the academic year 2009-10 to 2016-17 with six courses including Ophthalmic Technician Course. Even for the present year, the second respondent invited online applications from the petitioners/colleges management for extension of provisional affiliation and sanction of additional sections vide Notification Rc.No.14/E2-3/2017-18 dated 01.04.2017. The petitioners applied for provisional application for the current academic year after paying the requisite fee. While things

stood thus, State Institute of Vocational Education (SIVV) is said to have been ordered closure of vocational courses and accordingly informed the same to the second respondent herein, who in turn informed the same to the petitioners vide the impugned proceedings. The said proceedings are challenged in the present Writ Petition.

3) The main ground urged by the learned counsel is that the impugned order came to be passed without giving any notice and the same is bereft of any reasons.

4) A counter came to be filed by the second respondent contending that the State Institute of Vocational Education (SIVE), Telangana State is the competent authority to introduce new vocational courses or close down the existing vocational courses by intimating the same to Telangana State Board of Intermediate Education (TSBIE). In turn the TSBIE shall inform the same to the Principals of Vocational Junior Colleges in the State. The Department of Intermediate Education is offering 29 vocational courses in 6 streams at Intermediate level in Junior Colleges. It is further stated that the SIVE has opined that the Ophthalmic Technician course being run only in two colleges and total 27 students are studying 1st year during the academic year 2016-17. The setting of question paper and evaluation of the answer scripts are being done by the lecturers of these colleges only which may lead to compromise in confidentiality/sanctity of exams. Since the course is functioning

only in two colleges, the SIVE decided to close the Ophthalmic Technician course from the academic year 2017-18 and issued circular with a request to inform all the principals of Govt./Private/Aided Junior Colleges not to take admissions into first year intermediate Ophthalmic Technical course from the academic year 2017-18. In turn TSBIE informed the same to all the Principals of Junior Colleges. It is stated that the TSBIE has invited online applications from the college managements for extension of affiliation and sanction of additional sections for the academic year 2017-18 and by the time the TSBIE has no information from SIVE on closure of Ophthalmic Technician course. The petitioners have applied for the provisional affiliation by paying the requisite fee through online and provisional affiliation for the academic year 2017-18 was issued to Royal (VOC) junior college on 04.06.2017 by informing that the Ophthalmic Technical course is wound up from the academic year 2017-18, but however, the colleges are allowed to conduct classes for 2nd year students. Further, it is stated that the TSBIE is permitting the college managements to apply for conversion of the closed courses to the courses which are allowed to run. Hence, the respondent prays to dismiss the Writ Petition.

5) A reading of the impugned order shows that the reason for ordering closure of the vocational course (Ophthalmic Technician course) was on uneconomic ground. No reason or explanation is

forthcoming to show as to how and in what manner the same is uneconomic. Ofcourse, an elaborate explanation is sought to be given in the counter filed by the respondents. But the same is not reflected in the impugned order. Apart from that, it is also to be noted here that the impugned proceedings came to be passed without giving any notice to the petitioners/colleges who have been running the said course since the last 7 to 10 years. When the petitioners have been running the said courses since somany years and having collected the applications and the requisite fee for the present academic year, the second respondent ought to have given at least a notice asking for their explanation, before toeing the line of SIVV.

6) The issue as to Whether reasons are to be given by the authority, is no longer *res-integra* in view of the various judgments of the Apex Court.

7) In **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai¹**, the Supreme Court held as under:-

"Under Article 226 of the Constitution, the High Court having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principles of natural justice or where the

¹ AIR 1999 SC 22

order or proceedings are wholly without jurisdiction or the vires an Act is challenged."

8) The Apex Court after referring to the cases in **Harinagar Sugar Mills Ltd., v. Shyam Sundar Jhunhunwala²**, **Tarachand Khatri v. Municipal Corporation of Delhi³** and **Raipur Development Authority v. M/s. Chokkamal Contractors⁴**, observed as under:-

"An important consideration which has weighed with the Court for holding that an administrative authority exercising quasi-judicial functions must record the reasons for its decision, is that such a decision is subject to the appellate jurisdiction of this Court under Article 136 of the Constitution as well as the supervisory jurisdiction of this Court under Article 227 of the Constitution and that the reasons, if recorded, would enable this Court or the High Courts to effectively exercise the appellate or supervisory power. But this is not the sole consideration. The other considerations which have also weighed with the Court in taking this view are that the requirement of recording reasons would (i) guarantee consideration by the authority; (ii) introduce clarity in the decisions; and (iii) minimize chances of arbitrariness in decision-making".

9) From the judgments referred to above, it is clear that non-issuance of notice before passing the order of closure of the courses in the college, which was running the said courses since 7 to 10 years, is definitely violative of principles of natural justice. It is also to be noted here that the impugned order is bereft of any reasons. Except stating that it is un-economic, no reasons are given as to how the continuation of the said course is un-economical. It is also clear that except in cases where the requirement has been dispensed

² AIR 1961 SC 1669

³ AIR 1977 SC 567

⁴ AIR 1990 SC 1426

with either expressly or by necessary implication, an administrative authority exercising judicial or quasi judicial functions, is required to record the reasons for its decision.

10) Since the order suffers from the violation of basic principles of natural justice, the same is accordingly set-aside directing the second respondent to give notice to the petitioners and then take steps in accordance with law.

11) With the above direction, the Writ Petition is disposed of. No costs. Miscellaneous Petitions, pending if any, in this Writ Petition shall stand dismissed.

Dt:27.07.2017
GM

JUSTICE C. PRAVEEN KUMAR

