

CWP No.18633 of 2016

[1]

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

**CWP No.18633 of 2016
Date of decision:18.04.2017**

Radical Technical Institute

...Petitioner

Versus

All India Council for Technical Education and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sameer Sachdeva, Advocate,
for the petitioner.

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

Rakesh Kumar Jain, J.

The petitioner is a self-aided institute, approved by the All India Council for Technical Education (hereinafter referred to as the "AICTE"), affiliated to the Punjab Technical University, Jalandhar (hereinafter referred to as the "University") and having permission of the State Government w.e.f. 2013-2014 onwards. The petitioner initiated B. Tech 4 Years course for 300 students, in which 60 seats are meant for Mechanical, 60 seats for Electrical, 60 seats for Electronics, 60 seats for Civil and 60 seats for Computer Science. It is also running a 3 years Diploma Course in Engineering for 120 students offering 60 seats for Mechanical and 60 seats for Civil disciplines. The petitioner has allegedly deposited ₹35 lacs as security with the AICTE in the year 2013 and has been getting annual approval after depositing ₹1 lac as processing fee. It is averred that the petitioner duly submitted the online form

along with ₹1 lac with the AICTE and obtained extension of approval for the years 2013-2014, 2014-2015 and 2015-2016. The petitioner has alleged that it had filed an application through online process by meeting all norms and standards, complete in all respect, which was received by the AICTE portal on 19.02.2016 well within time, but it could not deposit the requisite fee of ₹1 lac in time by 30.04.2016. It is further averred that the petitioner carried out necessary admissions for the session 2016-2017 and sent the due returns but when they checked their status on the website of their application for extension of approval for the year 2016-2017, it was depicted with the status 'Y' against deficiency. The petitioner inquired from the respondents in June 2016 and found that it had not deposited the requisite fee of ₹1 lac in time.

In this background, the present petition has been filed in which prayer has been made for seeking a direction to the respondents to accept the fee of ₹1 lac for the purpose of extension of approval, which could not be deposited due to oversight.

In the reply filed by the AICTE, it is averred that as per Regulation 4.2(a) of the AICTE (Grant of Approvals for Technical Institutions) Regulations, 2012 (hereinafter referred to as the "Regulations"), each of the Technical Institution/Polytechnic is mandatorily required to obtain prior approval of the AICTE for extension of existing approval. Regulation 4.3 further provides that the AICTE shall publish from time to time, Approval Process Handbook, detailing the conditions of approval and procedure to process the application of Institutes and/or promoters. Regulation 4.19 further provides that the AICTE shall grant desired approvals only after satisfying itself that the applicants meets all the norms and standards prescribed by it.

Regulation 4.24 further provides that in no eventuality, a technical institution, without prior approval of AICTE and affiliation from University/Technical Board concerned, shall be allowed participation in the counselling, admission process and to admit students. Regulation 4.31 further provides that in the absence of the approval, the affiliating University shall transfer the students of the Institutions and Regulation 4.32 provides that any institution offering technical programmes/courses, without approval of the AICTE, shall be termed as un-approved. It is further averred that the AICTE has also issued Approval Process Hand Book: 2016-2017 wherein the process of submitting the application and payment of extension fee has been provided under Clause 2.3 wherein it has also been provided that the application shall not be considered in the absence of processing fee and the application shall be accepted subject to realization of the payment. The schedule of the approval of applications without late fee and with late fee was also provided in the Approval Process Hand Book under clause 3.3. It is further averred that the public notice for extension of existing approval and for approval of new courses were invited vide Public Notice dated 19.01.2016 wherein the last date for submission of online application was provided as upto 21.02.2016. It was further extended vide another public notice upto 29.02.2016. Lastly, by another public notice, the last date for submission of online application for extension of approval by existing institutions only with penalty was extended upto 05.03.2016 with categorical statement that no further extension of dates under any circumstances shall be granted and consequences of not seeking extension were also provided in the said public notice. The respondents have also made reference of the relevant Regulations, which are reproduced as under:-

“4.2 The Technical Institution/Polytechnic (Technical Institution offering Diploma) shall require prior approval of the Council for:

(a) Extension of existing approval.

(b) to (g) xxx xxx xxx”

“4.3 The Council shall publish, from time to time, Approval Process Handbook, detailing the conditions of approval and procedure to process the applications of Institutions and/or promoters.”

“4.19 The Council shall grant the desired approvals only after satisfying itself that the applicant meets all the norms and standards prescribed by it.”

“4.24 In no eventuality, a technical institution without prior approval of AICTE and affiliation from University/Technical Board concerned, shall be allowed participation in the counselling and admission process and to admit students.”

“4.31 The affiliating Universities shall transfer the students of the Institutions, whose programs/courses have been discontinued by the Council or approval is withdrawn or suspended, to other nearby AICTE approved technical Institutions affiliated to it and the Council shall allow supernumerary seats in such Institutions to accommodate the transferred students appropriately till they complete the programs/courses.”

“4.32 Any institution offering technical programs/courses without approval of the Council shall be termed as unapproved.”

“2.3 of the Approval Process Hand Book”2016-2017

A unique identification number is allotted to each application for further reference. By using this number the applicant will be able to track the status of the application at various stages of processing the application through the AICTE web-portal. The processing fee shall be paid through the AICTE payment gateway on the portal, through Corporate Internet Banking failing which, the application shall not be considered.

Applications shall be accepted subject to realization of the payment.”

It is further averred in the reply that the petitioner had submitted the application for extension of approval on 19.02.2016 but failed to deposit the requisite processing fee of ₹1 lac till the last date of its submission i.e. 29.02.2016 and even with penalty upto 05.03.2016. The respondents have also relied upon a judgment of the Supreme Court in the case of **Parshavanath Charitable Trust and others vs. All India Council for Technical Education and others**, 2013(2) SCT 163 in which the Supreme Court has approved the Schedule, which has been declared to be the law, and has to be strictly adhered to, in which the last date for granting or refusing approval by the AICTE is 10th April. It is further averred that the petitioner had been granted approval for the academic session 2015-2016 but for the academic session 2016-2017 and since the petitioner had failed to obtain the extension of existing approval within the stipulated time, therefore, it was not supposed to admit the students.

Counsel for the petitioner has submitted that on 16.09.2016, the Court had directed the petitioner to deposit ₹5 lacs with the respondents to process the case of the petitioner, subject to final outcome of the writ petition. The said order dated 16.09.2016 is reproduced here-as-under:-

“Present:- Mr.Sameer Sachdeva, Advocate
for the petitioner.

Mr.K.K.Gupta, Advocate
for the respondent-AICTE.

Mr. K.K.Gupta, Advocate has put in appearance on behalf of respondent-AICTE and has submitted that cut-off date was extended upto 05.03.2016 for extension of approval with penalty as per APH, 2016-2017. He has placed reliance upon the judgment of Apex Court in case *Parshavanath*

Chairtable Trust and others Vs. All India Council for Tech.Edu. & others, 2013 (2) S.C.T.163.

In the present case, as noticed that the petitioner had applied for extension of approval on 19.02.2016 but he did not deposit the requisite fee of Rs.1 lakh, resultantly, his case has not been processed.

Counsel for the petitioner, on the other hand, submits that the petitioner institute is a fledging institute and its approval was granted in the year 2013. It has already admitted students for the academic year 2016-2017 and also the students for earlier years are studying with it. Therefore, it would be greatly prejudiced if its approval is not processed. He further submits that the judgment as such does not pertain to the cases of extension.

Keeping in view the above facts, this Court is of the prima facie opinion that provisionally, the respondent shall on the deposit of Rs.5 lakhs within a period of 10 days from today, process the case of the petitioner subject to the final outcome of the writ petition. The same is being ordered keeping in mind that on account of the lapse of the institute itself, the interest of the students should not be jeopardized for no fault of their.

In the meantime, detailed reply be filed.

Adjourned to 18.11.2016.

16.09.2016
sd

[**G.S.Sandhawalia**]
Judge”

The aforesaid order was followed by another order dated 18.11.2016, which is reproduced as under:-

“Present: Mr. Sameer Sachdeva, Advocate
for the petitioner.

Mr. K.K. Gupta, Advocate
for the respondent-AICTE.

Counsel for the petitioner has placed on record

the communication dated 19/21.10.2016, whereby the draft has been returned, on account of the fact that a SLP is to be filed against the order dated 16.09.2016.

It is not disputed LPA against the said order has been dismissed. Vide order dated 16.09.2016, it was directed that on account of deposit of ₹5 lakhs, the respondent shall process the case of the petitioner, subject to the final outcome of the present writ petition.

The action of the returning of the draft is willful and intentional disobedience of the orders of this Court. Accordingly, Director (AB) of respondent No.1 is directed to be present in the Court, on the next date of hearing, to explain the abovesaid action.

Adjourned to 22.11.2016.

Copy of this order be given to the Counsel for the respondent-AICTE under the signatures of the Special Secretary of this Court.

NOVEMBER 18, 2016
Naveen”

(G.S. SANDHAWALIA)
JUDGE

On 28.11.2016, the following order was passed by this Court:-

“Present: Mr. Sameer Sachdeva, Advocate
for the petitioner.

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

In pursuance of the order dated 22.11.2016 passed by this Court, Mr. Vimlesh Kumar Soni, Director (AB) and Mr. R.S. Rathore, Director & Regional Officer of the respondent-AICTE are present in the Court.

Mr. Gupta submits that the letter dated 19/21.10.2016 was issued under mis-conception and the draft of ₹5 lakhs was wrongly returned. He submits that the interim order dated 16.09.2016 shall be complied with within a period of one week from today and provisional extension of recognition will be granted.

Mr. Sachdeva submits that the amount of ₹5 lakhs will be re-deposited with the respondents by way of internet banking.

Let, the needful be done as undertaken, failing which the abovesaid persons shall remain present in the Court, on the next date of hearing.

Adjourned to 07.12.2016.

NOVEMBER 28, 2016
Naveen”

(G.S. SANDHAWALIA)
JUDGE

On 07.12.2016, counsel appearing on behalf of the AICTE produced letter dated 06.12.2016 whereby provisional extension of approval for the academic year 2016-2017 was granted. The said order is also reproduced as under:-

“Present: Mr. Sameer Sachdeva, Advocate
for the petitioner.

Mr. K.K. Gupta, Advocate
for applicant-respondents.

CM-15467-CWP-2016

In compliance with the earlier order Mr. Gupta has placed on record letter dated 06.12.2016, whereby the provisional extension of approval for the academic year 2016-2017 has been granted.

Keeping in view the above, the present application filed for modification of the order dated 28.11.2016 is allowed.

The directions for grant of provisional extension of recognition would be read as provisional extension of approval.

Accordingly, the CM stands disposed of.

Main case

To come up for arguments on 27.01.2017.

DECEMBER 07, 2016
Naveen”

(G.S. SANDHAWALIA)
JUDGE

Thereafter, on 13.12.2016, the roll numbers were also ordered to be issued for appearing in the ensuing examination of the students. The said order dated 13.12.2016 is also reproduced as under:-

**“CM-16065-CWP-2016 &
CM-16066-CWP-2016 in
CWP-18633-2016**

RADICAL TECHNICAL INSTITUTE VS AICTE & ANR

Present: Mr. Sameer Sachdeva Advocate
for the applicant/petitioner.

CM-16065-CWP-2016

CM for impleading the Director of Technical Education, Pb., Takniki Bhawan, Sector 36, Chandigarh as respondent No.3 is allowed subject to all just exceptions for the reasons stated in the application as well as affidavit.

Amended memo of parties is taken on record.

CM-16066-CWP-2016

Heard.

In view of the fact that the petitioners have remitted a sum of ₹ 5,00,000/- with the AICTE read with provisional extension of approval for the academic year 2016-17 granted on 6.12.2016, the Director of Technical Education is directed to issue Roll Numbers to the students of the petitioner-Institute for appearing in the ensuing examination which is likely to be held in the month December, 2016. The Director of Technical Education is further directed to take up the issue relating to issuance of Roll Numbers to the students of the petitioner-Institute at the earliest since the learned

counsel for the petitioner submitted that examinations have already commenced on 12.12.2016.

CM stands disposed of.

A copy of this order be given to learned counsel for the petitioners under signatures of Bench Secretary.

(P.B. BAJANTHRI)
JUDGE

December 13, 2016.
sandeep sethi

Counsel for the petitioner has submitted that the petitioner has already deposited ₹5 lacs in terms of the order passed by this Court and provisional extension of approval for the academic session 2016-2017 has also been granted. Thereafter, the students of the petitioner-college have already appeared in the examination under orders of this Court. It is further submitted that there is no dispute that the petitioner had submitted the application for extension of approval within the prescribed period but the only fault on the part of the petitioner is that it could not deposit ₹1 lac due to oversight and inadvertence for which the students who have been admitted and studying in this session should not be made to suffer.

On the other hand, counsel for the respondents has submitted that the petitioner itself was at fault in not depositing the money in time though the application for extension of approval was submitted in time and the respondents are bound by the Regulations wherein it is provided that the application for extension of approval will not be entertained until and unless requisite fee is deposited.

I have heard learned counsel for the parties and examined the available record with their able assistance.

There is no dispute that the petitioner is a young institute which

started its first academic session from the year 2013 and deposited ₹35 lacs towards security with the AICTE. It had been regularly obtaining extension of existing approval according to the due procedure. It had also submitted the application for seeking extension of approval for the session 2016-2017 on 19.02.2016, well within time, but as ill-luck would have it and due to oversight and inadvertence, the processing fee of ₹1 lac could not be deposited despite the reminders issued by the AICTE in the newspapers. In the meantime, the petitioner had also admitted the students. This Court, vide its order dated 16.09.2016, keeping the interest of the students in mind, directed the petitioner to deposit ₹5 lacs towards processing fee which was deposited and the respondents have also issued the provisional extension of approval for the academic session 2016-2017 and, thereafter, under orders of the Court, the students of the petitioner-college have already taken the exams.

Thus, at this stage, it is just and equitable that the interim orders passed by this Court are made absolute whereby the provisional extension of approval was granted for the academic session 2016-2017 on payment of ₹5 lacs towards fee instead of ₹1 lac and consequently, the present writ petition is hereby disposed of in the aforesaid terms.

April 18, 2017
vinod*

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No