

CWP No.23606 of 2015 (O&M)

[ 1 ]

\*\*\*\*\*

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

**CWP No.23606 of 2015 (O&M)  
Date of decision:02.06.2017**

Bright Career Siksha Samiti (Regd.) ...Petitioner

Versus

All India Council for Technical Education and another ...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain**

Present: Mr. Devender Punia, Advocate,  
for the petitioner.

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

\*\*\*\*\*

**Rakesh Kumar Jain, J.**

The “technical education”, defined in Section 2(g) of the All India Council for Technical Education Act, 1987 (hereinafter referred to as the “Act”), means programs of education, research and training in engineering, technology, architecture, town planning, management, pharmacy and applied arts and crafts and such other program or area as the Central Government may, in consultation with the Council, by notification in the official Gazette, declare. The All India Council for Technical Education (hereinafter referred to as the “council”) is established for proper planning and coordinated development of the technical education system throughout the country. The “technical institution”, defined in Section 2(h) of the Act, would mean an institution, not being a university which offers courses or programs of technical education and includes such other institutions as the Central Government may, in consultation

\*\*\*\*\*

with the Council, by notification in the Official Gazette, declare as technical institutions. Section 23 of the Act confers power upon the council to make regulations to carry out the purposes of the Act and as such, the council, in exercise of its power conferred under Section 23(1) read with Sections 10 and 11 of the Act, framed the All India Council of Technical Education (Grants of Approvals for Technical Institutions) Regulations, 2010 (hereinafter referred to as the “regulations”). In order to carry out the exercise for granting/extension of approval to the technical institutions, the council has issued Approval Process Handbook 2013-14 and, thereafter, issued various public notices for inviting applications and started the process.

The petitioner is a society, running a polytechnic institute under the name and style of B.C.M. Polytechnic, Kosli Road, Raiya, District Jhajjar, approved by the council and affiliated to the Haryana State Board of Technical Education. The institution of the petitioner was approved in the year 2007 and extension of approval was issued from time to time till the year 2015-2016.

The petitioner applied for approval for starting 2<sup>nd</sup> shift courses, namely, Electrical Engineering and Mechanical Engineering, i.e. the part-time programs. It deposited ₹4,00,000/- (₹1,00,000/- for extension and ₹3,00,000/- for grant of approval for 2<sup>nd</sup> shift courses). The application was made as per the procedure provided in the Approval Process Handbook 2013-2014 (hereinafter referred to as the “handbook”). The case of the petitioner is that due to error, the number of titles under the library facilities was wrongly entered as 900, whereas the institution was having 1050 titles and because of the said error, the deficiency was shown in the application form, which was filled online. It is also alleged that there is no procedure to correct the said

\*\*\*\*\*

error in the online system, developed by the council, but as soon as the petitioner came to know about the deficiency, it wrote to respondent no.2 on 25.02.2014 for dropping the said deficiency in the report of titles. The petitioner is also stated to have sent e-mails and representations for the purpose of correcting the deficiency which had allegedly occurred inadvertently while filling the application form online. It is alleged that when no heed was paid to the request made, the petitioner wrote a letter dated 20.05.2014, requesting the council for refund of ₹3,00,000/- deposited by it as processing fee but vide its impugned letter dated 18.12.2014, the council informed the petitioner that after scrutiny by the Approval Bureau, it has been found that no case of refund is made out. It is further averred that the petitioner wrote another letter dated 22.01.2015 for the purpose of refund of ₹3,00,000/- that there is nothing in the handbook that in the event of any deficiency, the processing fee would be forfeited and it would not be refunded. Since the council did not refund the amount claimed by the petitioner, therefore, the present petition has been filed for seeking a writ in the nature of *mandamus*, directing the respondents to permit the petitioner to remove the deficiency in the application form filled online for approval for starting the 2<sup>nd</sup> shift courses or to refund the processing fee of ₹3,00,000/-.

Counsel for the petitioner has submitted that the mistake committed at the time of filling of online application form was not deliberate and there is no procedure for correcting the online information by way of editing, otherwise the petitioner had no deficiency because it had 1050 titles, which was wrongly mentioned as 900. It is, thus, submitted that the action of the respondents is totally arbitrary, firstly in not allowing the petitioner to make

\*\*\*\*\*

necessary corrections in the online application form and secondly, in not refunding the processing fee if the correction is not allowed.

The respondents have alleged that in the case of **Parshavnath Charitable Trust & Ors. vs. AICTE & Ors.**, 2013(2) SCT 194, the Supreme Court had fixed the guidelines for processing of applications for extension/fresh approval, as per which 10<sup>th</sup> April is the date for granting extension/fresh approval by the council, 30<sup>th</sup> April by the Appellate Committee of the council and, thereafter, till 15<sup>th</sup> May by the Appellate Body. It is averred that in view of the aforesaid decision of the Supreme Court, the council has no power to accept the application/processing fee after the cut off date. It is also averred that the petitioner itself has disclosed about the deficiency regarding availability of number of titles. The request of the petitioner was examined by the Approval Bureau and since the application was processed online therefore, on account of deficiency, the approval for starting 2<sup>nd</sup> shift courses was not granted and the refund was treated as “NIL”. It is also averred that the processing fee is not refundable and in this regard, provisions of Clause 18 of the handbook were referred to, which are reproduced as under:-

- “18.1 An applicant shall, using login ID and password, enter/edit data as required.
- 18.2 An applicant shall operate “calculate deficiency” tab and check the deficiencies if any.
- 18.3 All applicants shall ensure that the data entered/edited are correct. Facility to edit the data till the correctness is ensured is available until the submission of the data by pressing the submit tab.
- 18.4 After pressing the submit tab, the data is in non editable mode and shall not be allowed to be corrected any further. Applications shall exercise utmost caution before pressing the submit tab.

\*\*\*\*\*

- 18.5 The consolidated list of all institutes with the approved intake shall be placed by the Approval Bureau before the Executive Committee for approval or otherwise. The same shall be notified on the web portal. Further the institute may print the extension of approval letter along with approved intake through the institute login.
- 18.6 No appeal shall be allowed on this procedure since an applicant is allowed corrections multiple times, in the application form along with generation of online deficiency/status report before submission of the application.”

It is also averred by the respondents that the petitioner had paid the requisite fee of ₹3,00,000/- through AICTE payment gateway on the portal through corporate internet banking, as provided under Clause 3.1, Chapter I of the handbook, in which it has been provided that the application shall be processed subject to realization of the payment. It is further alleged that as per Clause 18 of the handbook, the petitioner was required to fill the application form with utmost care and till the pressing of the “submit tab/button”, the petitioner could have edit the data till the correctness is ensured and “submit button” is pressed. If the petitioner had wrongly disclosed some information and pressed the “submit tab/button”, the information submitted would be considered as final. It is further averred that once the online application is received within the stipulated period, it is immediately processed on computer itself and if any deficiency is found, the system generated deficiency report is put on the web portal at that very point of time but the deficiency is not allowed to be corrected after pressing of the “submit tab/button”, as provided under Clause 18.4 of the handbook and, thus, because of this reason, the application dated 25.02.2014 filed by the petitioner for correction of information was not allowed at that stage. It is alleged that the application for

\*\*\*\*\*

approval was submitted by the petitioner on 13.02.2014 and on the same day, the application was processed by the computer and the deficiency report was put on the web portal and as such, the petitioner cannot allege that no processing had taken place in its case. It is also alleged that as per Clause 7 of the handbook, the processing fee is not refundable. In this regard, Clause 7.3 of the handbook is also reproduced as under:-

“7.3 If the existing Institution who applied under Chapter I and withdraws the application before scrutiny then increase in intake, addition of new course, 2<sup>nd</sup> shift etc. shall be given based on deficiency pointed in system generated deficiency report however the processing fee paid shall not be refunded.”

It is, thus, submitted by the respondents that the action has been taken against the petitioner strictly in terms of the provisions of the Act, regulations and the handbook.

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

There is no dispute that the petitioner was apprised to read the handbook and the regulations thoroughly before filling up online application form on the AICTE web portal. The petitioner itself has admitted its mistake in uploading the information which has been found to be deficient and as a result thereof, the respondents have not allowed the application for the purpose of grant of approval for starting the part-time programs.

Counsel for the petitioner has failed to show any provision, either from the Act, regulations or the handbook that in case of uploading wrong information on the web portal while submitting the application, it can be corrected lateron nor any provision has been shown to the effect that if the application is not accepted/allowed, then the processing fee paid by the

\*\*\*\*\*

institution shall have to be refunded rather, on the contrary, the respondents have referred to the provisions of the handbook starting from Clause 18.1 to 18.6, in which Clauses 18.3 and 18.4 need specific reference as in Clause 18.3, it has been specifically provided that the applicant should ensure that the data entered/edited are correct as the facility to edit the data till the correctness is ensured is available until the submission of the data by pressing the 'submit tab' but as per Clause 18.4, after pressing the submit tab, the data is in non editable mode and shall not be allowed to be corrected any further. A warning is also given that the applicants shall exercise utmost caution before pressing the submit tab.

Similarly, Clause 7.3 of the handbook also provides that the processing fee paid shall not be refunded, meaning thereby that the respondents have not acted against law and the petitioner has failed to point out any provision of law conferring a right upon them which they may exercise by way of a writ of mandamus and a corresponding duty on the part of the respondents which they have not exercised.

Thus, in my considered opinion, there is no merit in the present writ petition and hence, the same is hereby dismissed.

**June 02, 2017**  
**vinod\***

**(Rakesh Kumar Jain)**  
**Judge**

|                              |        |
|------------------------------|--------|
| Whether speaking / reasoned: | Yes/No |
| Whether Reportable:          | Yes/No |