

LPA no. 117 of 2017 (O&M) 1

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

LPA no. 117 of 2017 (O&M)

Date of Decision : 17.02.2017

All India Council for Technical Education (AICTE)

....Appellant(s)

Versus

Kuldeep Kumar and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MRS JUSTICE SNEH PRASHAR**

Present : Mr.K.K.Gupta, Advocate for the appellant

MAHESH GROVER, J.(ORAL)

This appeal is directed against the judgment of the learned Single Judge dated 28.7.2016. The appellant is All India Council for Technical Education (hereinafter referred to as the 'AICTE') and disputes the claim of respondent no.1 who had applied for scholarship after having commenced with a course M.Tech (Computer Science & Engineering) for sessions 2008-09 which he concluded in the year 2010 after having exhausted the prescribed period of 2 years for the course.

The solitary ground taken by the appellant to refute the claim of the respondent no.1 which was approvingly granted by the learned Single Judge is that this course was never approved by the AICTE (appellant) for the session 2008-09 which would disentitle respondent no.1 to the benefit of scholarship, particularly, when it is admissible for the first year alone.

Learned Single Judge noted undisputed facts i.e student having concluded his M.Tech course and earned a provisional degree; the

University being an approved one and its existence from 1995 and the course for M.Tech (Computer Science & Engineering) on the approved list of AICTE.

We notice from the impugned judgment as also from record that numerous communications were addressed to the AICTE since 2005 seeking inclusion in the list of institutions offering M.Tech (Computer Science & Engineering) which went unheeded by the present appellant. However, Annexure P-11 dated 14.7.2009 would show that extension was given for the course in session for academic year 2009-10 which would imply that on prior point of time this course was approved by the appellant for the University otherwise there would be no occasion for them to use the word extension. The appellant has very conveniently sought refuge in the respondent's failure to bring on record any letter of approval for the year 2008-2009 but even if it were to be assumed that a student with limited resources at his own failed to bring such a communication on record, appellant's failure in not doing so cannot be overlooked, particularly, when this is a solitary plea taken before us as also the learned Single Judge.

Learned counsel for the appellant has failed to convince us as to how extension was granted if the approval was not already in existence. If the entire conduct of the appellant is considered then they have conveniently ignored the pleas of the University since 2005 to include them in the approved institutions offering M.Tech courses. It is not their case that the University was not equipped appropriately to offer such a course as there is no negation of the University's claim. In fact communication dated 5.10.2009 (Annexure R-3/6) as noticed by the learned Single Judge approval was specifically granted for the year 2009-2010 for the scholarship for the

stream in question. We are in complete agreement with the reasoning adopted by the learned Single Judge that Annexure P-11 being an extension has to be construed that the arrangement was already in existence prior thereto.

Since no communication has been shown by the appellant to the contrary we would not interfere with the impugned judgment which mandates a scholarship to respondent no.1.

That apart appeal is accompanied by inordinate delay of 117 days. We may extract the reasons explaining the delay as contained in the application:-

“1. That the learned Single Judge decided the Civil Writ Petition on 28.7.2016. The Regional office of the appellant on receiving the copy of the order from the counsel, forwarded the same to its Head Office at New Delhi for taking further necessary action in the matter. The matter was then referred to the RIFD Bureau which is concerned with the matter, for taking necessary action in the matter. The RIFD Bureau reported that since the respondent no.3- University was not having the approval of AICTE to run the course of M.Tech (CSE) during the academic session 2008-10, therefore, the order passed by the learned Single Judge should be challenged in the LPA. The said opinion of the concerned branch i.e RIFD Bureau was then referred to the competent authority in the AICTE Head Quarters. The competent authority also granted the approval for filing the Letters Patent Appeal.

Thereafter, the Director (Legal) approved the name of the counsel and conveyed the decision to the Regional Office vide letter dated 26.9.2016. As the earlier Standing counsel of AICTE somehow could not deliver the brief, therefore, the present counsel arranged the entire paper book of the writ petition from the record of this Hon'ble Court and also applied the certified copy of the judgment delivered by the learned Single Judge. The appeal was then forwarded to the AICTE Head Quarters for approval and after getting the approval, the Letters Patent Appeal is being filed on a delay of 117 days which has taken place just because of lengthy procedure, as detailed above which deserve to be condoned in view of the merits of the case. Otherwise, the appellant/applicant would not be gaining anything in delaying the filing of the appeal. It would therefore be in the interest of justice if the aforesaid delay in filing the Letters Patent Appeal is condoned and the appeal is heard on merits."

We notice that after having obtained judgment of the learned Single Judge dated 28.7.2016 the matter was referred to RIFD Bureau which referred the same to the competent authority in the AICTE headquarters whereupon approval was granted for filing the LPA. No dates are mentioned so as to understand how much time was consumed therein. The explanation then goes on to say that the Director Legal approved the name of the counsel and conveyed the decision to the Regional Office vide its letter dated 26.9.2016. It is then explained that the earlier standing counsel of

AICTE “somehow could not deliver the brief”.

We are afraid we cannot accept such explanations which are based on complete ambiguities sans unexplained facts.

Hence, instant appeal is hereby dismissed on merits as well as on delay.

(Mahesh Grover)
Judge

17.02.2017
rekha
Whether speaking/reasoned Yes/No
Whether reportable Yes/No

(Sneh Prashar)
Judge