

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: February 03, 2017

+ W.P.(C) 6259/2016
ST. JOHN EDUCATIONAL TRUST

..... Petitioner

Through: Mr. Amitesh Kumar, Adv.

versus

THE ALL INDIA COUNCIL FOR TECHNICAL EDUCATION
& ORS

..... Respondent

Through: Mr. Anil Soni, Adv. for R-1 & 2

**CORAM:-
HON'BLE MR JUSTICE V. KAMESWAR RAO**

V. KAMESWAR RAO, J. (ORAL)

1. The present petition has been filed by the petitioner with the following prayers:-

- “(a) allow the present Writ Petition; and/or*
(b) issue a Writ in the nature of Certiorari or any other appropriate Writ/order(s)/direction(s) quashing the Letter of Rejection dated April 08.04.2016 and final letter of rejection dated 30.04.2016 issued by the AICTE; and/or
(c) issue a Writ in the nature of Mandamus or any other appropriate Writ/ order(s)/ direction (s) directing the AICTE to grant approval to the petitioner for setting up of new technical institute and to run pharmacy course with an intake of 50 students from the Academic Session 2016-2017

and/or;

(d) Pass such other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. Suffice to state, vide the impugned orders the respondents have refused the application of the petitioner for setting up a new technical institute for running a pharmacy course.

3. Mr. Amitesh Kumar, learned counsel for the petitioner would make only one submission, inasmuch as the respondents have overlooked the certificate of the Director, Town and Country Planning dated March 21, 2016 at annexure P-17 wherein the Authority giving reference to the proposal of construction of PSV College of Pharmaceutical Science and Research had stated that it satisfies all the Rules and DCR norms and the building plan approval file is pending with the said Authority due to model code of conduct being in vogue.

4. Mr. Kumar would submit the said Certificate is a self speaking one and could have been favourably considered for granting recognition. Unfortunately, despite a declaration that the construction fulfils Rules and Norms, one of the impugned orders dated April 30, 2016 has been passed stating that the *"building plans not approved by Competent Authority"*. He has also drawn my attention to annexure P-27, which is a proceeding

dated June 21, 2016 to contend that the Authority has granted approval to the building plan for construction. He states that the said annexure satisfies all the deficiencies pointed out in the impugned order dated April 30, 2016 and should have resulted in re-consideration of the application of the petitioner for recognition for the academic session 2017-18 by the respondents rather than compelling the petitioner to approach this Court. Even while arguing, he would also state, the petitioner would be satisfied that if the case of the petitioner is considered for the academic session 2017-2018. He would rely on the judgment of the Supreme Court in ***Parshvanath Charitable Trust and others v. All India Council for Technical Education and others (and connected writ petition) (2013) 3 SCC 385.***

5. On the other hand, Mr. Anil Soni, learned counsel appearing for the respondents would submit that the impugned orders are justified. He clarifies his submission to state that there cannot be any conditional approval. Having not complied with the requirement, the respondents have rightly rejected the application. He also states that in terms of the judgment of the Supreme Court in ***Parshvanath Charitable Trust and others (supra)***, the Appellate Authority is required to decide the matter prior to 30th April of the year and the respondents having decided the

application by rejecting it, the application could not have been considered for the next academic session of 2017-2018, in view of Clause 9.8 of the Approval Process Handbook which stipulates in case of rejection of the proposal, it shall be open for the applicant to make a fresh application as stated in Chapter 1 of the handbook in the following year. According to him, it is only in the eventuality that the Appellate Authority grants the approval after 30th April, such approval would be operative for the next academic year. In any case, it is his submission that the application having been rejected, there is no question of considering the application of the petitioner for the next academic session.

6. Having heard the learned counsel for the parties, it is noted that the application of the petitioner for recognition was refused on April 30, 2016. The reason given by the respondents, primarily is that the building plans have not been approved. Even though, Mr. Kumar has relied upon the communication dated March 21, 2016, the same only stipulates that the proposal fulfils the requirement of the Rules and Norms but in what manner the same have been fulfilled has not been specified in the said communication. In fact, the issuance of proceeding dated June 21, 2016 (assuming approval has been granted) is an indication that something more was required to be considered and stated, while granting approval to

the plans.

7. Admittedly the proceeding dated June 21, 2016 is post April 30, 2016 and could not have been considered for a decision on the application by April 30, 2016 (in terms of the directions of the Supreme Court in *Parshvanath Charitable Trust and ors (supra)* for the year 2016-2017. That apart, the plea now being urged by Mr. Kumar for consideration of the application for the year 2017-2018 is concerned, suffice to state that the application having been rejected on the basis of position existing on April 30, 2016, which is justified, clause 9.8 would come into operation, which has been already reproduced above and the said plea cannot be accepted. The only plea urged by Mr. Kumar is without any merit. The same is rejected.

The writ petition is dismissed. No costs.

FEBRUARY 03, 2017/ak

V. KAMESWAR RAO, J