

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.P.No.17633 of 2006

Royal College of Engineering and Technology,
Rep.by its Secretary V.Suresh Kumar,
East Coast Road, Poonjeri,
Chennai - 603104.

.. Petitioner

vs

1. Anna University,
Rep. by its Registrar,
Chennai - 600 025.
2. The Director of Technical Education,
Chennai - 600 025.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondents relating to the order of the 1st respondent in Lr.No.CEP/RCE&T/FINE/2005-06, dated 25.05.2006 and quash the same.

For Petitioner : Mr.Kandan Doraisamy

For Respondents : Mr.L.P.Shanmugasundaram, for R1

Mr.V.Annalakshmi, for R2
Government Advocate

O R D E R

This writ petition is filed for issuance of a Writ of Certiorari to quash the order of the first respondent dated 25.05.2006.

2. The petitioner Institution was established by Saraswathi Educational and Health Trust and it is running from 2001-2002. As on date when the Writ Petition was filed, the petitioner Institution was offering the following courses:

Courses	
No. of Students	
B.E. (ECE)	90
B.E. (IT)	30
B.E. (EEE)	30
B.E. (Mech)	60
B.E. (Computer Science)	60

3. It is stated that in the year 2003, the petitioner applied to AICTE and the first respondent herein for starting additional courses and additional intake of students for the existing courses. It is further stated that the AICTE by an order, dated 30.09.2004, granted approval for a new course, viz., B.E.(Mechanical Engineering) with an intake of 60 seats and additional intake for the existing courses, viz., B.E.(ECE) from 60 to 90 and B.E.(Computer Science) from 30 to 60.

4. It is stated that the problem arose only with regard to the additional intake for B.E.(Computer Science) from 30 to 60. The petitioner has submitted that approval for the additional intake of courses granted by the central body, viz., AICTE was communicated to the Anna University in time and that a copy of the approval was also marked to the authorities of the University and other statutory authorities.

5. It is further submitted that during the academic year 2005-06, the petitioner applied before the AICTE and the Anna University for revalidation of approval for all the available courses in the petitioner Institution. By an order dated 01.07.2005, the AICTE was pleased to grant approval for restoration of intake and the copy of the proceeding was communicated to other authorities including the Anna University.

6. It is further submitted that the University used to conduct inspection immediately even before the formal order of affiliation is dispatched to the Institution. However in the academic year 2005-06, in the official website of the Tamil Nadu Engineering Admissions (TNEA), Anna University campus, the availability of the seats in the petitioner Institution as per the additional intake and new courses approved by the AICTE were shown as 30 instead of indicating the total availability seats in B.E.(Computer Science) as 60. Therefore, the petitioner Institution made a representation on 01.08.2005 to the Secretary, TNEA, Anna University Campus requesting to correct the intake as per the approval of AICTE dated 01.07.2005.

7. It is further submitted that the Secretary, TNEA, Anna University Campus, rectified the mistake and corrected the figure in the website regarding the availability of seats in the petitioner Institution in consonance with the order of the

AICTE. Further, the petitioner received a communication from Anna University on 07.01.2006, a letter, purported to have been issued on 30.07.2005. In that letter, it has been mentioned that the intake capacity of the petitioner Institution is only 30 seats, despite representation from the petitioner to rectify the mistake and to increase the intake from 30 to 60 seats in tune with the AICTE. By another communication of Anna University dated 17.01.2006 revised the affiliation with reference to the B.E. (Computer Science) from 30 to 60 seats. Later, the impugned order has been passed imposing a penalty of Rs.5,00,000/- to be paid to the University on or before 15.06.2006 for having admitted more number of students than the intake sanctioned by the University. It is noted that the Institution without even applying for affiliation for the increase in intake has admitted students.

8. Challenging the order dated 25.05.2006, the above Writ Petition has been filed.

9. The learned counsel appearing for the petitioner submitted that the impugned order was passed on the erroneous understanding of facts. In the impugned order, it is stated that the petitioner Institution has not applied for increase of intake in the B.E.(Computer Science) and the Engineering Programme from 30 to 60 in its application for affiliation for 2005-06 and that the AICTE also had displayed the intake of Students for 2005-06 as 30 in their website as on 21.07.2005, and the Anna University has granted affiliation for the programme for the intake of 30 seats for the year 2005-06. However, the College has paid a sum of Rs.2,45,000/- by way of D.D. on 02.01.2006 requesting the Secretary, TNEA, Chennai to correct the number of seats surrendered by the College for admission to the said B.E.(Computer Science) course from 15 to 30 on the strength of the approval granted by the AICTE for the programme with an intake of 60 seats as per the communication dated 01.07.2005. The Secretary, TNEA on the request of the College had incorporated the change in the number of seats as 30, which is 50% of the total strength of 60.

10. It is stated by the respondent that it is the responsibility of the Management of the petitioner Institution to inform and apply to the University for grant of affiliation for the increased intake and that the petitioner did not made any attempt to apply to the University for the grant of affiliation to the increased intake sanctioned by the AICTE, in the order dated 01.07.2005.

11. It is further stated that the petitioner Institution has admitted 60 students for the academic year 2005-06 without applying for approval from the University for the increased

intake. However, the University has granted provisional affiliation in the order dated 17.01.2006 for the increased intake of 30 to 60 seats for the course B.E.(Computer Science) and the Engineering Programme for the academic year 2005-06, in order to facilitate the students admitted, to write the examinations. Stating that the conduct of the college in admitting more number of students without obtaining approval of the University for increased intake in the said programme is unacceptable and arbitrary, the University has taken serious view of the matter and passed the impugned order imposing a fine of Rs.5,00,000/-.

12. The learned counsel appearing for the petitioner submitted that the imposition of fine is illegal and without jurisdiction. The learned counsel appearing for the petitioner further stated that the University statute or the Rules and Regulations do not authorise the University to impose a fine of Rs.5,00,000/- by way of punishment. When an order is passed inflicting a penalty or to make anyone to suffer by way of a penal action, it should be authorised by law. No Regulation or University statute is produced specially empowering the University or the authority of the University to impose a penalty by way of punishment.

13. The learned counsel appearing for the petitioner relied upon some of the provisions of the Anna University Act 1978. The power and functions of the University is prescribed under Section 5 of the Act. Sub Sections (ac), (af) and (ag), give indication that the University has power to take suitable action as prescribed to improve the academic excellence of the College. But no power has been given to impose a fine by way of punishment. The control mechanism vested with the University cannot be enlarged to confer power of the University to impose a huge fine of Rs.5,00,000/- without any valid law.

14. In this case, the learned Standing Counsel for the University has not brought to the notice of this Court any specific provision from the Anna University Act, 1978 or any of the statutes framed by the University. However it is brought to the notice of this Court, the minutes of 173rd meeting of the Syndicate of Anna University, Chennai, dated 15.02.2006. In the meeting, one of the subject that was placed for the approval of the Syndicate is the recommendations of the Standing Committee on affiliation made in the meeting held on 20.01.2006 and to ratify the action taken by the Standing Committee.

15. The act of imposing a fine of Rs.5,00,000/- on the petitioner College for admitting more number of students than the sanctioned intake before getting approval from the University has been approved by the Syndicate. It is to be seen

that the question is whether the University has any power or authority or jurisdiction to impose the fine of Rs.5,00,000/- on the ground that the petitioner has admitted more number of students than the sanctioned strength before getting approval from the University. Assuming that there is some irregularity, it is not brought to the notice of this Court that the conduct of the petitioner Institution is intentional. The only allegation against the petitioner Institution is that the Institution has admitted more number of students without even seeking permission from the University. In the interest of students and public, it is necessary to have control over the Educational Institutions as it is always the duty and responsibility of the University to maintain standard and regulate the functions of Institution. It is necessary to fulfill the objective for which it came into existence. However, an order imposing a fine or penalty by way of punishment should be authorised by law to do so.

16. In this case, admittedly imposing a fine of Rs.5,00,000/- is punitive and such a punishment cannot be imposed unless it is authorised by law or a statute. In the absence of any provisions or statute, this Court find that the impugned order in the Writ Petition is unsustainable. Hence this Writ Petition is allowed. Impugned order is quashed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

bkn / pvs

To

1. The Registrar,
Anna University,
Chennai - 600 025.
2. The Director of Technical Education,
Chennai - 600 025.

+1 cc Mr.L.P.Shanmugasundaram, Advocate, SR.No.67272
+1 cc Mr.Kandan Doraisamy, Advocate, SR.No. 66836
+1 cc to The Government Pleader, SR.No.67051

W.P.No.17633 of 2006

SPD(CO)
CSL/24.10.2018