

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.A.No.1542 of 2018
and

C.M.P.Nos.12447 and 12448 of 2018

Sri Venkateswara Institute of Information
Technology and Management,
rep.by its Chairman,
Commander K.Velu (Retd.)
SF 348/1, 3G Road, Ettimadai,
Palakkad Road,
Coimbatore-641 112. Appellant/Petitioner

-vs-

The Registrar,
Centre for Affiliation of Institutions,
Anna University,
Chennai-600 025. Respondent/Respondent

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.13710 of 2018 dated 28.06.2018. Praying to issue a Writ of certiorarified mandamus to calling for the records relating to the proceedings of the respondent bearing Lr. No. 251/ CAI/ AU/ CR_Scrutiny Failed / 2018-5 dated 29.05.2018 and quash the same and consequently direct the respondent to permit the petitioner institute to admit students for MBA programmes from and academic year 2018-2019 onwards.

For Appellant :: Mr.Jayesh Dolia for
M/s.Aiyar and Dolia
For Respondent :: Mrs.M.Vijayakumari

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The brief facts of the case are as under:

The appellant-Institute was granted approval/ affiliation by the respondent to admit the students for the earlier academic years 2008-2009 to 2017-2018. In respect of the academic year

2018-2019, by proceedings dated 10.04.2018, the respondent issued deficiency report/show cause notice. Under the head General Facilities, as against the Principal, it was stated as 'not eligible'. The deficiency pointed out is with regard to faculty and library. The required number of faculty is 18. There was no admission to MBA programme for the academic years 2016-2017 and 2017-2018 for the first year. For the academic year 2018-2019, the appellant-Institute has 9 faculties as per the norms prescribed under the University in 20:1 ratio and the appellant-Institute is eligible to admit students to the academic year 2018-2019. The Inspection Committee of the University found that the Principal was not eligible to hold the said post. According to the appellant, on receipt of the deficiency report/show cause notice, the appellant complied with the same and appointed one Dr.V.Rama Devi as Principal on 23.04.2018 and also four faculties were appointed on 18.04.2018. The compliance report was submitted to the respondent on 25.04.2018. Again on 11.05.2018, the respondent communicated to the appellant petitioner that the faculty deficiency continue to exist and the Principal was not eligible to hold the post and that there is insufficient evidence and the documents were not accepted by the Committee. The All India Council for Technical Education extended the approval granted to the appellant-Institute by proceedings dated 30.04.2018 and hence, according to the appellant, the respondent ought to have accorded affiliation for intake of students for the academic year 2018-2019. By proceedings dated 29.05.2018, again the respondent expressed inability to re-consider the sanctioned intake of students for the academic year 2018-2019, referring to the order of the Supreme Court dated 13.12.2012 (reported in 2013 (3) SCC 385 - Parshavannath Charitable Trust and others VS. AICTE and others). According to the appellant, the said decision of the Supreme Court is not applicable to the facts of this case, because, the Apex Court issued guidelines to the AICTE for dealing with the application for grant of approval to new colleges or additional seats, but in the case on hand, the AICTE had accorded approval in 2008 itself, on the basis of which the students were admitted from the academic year 2008-2009 and it continues to hold as on date.

2. With the above background, the appellant filed a writ petition in W.P.No.13710 of 2018 to quash the said proceedings dated 29.05.2018 and for a direction to permit the appellant-Institute to admit students for MBA programme from the academic year 2018-2019 onwards. This Court dismissed the writ petition by order dated 28.06.2018, observing that when the cut-off date is fixed for completion of the process and that there was no qualified Principal as on the date of inspection, the relief sought for by the appellant cannot be granted on the ground of non-availability of Principal as on the date of inspection. It

was also observed that the contention of the appellant that the time limit is there till 1st August, which was extended till 15th August, for the purpose of admission, cannot hold good in the eye of law.

3.Challenging the order passed in the writ petition, the present appeal has been filed by the Institute.

4.The learned counsel for the appellant has submitted that the finding of the learned single Judge that there was no Principal in the appellant-Institute on the date of inspection is not correct, since one Mrs.Rheeta Margery was working as the Principal of the Institute, whose appointment was approved by the respondent for the three academic years, viz. 2015-2016, 2016-2017 and 2017-2018. Further, the appellant had appointed another person as Principal on 06.06.2018, prior to the commencement of the academic year 2018-19 and in as much the courses are scheduled to commence only in the month of August 2018, the appellant had rectified the alleged deficiency by appointing an incumbent as a Principal. The alleged defect is curable and the respondent could have given time for the appellant to rectify the same, according to the learned counsel for the appellant.

5.Per Contra, the learned counsel for the respondent has submitted that as on the date of inspection, the Principal was not found eligible for the MBA Programme. She also submitted that the appellant failed to submit UG, PG and Ph.D.Degree Certificates and experience certificates of the newly appointed Principal and hence the Committee did not approve the principal as eligible to hold the post.

6.Heard the learned counsel on either side and perused the materials available on record.

7.The appellant-Institute was established in the year 2008 and it is being run for 10 years. Due to one reason or the other, a finding has been recorded by the respondent-University that the Principal is not eligible to hold the post. Subsequently, the defect was rectified by the appellant-Institute by appointing one Dr.V.Rama Devi as Principal on 23.04.2018 and the compliance report was submitted to the respondent on 25.04.2018. In that circumstance, again on 11.05.2018, the respondent sent a communication to the appellant that the faculty deficiency continue to exist and the Principal was not eligible to hold, since the documents were not accepted by the Committee. In order to give quietus to the issue, this Court deems it fit to give one more opportunity to the appellant-Institute to submit their application furnishing proper explanations, for conducting re-inspection, within 15

days from today, to the respondent University. On receipt of such application, the respondent shall once again conduct inspection in respect of infrastructure and other aspects and if they are found to be in order, the application of the appellant-Institute shall be considered and appropriate orders shall be passed, in accordance with law.

8.The writ appeal is disposed of accordingly. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

KM

To

The Registrar,
Centre for Affiliation of Institutions,
Anna University,
Chennai-600 025.

+1cc to Mr.M.Vijay kumar, Advocate, S.R.No. 53849
+1cc to Mr. Aiyar and Dolia Advocate, S.R.No. 53843

W.A.No.1542 of 2018
and
C.M.P.Nos.12447 and 12448 of 2018

GJII (CO)
GN (04/09/2018)

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