

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1762 of 2018
and C.M.P.No.14160 of 2018

RVS Educational Trust
rep.by its Trustee
Dr.U.Vishal

(RVS Padmavathy School of Architecture)
No.13, Sethilpakkam,
Thiruvallur District,
Thiruvallur-601 202.

... Appellant/Writ Petitioner

-vs-

1.Council of Architecture
rep.by its Director,
Academic Wing,
1st Floor, Lodhi Road,
New Delhi-110 003.

2.The State of Tamil Nadu
rep.by its Secretary
Department of Higher Education,
Fort St.George, Chennai-600 009.

3.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai-600 025.

4.Anna University
(Centre for Affiliation of Institutions),
rep.by its Registrar,
Chennai-600 025.

... Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent, against the
order passed by this Court in W.P.No.13842 of 2018 dated
18.07.2018.

WP.13842/2018:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the fourth respondent University herein to consider and pass orders on the petitioner's representation dated 24.05.2018 (as signed) for sanction of full sanctioned intake of 40 seats to the petitioner's college namely, RVS Padmavathy School of Architecture, Thiruvallur District, Thiruvallur - 601 202 for the academic year 2018-2019, within a reasonable time.

For Appellant :: Mr.Isaac Mohanlal, Sr.Counsel for
M/s.Isaac Chambers

For Respondents:: Ms.S.Harinyi for R1

Mr.C.Munusamy,
Spl.GP for R2 and R3

Mr.M.Vijayakumar for R4

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The case of the appellant is that their College is offering Under Graduate Programme in Bachelor of Architecture, which is a five year full-time programme. The College has the sanctioned intake of 40 students from the beginning. Out of 40 seats, 26 seats are filled up under Government Quota and 14 seats are filled up under Management Quota. For the purpose of extension of approval for the year 2018-2019, the College preferred an application to the Council of Architecture on 29.12.2018. Upon inspection by the inspection team, the first respondent was fully satisfied with the infrastructural and instructional facilities provided by the College and submitted its report to the Council of Architecture. For the purpose of seeking provisional affiliation for the year 2018-2019, the College preferred online application to the fourth respondent/ University on 04.01.2018 and on 19.02.2018, for which an Inspection Team visited the College and upon satisfying with the infrastructural and instructional facilities, vide letter dated 10.04.2018, through email, informed the College that a copy of the Deficiency Report/Show Cause Notice may be downloaded from the web portal to comply with the deficiencies for grant of provisional affiliation for the academic year 2018-2019. One of the deficiencies pointed out was that the Principal of the College is not eligible. Subsequently, on 13.04.2018, when the appellant downloaded the deficiency report from the University's web portal, it was found that the eligibility regarding the Principal was not shown. In view of the same, the appellant

rectified the other deficiencies by uploading the same online and also by submitting it in person to the University. Subsequently, the compliance report was scrutinized by the Scrutiny Committee and the documentary evidences were not accepted by the Committee in relation to the eligibility of the Principal and therefore, it was decided to reduce the student intake by 25% and thereby, the intake was reduced from 40 to 30 and no reason was assigned with regard to non-eligibility of the Principal.

2.The then Principal of the College was relieved from the College by an order dated 12.05.2018 and in his place, a qualified person viz. Ms.Amutha, who was earlier appointed as a Professor, was appointed as Principal of the College, by an order dated 12.05.2018. Thereafter, the new Principal along with an Assistant Professor went to the fourth respondent/University and informed the officials of the University that the then Principal has been relieved and a new Principal has been appointed and requested for full sanctioned intake of 40 seats for admission. However, there was no response for the same. Hence, the appellant submitted a representation dated 24.05.2018 to the fourth respondent requesting for full intake of 40 seats in view of the appointment of the qualified Principal.

3.With the above background, the appellant has filed a writ petition before this Court in W.P.No.13842 of 2018 seeking a direction to the fourth respondent/University to consider and pass orders on their representation dated 24.05.2018 for sanction of full sanctioned intake of 40 seats to their College for the academic year 2018-2019.

4.After hearing the facts and circumstances of the case, the learned single Judge referred to the decision of the Hon'ble Supreme Court in Parshavanath Charitable Trust and others v. All India Council for Technical Education and others, reported in (2013) 3 SCC 385, and held that in the case on hand, the time limit prescribed by the Apex Court has expired and hence the appellant/ College would not be entitled to the relief sought for and that their request could be considered only for the subsequent years. It has been further observed that the appellant's request cannot be considered for the present academic year. However, the learned single Judge directed the fourth Respondent/University to consider the case of the appellant/College with regard to the sanctioned intake of 40 seats to their College for B.Arch. Course for the academic year 2019-20, provided the appellant/College fulfils all the requirements, by order dated 18.07.2018.

5.Challenging the order passed by this Court in the writ petition, the present writ appeal has been filed.

6. In the instant case, the intake of 40 seats has been reduced to 30 on the only ground that the Principal was not eligible and the deficiency pointed out was not rectified by the college.

7. The learned senior counsel for the appellant has submitted that the learned single Judge dismissed the writ petition mainly relying upon the decision of the Hon'ble Supreme Court in Parshavanath Charitable Trust case (cited supra), but the said judgment is not applicable for admitting the students for the course of Architecture. According to the learned senior counsel, Parshavanath Charitable Trust case reported in (2013) 3 SCC 385, relates to admission of students in Educational Institution, which gets approval from All India Council for Technical Education. It is further submitted that the students for B.Arch. can be admitted till 31.08.2018.

8. The learned standing counsel for the first respondent would state that the decision of the Hon'ble Supreme Court relied on by the learned single Judge has no application to the case of the appellant and it is fairly conceded that the institution has time to admit the students till 31.08.2018.

9. Heard the learned Special Government Pleader appearing for the second and third respondents and the learned counsel for the fourth respondent, as well.

10. The main grievance put forth by the learned senior counsel appearing for the appellant is that the request of the college by letter dated 24.05.2018 for full sanctioned intake, even after due compliance of the norms, has not been considered till date by the fourth respondent University.

11. It is the stand of the appellant-College that initially they rectified the deficiencies as obtained from the University's web portal. Thereafter, the Scrutiny Committee has reduced the intake of students from 40 to 30 for which no reason was assigned. Thereafter, the then Principal of the college was relieved and a new Principal was appointed by order dated 12.05.2018, and they submitted a representation to the University for full sanctioned intake of 40 seats. However, there was no response for the same. It is the submission of the learned senior counsel for the appellant that the Council for Architecture has granted extension of approval for 5 year B.Arch. Degree Course for the academic year 2018-19 with the intake of 40 students and that the same will bind the 4th Respondent/Anna University also and hence there cannot be any reduction in the intake of students. It is his further submission that though the college made a representation to the fourth respondent University on 24.05.2018 requesting full

sanctioned intake of 40 seats in view of the appointment of qualified Principal, the same was not at all taken into consideration.

12.Considering the facts and circumstances of the case, the impugned order passed by the learned single Judge is set aside and the Registrar, Anna University, Chennai, the fourth respondent herein is directed to take a decision at the earliest, on the representation dated 24.05.2018 made by the appellant, which representation has been made for the present academic year, ie., 2018-2019, to avoid any inconvenience to the students and the institution, within a period of three days from the date of receipt of a copy of this judgment.

13.The writ appeal is disposed of accordingly. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Department of Higher Education,
Fort St.George, Chennai-600 009.
- 2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai-600 025.
- 3.The Registrar,
Anna University
(Centre for Affiliation of Institutions),
Chennai-600 025.

+1cc to Ms.S.Harinyi, Advocate, S.R.No.56163
+1cc to Mr.M.Vijayakumar, Advocate, S.R.No.56230
+1cc to M/s.Isaac Chambers, Advocate sr.no.56945

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nr 21/08/2018