

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.A.No.1930 of 2018 and CMP.No.15513/2018

1. The Registrar,
Anna University,
Guindy, Chennai-25.
 2. The Secretary,
Tamil Nadu Engineering Admission (TNEA),
Anna University Campus,
Guindy, Chennai-25.
- ... Appellants/Respondents 3 & 4
- Vs
1. Sri Nandahanam College of Engineering and
Technology, Molagarampatti,
Tirupattur-635 601,
Vellore District
rep. by its Chairman,
P.M.N.Mohan Krishnaa,
S/o.P.M.M.Nandagopal
 2. The State of Tamil Nadu
rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai-9.
 3. The Commissioner,
Directorate of Technical Education,
53, Sardar Patel Road, Guindy,
Chennai-600 025.
- ... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 16.08.2018 made in W.P.No.17665 of 2018 by a learned Single Judge.

WP.NO.17665/2018:

Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 3rd respondent in Lr. No. 02/ AFFLN / CAI/ AU/ 2018-19/ 5128 dt

15.5.2018 and to quash the same and consequently directing the respondents to grant continuation of Provisional Affiliation for the intake of students in each branch including M.B.A. course as sought by the petitioner College for the year 2018-19 and as sanctioned by All India Council for Technical Education.

For Appellants :: Ms.Narmatha Sampath,
Additional Advocate General
assisted by
Mr.M.Vijayakumar

For Respondents:: Mr.G.Sankaran for R1
Mr.C.Munusamy,
Spl.G.P. for R2 and 3

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the Order dated 16.08.2018 made in W.P.No.17665 of 2018 by a learned Single Judge.

2. The relief sought for in the writ petition is to call for the records relating to the impugned proceedings issued by the 3rd respondent in Lr.No.02/AFFLN/CAI/AU/2018-19/5128 dated 15.05.2018 and to quash the same and direct the respondents to grant Continuation of Provisional Affiliation (CPA) for the intake of students in each branch including M.B.A., course, as sought by the petitioner college for the year 2018-19. Though the Writ Petition was filed for several courses, the learned counsel for the petitioner therein constrained his prayer only to the course of B.E., (Marine Engineering). The said Writ Petition was disposed of by the learned Single Judge of this Court by order dated 16.8.2018 by setting aside the impugned order of the 3rd respondent. Aggrieved over the same, the respondents 3 and 4 therein/Anna University is before this Court with this Writ Appeal.

3. The case of the Writ Petitioner/1st respondent herein is that the Writ Petitioner Institution was established in the year 2001, offering various courses in different disciplines and the same was duly approved by the All India Council for Technical Education (AICTE) and affiliated by the Anna University. Insofar as the B.E., (Marine Engineering) course is concerned, the same has been approved by the Director General of Shipping, Ministry of Shipping and Government of India in the year 2006. The recognition granted by Anna University is after satisfying the infrastructural and institutional facilities of the

Petitioner Institution. When the Petitioner College has applied for Continuation of Provisional Affiliation (CPA), the officials of the respondent/University found certain deficiencies and issued a notice dated 10.04.2018, to show cause why steps cannot be taken for reduction of intake or withdrawal of affiliation for future courses. After complying with the said deficiencies, the writ petitioner/1st respondent has given a detailed representation to the appellant University. However, the appellant University has issued the impugned proceedings dated 15.05.2018, reducing the intake of students for various courses, more particularly, insofar as B.E., (Marine Engineering) is concerned, the intake was reduced from 30 to 15. While dealing with the writ petition, the learned Single Judge has set aside the impugned order of the 3rd respondent therein and disposed of the Writ Petition on the following lines:

''(i)The impugned order insofar as it relates to reduction of intake regarding B.E. Marine Engineering is set aside, the 3rd respondent/University is directed to depute the Inspection Committee to the Petitioner/Institution to verify whether the defects pointed out by the University has been complied with by the Petitioner/Institution or not.

(ii)The deputation of committee should be done, within a period of one week from the date of receipt of a copy of this order.

(iii)The Inspection committee shall be required to submit a report within a period of two days thereof.

(iv)Copy of the report should be furnished to the Petitioner/Institution.

(v)It is open to the Petitioner/Institution to raise any objection or further representation to the University, within a period of three days from the date of receipt of a copy of the report of the Inspection Committee.

(vi)The 3rd respondent/University shall then consider the representation of the petitioner along with report of the inspection committee and other materials and pass an order on or before 30.08.2018.

Further, it has been stated in that order that the above order is with regard to B.E., (Marine Engineering) course only, this Court is not actually considering any other issue, regarding any other discipline or course.''

Aggrieved over the same, the present Writ Appeal has been filed by the Anna University.

4. Learned Additional Advocate General appearing for the appellants submitted that the impugned order dated 15.5.2018 has been passed after considering the compliance report of the 1st

respondent by the Scrutinizing Committee on 28.4.2018 and on the basis of the observation of the Scrutinizing Committee. The learned Additional Advocate General further submitted that though a direction was issued by the Single Judge to depute an Inspection Team to the 1st respondent Institution to verify whether the defects pointed out by the University has been complied with by the said Institution or not, within a period of one week from the date of receipt of a copy of that order, by his order dated 16.8.2018, they obtained the Certified Copy of the order only on 24.8.2018 and that apart, to verify the availability of infrastructural and institutional facilities, inspection can be done only once in every year. The learned Additional Advocate General also submitted that when any college fails to rectify the deficiencies and submit evidences to the University, the intake values of the courses are reduced by the University for maintaining standards. Accordingly, the impugned order came to be passed against the writ petitioner institution.

5. Learned Counsel appearing for the 1st respondent submitted that without verifying the Compliance Report for the deficiencies pointed out during inspection, the impugned order has been passed only on the basis of the inspection report. Further, before passing the impugned order, no opportunity was given to the 1st respondent to put forth their contention, which is against the principles of natural justice. Therefore, the learned Single Judge has rightly allowed the writ petition by setting aside the impugned order of the 3rd respondent.

6. Heard the learned Special Government Pleader (Education) appearing for the respondents 2 and 3.

7. Considered the rival submissions made on either side and we have also perused the materials available on record carefully.

8. While considering the facts and circumstances of the matter, it is obvious that there was no subsequent inspection by the Inspection Committee of the appellants, after the representation of the 1st respondent, regarding the compliance of the deficiencies pointed out during inspection. But the impugned order came to be passed which, according to the 1st respondent, is against the principles of natural justice. That apart, having received the Compliance Report from the 1st respondent Institution, the appellants ought to have given an opportunity to the 1st respondent Institution, to substantiate their contention. Therefore, when it is the clear case of the 1st respondent that as per the representation sent by them, regarding compliance of deficiencies stating that all deficiencies pointed out during inspection have been completely corrected in all respects, without verifying the same, the appellants cannot issue the impugned order, on the basis of the said inspection report, which they had obtained earlier.

Therefore, it appears that the learned Single Judge in order to save the interest of the institution and the welfare of the students has rightly set aside the impugned order and issued certain directions. Further, it is obvious that the appellants have failed to conduct an inspection as directed by the learned Single Judge within one week from the date of receipt of a copy of that order i.e. on or before 31.08.2018 stating that the order copy was made available only on 24.08.2018 as a lame excuse. It shows that the appellants have slept over the matter for a while and thereafter, in order to escape from the clutches of contempt proceedings, approached this Court by way of filing the present appeal. Therefore, we are of the view that the appeal is liable to be dismissed on devoid of merits.

9. In the result, the Writ Appeal fails and the same is accordingly dismissed with a direction to the appellants to do the needful to the 1st respondent in accordance with law. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Secretariat, Fort St. George,
Chennai-9.
2. The Commissioner,
Directorate of Technical Education,
53, Sardar Patel Road, Guindy,
Chennai-600 025.
3. The Registrar,
Anna University,
Guindy, Chennai-25.

4. The Secretary,
Tamil Nadu Engineering Admission (TNEA),
Anna University Campus,
Guindy, Chennai-25.

+1cc to Mr.G.Sankaran, Advocate sr.no.63327
+1cc to Mr.M.Vijayakumar, Advocate sr.no.63319
+1cc to Government Pleader in sr.no.63818

W.A.No.1930/2018

nr 11/10/2018



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