

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.05.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12096 of 2018 and WMP.No.14100 of 2018

Good Shepherd Educational Trust,
Rep. by its Managing Trustee,
Mr.G.D.Mitra
No.28/81-3, North Street,
Marthandam - 629 165
Kanniyakumari District

.. Petitioner

vs

1. The Vice Chancellor,
Anna University,
Sardar Patel Road,
Chennai 600 025.
2. The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025
3. The Director,
Centre for Affiliation of Institution,
Anna University, Sardar Patel Road,
Chennai 600 025

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned letter sent by the second respondent in Lr.No.218/CAI/AU/2018 dated 02.05.2018 and to quash the same and consequently, direct the respondents to grant affiliation to the Good Shepherd College of Engineering and Technology running under the petitioner's educational trust and to list the college namely Good Shepherd College of Engineering and Technology in the Counselling list of colleges for engineering admissions for the academic year 2018 - 2019.

For Petitioner	:	Mr.V.Raghavachari For Mr.S.Joel
For Respondents	:	Mr.M.Vijayakumar

O R D E R

The relief sought for in this writ petition is to call for the records in relation to the order of rejection passed by the 2nd respondent dated 02.05.2018 and to quash the same and consequently, direct the respondents to grant affiliation to the Good Shepherd College of Engineering and Technology running under the petitioner's educational trust and to list the college namely Good Shepherd College of Engineering and Technology in the Counseling list of colleges for engineering admissions for the academic year 2018 - 2019.

2. The learned Senior Advocate appearing on behalf of the writ petitioner strenuously contended that the order of rejection was issued on the ground that there is a delay in submitting the application for affiliation for the academic year 2018-2019. The application was returned along with the demand draft on the ground that the last date fixed by the Anna University for submission of the application was 31.03.2018 and whereas the application submitted by the writ petitioner was on 29.04.2018. Thus, the very application itself was returned to the petitioner by the University.

3. The learned Senior Advocate contended that the Anna University is not competent to grant approval for the Institution. The University is empowered to grant only affiliation. The learned Senior Advocate is of an opinion that only after grant of approval by the All India Council for Technical Education, an affiliation is to be granted by Anna University in respect of Educational Institutions. However, in the present case the application submitted is for affiliation for the academic year 2018-2019. Thus, the respondent / University, has to deal with the application in accordance with the procedures published in the format of application for affiliation of new colleges for the academic year 2018-2019. On the face of the brochures published by the University in bold letters, it has been stated that "Last Date for submitting application for Affiliation is 31.03.2018". As far as the present impugned order is concerned, it is an order of rejection passed by the respondent/Anna University in respect of the application submitted by the writ petitioner seeking affiliation for the academic year 2018-2019. Therefore, the said rejection order is to be dealt based on the terms and conditions stipulated in the brochures issued by the respondent/University.

4. The learned counsel appearing for the respondent/ University would submit that instructions were issued along with the brochure for the purpose of grant of affiliation to the new colleges for the academic year 2018-2019. The said instructions are extracted herein :-

"The principles of new colleges are requested to make ready of Two Hard Copy original applications, duly signed by all the eligible faculty members, Principal and Chairman of the College in the appropriate locations indicated in the Format. The copies of the documents and certificates of Sl.no.24, attested by the Chairman of the college should be submitted to the University in form of a soft bound book with appropriate titles and an index in the front. The documents are also to be scanned and submitted to the university in PDF Format in CDs indicating college, Name, etc in the CD and the CD Cover. One Hard Copy and One soft copy of applications are to be submitted to the Head Quarters of Anna University.

One Hard copy original application should be preserved and maintained by the respective colleges. It should be made available whenever demanded by the University. Completed Application along with Processing Fee is to be submitted to the Director Centre for Affiliation of Institutions, Chennai - 600 025 along with proof of submitting application to AICTE or COA for approval on or before 31st March 2018. Under any circumstances, affiliation cannot be granted to a College without the fulfillment of academic and statutory requirement and beyond the closing date of admission.

Affiliation inspection by Anna University will be conducted anytime between 15th April to 10th May 2018."

The Instructions states that completed application along with processing fees is to be submitted to the Director, Center for Affiliation of Institutions, Chennai 600 025 along with proof of submitting application to AICTE or COA for approval on or before 31st March 2018. Under any circumstances, affiliation cannot be granted to a College without the fulfillment of academic and statutory requirement and beyond the closing date of admission.

5. The learned Senior Advocate appearing on behalf of the petitioner contended that this instructions are applicable only in respect of affiliation to be granted by the respondent / University. However, the approval is to be granted by All India Council for Technical Education and therefore, the date fixed as 31.03.2018 is inapplicable and further, no such last date was fixed by All India Council for Technical Education for submitting the application. The learned counsel appearing on behalf of the writ petitioner states that All India Council for Technical Education Approval Process Hand Book for the academic year 2018-2019 states that 15th May of the Calendar year is the

last date to be followed for the purpose of receiving an application.

6. The learned counsel appearing for the respondent/University states that the present application submitted by the writ petitioner is for affiliation and the same was dealt in accordance with the procedure set out in the format of application for affiliation of new colleges in the academic year 2018-2019. Further, it is contended that the last date for submitting the application is fixed as 31.03.2018 and the petitioner has submitted the application only on 29.04.2018. Thus, the same was returned back to the writ petitioner. There is no infirmity as such in respect of passing of the impugned order in view of the fact that by following the instructions published, the order of rejection was issued.

7. The learned counsel appearing for respondent / university further stated that the Hon'ble Supreme Court in the case of Parshavanath Charitable Trust & Others Versus All India Council for Technical Education and others reported in CDJ 2012 SC 892 settled the legal principles in respect of the strict adherence to the time schedule for grant of approval as well as for admissions without exceptions. The Hon'ble Supreme Court of India emphasis that the time schedule fixed for grant of approval is to be scrupulously followed by authorities competent, there cannot be any violation in respect of the time schedule fixed, since the same will affect the academic sessions. In this regard the following paragraphs are extracted as follows :-

"38. It is the requirement of law that there should be strict adherence to the time schedule for grant of approval as well as for admissions without exception. In exercise of the powers vested in the AICTE, under sub- section (1) of Section 23 of the AICTE Act, it had made regulations namely the All India Council for Technical Education (Grant of Approvals for Staffing New Technical Institution, Introduction of Course and Programmes and Approval of Intake Capacity) Regulations, 1994. Schedule to these regulations reads as under:-

(1)	(2)	Completed
		(3)

1.	For receiving proposals by Bureau Rc	31 st
	December	

2.	For the Bureau RC to screen the application	
	and (a) to return the incomplete applications	

- to applicants, and (b) to forward the applications to (i) State Government concerned (ii) University or State Board concerned for their comments (iii) Regional Officer to arrange visits by Export Committees and (iv) Bureaus MPCD, BOS and RA for their comments.
3. For receiving the comments is from (i) the State Government (ii) the University or State Board and (iii) the Regional committee based on the Expert committee's Report and (iv) from the Bureaus MPCD, BOS and RA
4. For consideration of the comments from the State Governments, Universities or State Board, Regional Committees and Bureaus of the Council by the State Level Committee 31st March
5. For recommendations to be made by the Central Task Force 15th April 6. For communicating the final decision to the State Government or the University Grant Commission, under intimation to the Regional Office, Director of Technical Education, applicant, University or State Board.
39. This Schedule has statutory backing. Thus, its adherence is mandatory and not directory.
40. Non-adherence of this Schedule can result in serious consequences and can jeopardize not only the interest of the college students but also the maintenance of proper standards of technical education. The authorities concerned, particularly the AICTE, should ensure proper and timely action upon the applications submitted to it. It must respond to the applicant within a reasonable time period and should not let the matter drag till the final date giving rise to avoidable speculations by all stakeholders. Thus, it would be appropriate for these authorities to bring to the knowledge of the parties concerned, the deficiencies, if any, and the defects pointed out by the Expert Committee during the inspection within three weeks from the date of such inspection or pointing out of defects, as the case may be. For better administration, the AICTE should also state the time within which such deficiencies/defects should be removed by the applicant. This will help in building of a coherent and disciplined method of working to ensure the proper implementation of the entire formulated scheme of technical education. The AICTE will not have any jurisdiction or authority to issue

approval for commencement of a new course or for additional intake of students beyond 30th April of the year immediately preceding the commencement of an academic year.

41. Apparently, there seems to be some variations in the Schedule issued under Regulation 8(15), as aforementioned, and the dates reflected in the Handbook. Another Schedule has been printed as per the website of the AICTE according to which the letter of approval for starting new technical institutions could be issued by 10th October, if application was submitted between January to June of the relevant year and 10th April, if the application was submitted between July to December of that year. Rejection of approval is an order which is appealable to the Appellate Committee of the AICTE. If the applicant wishes to file an appeal against the order, he is expected to file the appeal and, in any case, after directions of the Appellate Committee are complied with, the order of approval after the reconsideration/appeal has to be issued by 15th November in the first case and 15th May in the other. If one reads these two schedules collectively, it is clear that the letter of approval should be issued by 15th April or by 30th April at the maximum. It is only the Appellate Committee's order which can be issued by 15th May. If such order grants recognition, then it must specify the academic year for which it is being granted. If it falls foul of the admission schedule, then it ought not to be granted for the current academic year. It has been brought to our notice that the last date for admission to the courses and the date on which the courses should begin is 30th August of the academic year. In that event, admissions to such courses, if permitted by the appellate authority, could be made strictly in accordance with the academic Schedule and without violating the same in any manner whatsoever. This brings us to the admission schedule which again should be strictly obeyed by all concerned.

42. We must notice that admission schedule should be declared once and for all rather than making it a yearly declaration. Consistency and smoothness in admission process would demand and require that there is a fixed and unaltered time schedule provided for admission to the colleges so that the students know with certainty and well in advance the admission schedule that is to be followed and on the basis of which they are to have their choice of college or course exercised. The Schedule for admission for the coming academic year, i.e., 2013-2014 has been

submitted to the Court after the matter was reserved for judgment. The said Schedule reads as under :

Event	Schedule
Conduct of Entrance Examination(AIEEE/ State CET/Mgt. Quota exams etc.)	In the month of may
Declaration of Result of Qualifying Examination (12 th Exam or Similar) and Entrance Examination	On or before 5 th june
1 st round of Counseling/admission for allotment of seats	To be completed on or before 10 th July
2 nd round Counseling for allotment of Seats	
Last round of Counseling for allotment of seats	To be completed on or before 20 th July
Last date for admitting Candidates in seats other than allotted above	30 th July
	However, any number of rounds for counseling could be conducted depending on local requirements, but all the rounds shall be completed before 30 th July
Commencement of academic session	1 st August
Last date upto which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota)	
Last date of granting or refusing approval by AICTE	30 th April
Last date of granting or refusing approval by University/State Government	31 st May

43. The above Schedule though was finalized by the Committee on 29th January, 2012 but the same appears to have been notified only on 30th September, 2012. The reasons for the same are again unknown. We are unable to appreciate that once the academic session begins on 1st August, then as to why should admission be granted upto 30th August of the year, particularly when, as per the terms of the Schedule, beyond or after 30th April, AICTE will not issue any approval for commencement of new course for additional intakes. The Schedule, thus, introduces an element of arbitrariness and may cause prejudice to the students

who might miss their classes for a period of one month without any justification. Thus, it is required that the above-stated Schedule be modified to bring it in line with the Schedule for approval as well as to prevent inequalities, arbitrariness and prejudice from affecting the students in relation to their academic courses. The order granting or refusing approval, thus, should positively be passed by 10th April of the relevant year. The appeal should be filed within one week and the Appellate Committee should hear the appeal and decide the same by 30th April of the relevant year. The University should grant/decline approval/affiliation by 15th May of the relevant year. Advertisement should be issued and entrance examination conducted positively by the end of the month of May. The appropriate Schedule, thus, would be as follows :

Event	Schedule
Conduct of Entrance Examination (AIEEE/State CET/Mgt.Quota exams etc.)	In the month of May
Declaration of Result of Qualifying Examinations (12 th exam or similar) and Entrance examination	On or before 5 th June
1 st round of counseling/admission for allotment of seats	To be completed on or before 30 th June
2 nd round counseling for allotment of seats	To be completed on or before 10 th July
Last round of counseling for allotment of seats	To be completed on or before 2 nd July
Last date for admitting	30 th July.
Candidates in seats allotted above	However, any number of rounds for counseling could be conducted depending on local requirements, but all the rounds shall be completed before 30 th July
Commencement of academic session	
Last date upto which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota)	

Last date of granting or refusing
approval by AICTE 10th April
Last date of granting or refusing
approval by University/State Govt. 15th May

44. The admission to academic courses should start, as proposed, by 1st August of the relevant year. The seats remaining vacant should again be duly notified and advertised. All seats should be filled positively by 15th August after which there shall be no admission, whatever be the reason or ground.

45. We find that the above Schedule is in conformity with the affiliation/recognition schedule afore-noticed. They both can co-exist. Thus, we approve these admission dates and declare it to be the law which shall be strictly adhered to by all concerned and none of the authorities shall have the power or jurisdiction to vary these dates of admission. Certainty in this field is bound to serve the ends of fair, transparent and judicious method of grant of admission and commencement of the technical courses. Any variation is bound to adversely affect the maintenance of higher standards of education and systemic and proper completion of courses."

8. Even the All India Council for Technical Education approval process Handbook for the academic year 2018-2019 stipulates the following conditions :-

19.1 Counseling /admission

- Last date to grant approval to Technical Institution shall be 30th April of each calendar year notwithstanding anything contained in any Rules, Regulations, Norms and Standards, Policies, Instructions, Orders, Notifications, Guidelines and the Approval Process Hand Book 2018-19 issued or notified by the AICTE, the AICTE shall not grant approval to Technical Institution after 30th April of the Calendar Year in which the academic session is to commence as any approval beyond 30th April shall adversely affect the total teaching duration to which a student is entitled to and shall also adversely affect the academic activities which shall be prejudicial to the academic interest of student.
- The respective DTE/ State Government / UT/Affiliating University / Board shall download the list of approved institutions along with "Approved Intake" from Web-portal through their login. No separate communication

shall be sent in this regard. The Affiliating body such as University / Board shall not grant affiliation to a Technical Institution approved by AICTE after 15th May of the Calendar Year in which the academic session is to commence.

- The Competent Authority for admission shall ensure that the First round of Counseling / admission for allotment of seats is duly completed on or before 30th June of the Calendar Year in which the academic session is to commence.
- Provided that the Second round of Counseling / admission for allotment of seats shall be completed on or before 10th July of the calendar year in which the academic session is to commence.
- Further that the last round of Counseling / admission for allotment of seats shall be completed on or before 20th July of the Calendar year in which the academic session is to commence.
- Notwithstanding anything contained in these Regulations, all Technical Institutions conducting Post Graduate Diploma Courses shall not initiate admission process before 1st April of the Academic Year.

19.2 The academic session and the teaching process shall commence on 1st August of the year (except for PGDM)

for First year of the programme :

Semester / Event	Odd Semester	Even Semester
Commencement of Classes	1 st August	1 st January
End of Classes	30 th November	30 th April

Second year and on words of the programme :

Semester / Event	Odd Semester	Even Semester
Commencement of Classes	15 th July	15 th December
End of Classes	15 th November	15 th April

The total number of teaching days, practical and contact hours shall not include the number

of days utilized for the admission / counseling process, process of examination nad examination itself and declaration of results.

9. The academic calendar, more specifically counseling / admissions and last date to grant approval to technical institutions is fixed as 30.04.2018 of each calendar year. When the writ petitioner had submitted his application seeking affiliation only on 29.04.2018, it may not be possible for the university to process the entire application and scrutinize the same within the time limit as fixed by All India Council for Technical Education and pass orders. The very purpose of fixing the time schedule is to commence the academic session as per the time schedule fixed by the All India Council for Technical Education. In the event of considering such belated applications, the University in granting affiliation and commencing the academic sessions will be affected. Thus, adherence of the time schedule as fixed by the University as well as by the All India Council for Technical Education is mandatory and the Hon'ble Supreme Court also emphasises that the time schedule fixed is to be followed scrupulously without any violation. In the present case on hand application seeking for affiliation was filed on 29.04.2018 and the instructions issued by the AICTE states that the last date for grant of approval to Technical Education shall be 30.04.2018 of each calendar year. Whether the said application for approval or affiliation, the process are to be completed by scrutinizing the documents filed by the petitioner. Thus, competent authorities require some reasonable time to process the application and in the event of receiving the application belatedly, it may not be possible to process the same in accordance with the procedures.

10. In view of the fact that the petitioner had submitted the application more specifically after a lapse of one month from the last date prescribed by the university in its brochure, no leniency can be shown in respect of the adherence of the time schedule fixed both by the University or by the All India Council for Technical Education. It is left open to the writ petitioner to submit further application during the next academic year within the time limit fixed.

Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(Comp)

//True Copy//

Sub Assistant Registrar

rka/ sk

To

1. The Vice Chancellor,
Anna University,
Sardar Patel Road,
Chennai 600 025.

2. The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025

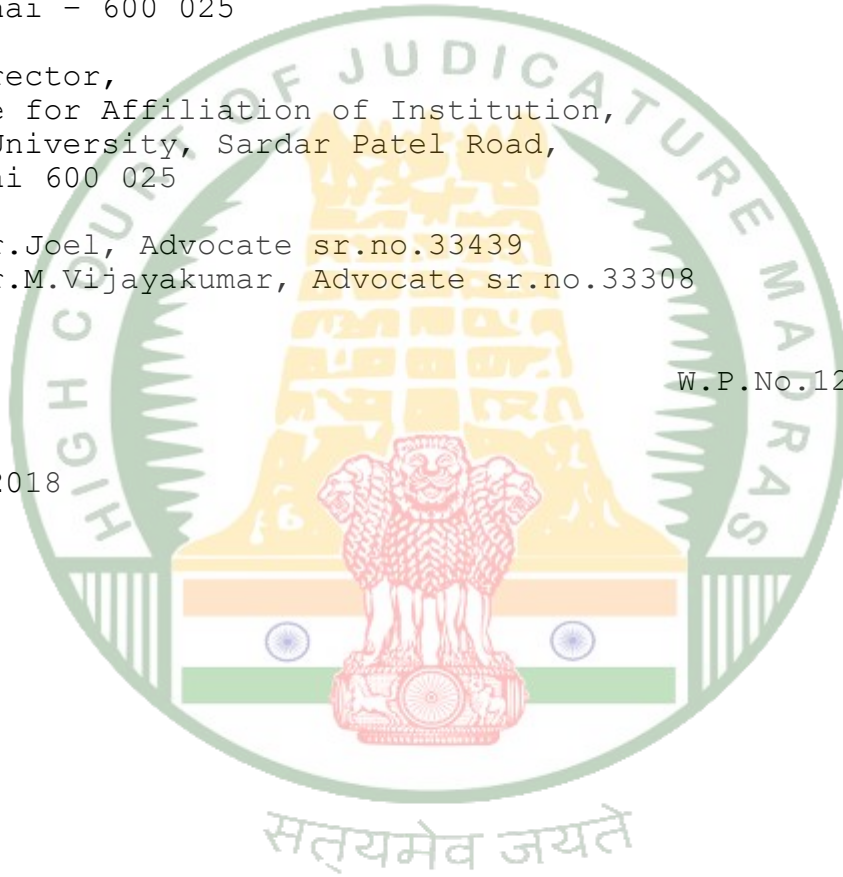
3. The Director,
Centre for Affiliation of Institution,
Anna University, Sardar Patel Road,
Chennai 600 025

+1cc to Mr.Joel, Advocate sr.no.33439

+1cc to Mr.M.Vijayakumar, Advocate sr.no.33308

W.P.No.12096 of 2018

rk(co)
nr 14/05/2018



WEB COPY