

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.S.SUNDAR

Writ Petition No.22394 of 2018
& W.M.P.No.26238 of 2018

M.Kumarasamy Health and Educational Trust
Administering M.Kumarasamy College of Engineering
Thalavapalayam Post, Karur-639 113
Rep.by its Secretary,
Dr.K.Ramakrishnan ... Petitioner

Vs.

1. The Registrar,
Anna University
Sardar Patel Road
Chennai-600 025.
2. The Director
Centre for Affiliation of Institutions
Anna University,
Sardar Patel Road,
Chennai-600 025.
3. The Member Secretary,
All India Council for Technical Education (AICTE)
Nelson Mandela Marg,
Vasanth Kunj
New Delhi-110 067. ... Respondents

Prayer: This Writ Petition is 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 order in Lr.No.333/CAI-17/AU/2017 dated 13.12.2017 passed by the 2nd respondent quash the same and direct the 2nd respondent University to grant permanent affiliation for the courses B.E. (CSE), B.E. (MECH) and B.E.(ECE) conducted by the petitioner college.

For Petitioner : Mr.V.Selva Raj
for Mr.D.Prabhu Mukunth Arunkumar
For R1 & R2 : Mr.M.Vijayakumar

O R D E R

This writ petition is filed for issuance of Certiorarified Mandamus to quash the impugned order in Lr.No.333/CAI-17/AU/2017 dated 13.12.2017 passed by the 2nd respondent and to direct the 2nd respondent university to grant permanent affiliation for the courses conducted by the petitioner college with the approval of AICTE.

2. By the impugned order, the 2nd respondent has passed an order on the application submitted by the petitioner for the grant of permanent affiliation. The 2nd respondent had rejected the application for the grant of permanent affiliation for the academic year 2017-2018 only on the ground that the order of affiliation for the earlier academic year 2010-2011 was not submitted.

3. The brief facts that are necessary for understanding the background of the case, which resulted in the filing of the present Writ Petition are as follows:

3.1. The petitioner trust was created as a public charitable trust on 19.08.1989. In the year 1999, the 3rd respondent granted approval to the petitioner institution to conduct B.E Courses. The petitioner was originally affiliated to Bharathidasan University and consequent to the amendment to the Anna University Act, the petitioner is provisionally affiliated to the first respondent from the academic year 2001-2002. It is also of fact that the 1st respondent University granted continuation of provisional affiliation to the petitioner in respect of five B.E Engineering Courses for the academic year 2002-2003 by letter dated 30.06.2003. The 1st respondent granted provisional affiliation to the petitioner College every year.

4. It is noted that for the academic year 2010-2011 though, the petitioner has applied for approval, the application was pending before the 3rd respondent. By communication dated 23.06.2011, the 3rd respondent informed the petitioner that the process of extension of approval for the petitioner Engineering college is in progress for the academic year 2010-2011 and that necessary extension of approval would be issued to the institution very shortly. Again by another communication dated

19.10.2011, the 3rd respondent informed the Principal Secretary of Commissioner of Technical Education stating that the extension of approval for the five colleges including the petitioner college is under process and that the same will be released shortly. It is a matter of fact and record that the students who got admission into the petitioner's college for the academic year 2010-2011 have completed their Courses. It is also admitted that they were permitted to write the examination and got their course certificates after completing the course without any difficulty.

5. However the 3rd respondent granted extension of approval for the academic year 2011-2012. Similarly extension of approval for the academic year 2012-2013 and for subsequent academic year were granted. The petitioner applied for permanent affiliation for three courses before respondents 1 and 2. The first respondent University forwarded the application for renewal of autonomous Status of the College to the UGC. This was rejected by the 2nd respondent by order dated 10.02.2016 on the ground that no affiliation order is obtained for the academic year 2010-2011. Since an order of permanent affiliation was necessary for renewal of autonomous status from 2017-18, it is stated that the petitioner made a representation dated 20.03.2017 to the 3rd respondent to issue a copy of extension of approval for the academic year 2010-2011 as the Status of petitioner's institution was indicated when affiliation was extended for 2011-2012.

6. It is stated by the petitioner that permanent affiliation for few courses was sought for by the petitioner and that the 2nd respondent vide order dated 13.12.2017 informed the status for grant of permanent affiliation to courses that the College did not qualify as per the criteria for the grant of permanent affiliation in the academic year 2017-2018 as affiliation order for the academic year 2010-2011 was not submitted.

7. Challenging the order of 2nd respondent dated 13.12.2017, the above writ petition is filed raising the following grounds.

a). The impugned order of second respondent is contrary to the stand of 2nd respondent by allowing the petitioner to admit students through the Single Window System for the academic year 2010-2011 and permitting the batch students to complete their degrees and by awarding their degree certificates.

b). The respondents are estopped from raising an issue

of affiliation after several years ignoring the affiliation granted for the subsequent period.

c). The respondents ought to have seen that continuous affiliation should be deemed to exist in view of the position that affiliation was extended for 2011-2012 by the institution as an institution which has provisional affiliation.

d). The impugned order passed by 2nd respondent without giving any opportunity is violative of principles by natural justice.

8. In the counter affidavit filed by respondents 1 & 2, it is stated that the application for permanent affiliation submitted by the petitioner college was not considered only because the college did not submit the affiliation order for the academic year 2010-2011.

9. It is seen from the communications referred to and relied upon by the petitioner and the respondents, that there is no approval for the academic year 2010-2011 given by the AICTE but at the same time, the application for approval was just pending before the 2nd respondent and no reasons was stated why and how this application was pending for a long time. Even before this Court, there is no explanation why the application was not disposed of at the relevant point of time. No reason is stated or any other legal impediment is disclosed as to why the petitioner is not entitled to the approval from the 2rd respondent for the academic year 2010-2011. In such circumstances, this Court is of the considered view, that this writ petition is only to regularize certain things, which cannot be rectified by other means after this length of time.

10. Considering the fact that the students who got admission in the petitioner's institution were permitted to complete the courses and get their course certificates it is not open to the University to refuse the application for permanent affiliation on the ground of want of approval from AICTE for the single academic year 2010-2011 after giving course certificate to the students who completed their education after getting admission in the academic year 2010-2011.

11. The main submission of the learned counsel for the respondents 1 and 2 is that the institution can be given permanent affiliation only if the institution satisfies the following criteria:-

Category	Criteria(2017-18)
Existing Courses	i. Deficiency in Faculty Overall < 10%, Library < 10%, Laboratory < 10% and Class rooms < 10% in the inspection reports of 2017-18 ii. Colleges should have sent out a minimum of six consecutive batches in the academic programmes/courses concerned. iii. Colleges should have admitted students (lateral entry could also be considered) with a strength > 25% of the sanctioned intake in the academic programmes/courses concerned during the academic year 2015-16 and the academic year 2016-17. iv. The sanctioned intake of the courses should not have been reduced by AICTE/COA as a form of penalty during the last four academic year (2014-15 to 2017-18) v. In the case of M.E/M.Tech. programmes, permanent affiliation shall be granted only when the relevant UG programmes either possesses the status of permanent affiliation or qualifies for the grant of permanent affiliation vi. University shall review the programme with permanent affiliation after a period of three years for the continuation of permanent affiliation. However, the University reserves the right to review the programme with permanent affiliation at any point of time when the University considers it necessary and withdraw the permanent affiliation if the facilities are found to be inadequate.

12. It was pointed out by the learned counsel for the respondents 1 and 2 that the college should have sent out minimum of six consecutive batches in the academic programme/courses concerned. It is further submitted by the learned counsel for the respondents that for want of approval from AICTE the requirement of sending out six consecutive batches has not been complied with by the petitioner institution. The submission of learned counsel appearing for the respondents 1 and 2 is contrary to admitted facts and opposed to equitably principles. This Court has already recorded the fact that the University has permitted the students admitted in the academic year 2010-2011 to write examination and complete the courses. When the students who got admission into

the courses for the academic year 2010-2011 were permitted to write examination and completed their Courses, this Court is unable to see any rhyme or reason for refusing affiliation for the year 2010-11. Since, the factual position is not in dispute, this Court is unable to countenance the arguments of the learned counsel appearing for the respondents 1 and 2.

13. In view of the position recorded and applying equitably principles, the Writ Petition is allowed. The impugned order is set aside. The 2nd respondent is directed to grant permanent affiliation for B.E. (Computer Science Engineering), B.E. (Mechanical Engineering) and B.E (Electronic and Communication Engineering), conducted by the petitioner college within a period of four weeks from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

bsm

To

1. The Registrar,
Anna University
Sardar Patel Road, Chennai-600 025.
2. The Director
Centre for Affiliation of Institutions
Anna University,
Sardar Patel Road, Chennai-600 025.
3. The Member Secretary,
All India Council for Technical Education (AICTE)
Nelson Mandela Marg,
Vasanth Kunj, New Delhi-110 067.

+1cc to Mr.B.Rabu Manohar, Advocate SR.No.69050

+1cc to Mr.M.Viojayakumar, Advocate SR.No.69607

+1cc to Mr.D.Prabhumukunth Arunkumar, Advocate SR.No.69017

W.P.No.22394 of 2018

GMV (23/10/2018)