

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

WRIT PETITION No.13104 OF 2018

Aalim Muhammed Salegh
Academy of Architecture,
represented by its Secretary & Correspondent,
"Nizara Educational Campus",
Muthapudupet Avadi IAF,
Chennai 600 055.

...Petitioner

Vs.

1. Anna University,
rep. By its Registrar,
Chennai 600 025.
2. The Director,
Centre for Affiliation for Institutions,
Anna University, Chennai 600 025.
3. The Directorate of Technical Education,
53, Sardar Patel Road,
Guindy, Chennai 600 025.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records on the file of the 1st Respondent in (i) Lr.No.226/CAI/AU/CR Scrutiny Failed/2018-20, dated 11.05.2018 and (ii) Lr.No.251/CAI/AU/CR_ScrutinyFailed/2018-16, dated 29.05.2018 and quash the proceedings No. (i) to the limited extent of reduction of sanctioned intake from 80 to 40, to the Petitioner Institute for the academic year 2018-19 and Proceedings No. (ii) in its entirety and direct the Respondents herein to acknowledge the grant of continued provisional Affiliation to the petitioner for B.Arch Course with the continued sanctioned intake of 80, for the Academic year 2018-19, within a limited time frame well prior to the last date for admission to the said Course.

(Prayer amended as per order dated 05.06.2018 by this Court in W.M.P.No.15767 of 2018 in W.P.No.13104 of 2018)

For Petitioner : Mr.M.Ravi
For Respondents 1 & 2 : Mrs.Narmadha Sampath,
Additional Advocate General
assisted by
Mr.L.P.Shanmugasundaram

For 3rd Respondent : Mr.A.Rajaperumal,
Addl. Government Pleader

O R D E R

Petitioner has come up with the present Writ Petition seeking to quash the Proceedings of the 1st Respondent in Lr.No.226/CAI/AU/CR Scrutiny Failed/2018-20, dated 11.05.2018 to the limited extent of reduction of sanctioned intake from 80 to 40 to the Petitioner Institute for the academic year 2018-19 and to quash the Proceedings No.251/CAI/AU/CR ScrutinyFailed/2018-16, dated 29.05.2018 passed by the 2nd Respondent, in its entirety and for a direction to the Respondents herein to acknowledge the grant of continued provisional Affiliation to their Academy for B.Arch. Course with the continued sanctioned intake of 80, for the Academic year 2018-19, within a limited time frame well prior to the last date for admission to the said Course.

2. According to the Petitioner, their Institution is approved by the Council of Architecture, vide Letter No.CA/5/Academic, dated 01.03.2011 and by the Respondent/Anna University, vide their Letter No.166/AFFLN/AUTC/2011-12, dated 16.07.2011, initially sanctioning an intake of 40. The Respondent/Anna University, vide Lr.No.02/AFFLN/CAI/AU/2013-14/1102, dated 06.07.2013, while granting continuation of Provisional Affiliation for degree in Architecture course for the year 2013-14, enhanced the sanctioned intake for the said course to the Petitioner's Institution from 40 to 80.

3. It is further stated by the Petitioner that the Council of Architecture as well as Anna University, keeping in view of the perfect fulfilment of the conditions and absolute compliance of the norms and standards of AICTE as well as Anna University, have been consistently according affiliation as well as sanction for intake of 80 to the Petitioner Institution, consecutively from the year 2013-14 till passing of the impugned order. In pursuance of the instructions of the Respondent to upload information of the academic/administrative facilities available in their Institution in the format prescribed by the Respondent to facilitate the continuation of Affiliation for the year 2018-19, the Petitioner duly uploaded the relevant information pertaining to the Academy in the prescribed format.

4. On 21.02.2018, the Inspection Committee visited the Petitioner Institution to consider the continued grant of Provisional Affiliation for the academic year 2018-19 and to verify the fulfilment of the requirements as per the statutory affiliation and norms of Anna University and after completion of inspection, they had orally expressed a strong note of satisfaction. However, the Petitioner was shocked to receive a Show Cause Notice from the Respondent vide Lr.No.01/CAI/AU/Deficiency Report/2018-19/1102, dated 10.04.2018 informing them that the current status of the courses determined from the level of deficiencies reported by the Inspection Committee is 'SN' (Show Cause Notice). In the Annexure enclosed with the Show Cause Notice under the caption 'General Facilities' and under the sub head 'Deficiency in classroom', it was mentioned as 30% and under the head, 'Deficiency in faculty', the overall deficiency was mentioned as 33%.

5. Pursuant thereto, the Petitioner Institution duly submitted their compliance report dated 25.04.2018 to the 2nd Respondent along with the summary sheets and necessary enclosures, such as appointment orders, joining reports of the faculty and duly demonstrated that the basis for the Show Cause Notice status, i.e. High Faculty Deficiency, has been fully rectified. But, to their shock and dismay, the Petitioner Institution received the impugned order dated 11.05.2018 passed by the 1st Respondent, that the University has decided to reduce the intake to 25% or 50% of the applied strength for affiliation, sanctioned strength of AICTE/COA of Bachelor of Architecture Course with deficiency, if any, for the academic year 2018-19 and to grant 'No admission status' of affiliation of the said P.G. Course with deficiency, if any, for the academic year 2018-19. By means of the said impugned order, the decision of the Scrutiny Committee was conveyed as under:

S.No	Courses	Deficiency (Fac/Lib/Cl.Rm/ P. Eligibility)	Intake sought 2018-19	Sanctioned Intake 2018-19#
1	B.Arch. Architecture	Class Room Deficiency continue to exist	80	40

(# subject to the Approval of AICTE/COA for the Academic Year 2018-19)

6. The case of the Petitioner Institution is that the Scrutiny Committee has only expressed about insufficient documentary evidence not to accept the Compliance Report and the University has left it open that the reduction of intake will be done for UG Courses for the year 2018-19, only if there is any deficiency and likewise, the grant of 'No Admission Status' of affiliation of PG Courses for the academic year 2018-19 also is subject to deficiency, if any and even, if there is any

deficiency, the Respondent has left it open as to whether the reduction of intake of the applied strength/sanctioned strength of AICTE/COA will be 25% or 50%. According to the Petitioner, there is absolutely no deficiency insofar as Class Rooms/Drawing Halls are concerned and that if the factum pertaining to availability of the required class rooms, which is otherwise demonstrated by the set of photographs annexed in the typed set of papers, is also physically ascertained, there cannot be any further impediment for the continued sanction of intake of 80.

7. The grievance of the Petitioner Institution is that their continued attempts in requesting the Authorities concerned to physically examine the availability and the conditions of the Classrooms allotted for the above said course and to accord continued affiliation with the sanctioned intake of 80, has failed to evoke any positive response till date and hence, having no other efficacious alternative remedy, they have approached this Court by way of the present Writ Petition.

8. The 1st Respondent/Anna University has filed counter affidavit and the relevant portion of the same is extracted hereunder:

"8. I respectfully submit that compliance report dated 25.04.2018 submitted by the Petitioner Institution was scrutinized by the Scrutiny Committee and it was found there were insufficient documentary evidences and hence, the 1st Respondent passed the impugned order Lr.No.226/CAI/AU/CR_Scrutiny Failed/2018-20, dated 11.05.2018 reducing the intake for B.Arch. course for the year 2018-19 from 80 to 40.

9. I respectfully submit that though the Respondents have already informed the Petitioner that there would not be a 2nd opportunity to submit another compliance report and the same should reach the 2nd Respondent in full shape without any omission on or before 25.04.2018 and also this year there is only one opportunity available to submit compliance report after rectifying the existing deficiencies. Despite this, the Petitioner Institution vide letter dated 12.05.2018 requested the Respondents to reconsider its earlier decision in view of the fact that they have added 5 units of class rooms which now amounts to 19 units (i.e. 14 units - class room/Lecture room/studio and 05 units comprises Conference Hall and Drawing Hall). In this context, I submit that the

inspection team visited the College on 21.02.2018 and found that there were only 7 class rooms as against the required 10 units. Besides, the Drawing Halls are not classified as Class rooms and they come under the classification of 'Laboratory'. Similarly, the conference Hall also will not be classified as class room. Hence, there is deficiency in class rooms. Approved Building Plan indicating all the class rooms was sought for by the Respondents. But, the Petitioner failed to upload approved building plan with class rooms. Since there is no approved plan, the scrutiny committee came to the conclusion that the deficiency in class rooms continues to persist. In view of these deficiencies, the respondents as per the approved procedure, the number of seats approved for affiliation was reduced from 80 to 40 nos. Further, Hon'ble Supreme Court in a reported judgment, CDJ 2012 SC 892 in Civil Appeal Nos.9048 & 9047 of 2012, on 13.12.2012 (Parshavanath Charitable Trust & Others vs. AICTE and others) has prescribed the deadline for AICTE/University/Admission Authorities for grant of approval which is scheduled as 15th May of every succeeding year. Any revision or redemption of seats at this juncture would become a violation of Hon'ble Supreme Court order dated 13.12.2012. Hence, it is not appropriate for the Respondents to reconsider the sanctioned intake of the Petitioner Institution for the academic year 2018-19. In view of these reasons, the Respondents rejected the appeal of the Petitioner vide Letter No.251/CAI/AU/CR_ScrutinyFailed/2018-16, dated 29.05.2018, which is the 2nd impugned order of this Writ Petition.

10. I respectfully submit that in the meanwhile, the Council of Architecture (CoA), New Delhi, in their reference No.CA/5/Academic-TN37, dated 23.05.2018 addressed to the Petitioner Institution has accorded approval of extension for the year 2018-19 with an intake of 80 Nos. For B.Arch/ Degree Course, subject to appointment of adequate Faculty of Architecture as per council norms. They also pointed out for compliance of Building Plans needs to process for approval from the competent authority.

The CoA is the statutory body under the Architects Act, 1972. It regulates the standard of education of B.Arch. Degree course. Both, CoA and as well as the Respondent University are the regulatory authorities for the Petitioner Institution. Both approvals should go simultaneously. The CoA also pointed out the deficiencies of faculties and also sought for Building plan approved by the competent authority. Since, the Petitioner Institution is affiliated to the Respondent University, it is duty bound to rectify the deficiencies which still persists. The deadline for AICTE/University/Admissions Authorities for grant of approval already elapsed on 15.05.2018 and any revision or redemption of seats at this juncture would become a violation of Hon'ble Supreme Court order dated 13.12.2012."

9. It is represented by the learned counsel for the Petitioner that the Council of Architecture, vide Ref.CA/5/Academic-TN37, dated 23.05.2018, has accorded extension of approval to the Petitioner Institution for imparting 5 year Full time Bachelor of Architecture Degree Course from the academic session 2018-2019 onwards with an intake of 80 students.

10. Heard the learned counsel on either side and perused the material documents available on record.

11. It is seen that the reason given in the Show Cause Notice is 'high faculty deficiency', for which, the Petitioner Institution has submitted its compliance report on 25.04.2018, that the same has been rectified. However, by means of the impugned order dated 11.05.2018, the Scrutiny Committee has not accepted the compliance report of the Petitioner Institution due to insufficient documentary evidence. As the reason stated in the impugned order does not correlate with that of the Show Cause Notice, this Court feels it appropriate that the impugned order dated 11.05.2018 is liable to be interfered with.

12. Accordingly, the impugned order dated 11.05.2018 passed by the 1st Respondent is set aside, with a direction to the 1st Respondent/Anna University to issue fresh Show Cause Notice to the Petitioner Institution. While issuing fresh Show Cause Notice, in case, there are any deficiencies, the 1st Respondent/Anna University shall take into account the Extension of Approval accorded by the Council of Architecture, dated 23.05.2018 and decide the issue afresh on or before 27.07.2018,

after calling for requisite documents from the Petitioner Institution and verifying the same.

13. It is made clear that the issue as regards the reduction of sanctioned intake of 80 students to 40 and thereafter increasing the same to 80 vide Extension of Approval accorded by the Council of Architecture vide their letter dated 23.05.2018, is not dealt with in the present Writ Petition, as the authority concerned has to issue fresh Show Cause Notice.

The Writ Petition is allowed to the extent indicated above. No costs. Consequently, connected W.M.P.No.15405 of 2018 is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

(aeb)
To

1. The Registrar,
Anna University,
Chennai 600 025.
2. The Director,
Centre for Affiliation for Institutions,
Anna University,
Chennai 600 025.
3. The Directorate of Technical Education,
53, Sardar Patel Road,
Guindy, Chennai 600 025.

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.41988

+2cc to Mr.M.Ravi, Advocate, S.R.No.42399

+1cc to the Government Pleader, S.R.No.42332

W.P.No.13104 of 2018

RK(CO)
GSP(09/07/2018)