

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.13614 of 2018

and

W.M.P.Nos.16038 and 16039 of 2018

Adithya Institute of Technology,
Represented by its Chairman C.Sukumaran,
S.F.No.348/1, 349/1, Kurumbapalayam,
SS Kulam (PO),
Coimbatore-641 107. ... Petitioner

Vs.

1. The Registrar,
Anna University,
Guindy, Chennai-600 025.
2. The Director,
Centre for Affiliation of Institutions,
Anna University,
Guindy, Chennai-600 025.
3. The Secretary,
Single Window Admissions,
Anna University,
Guindy, Chennai-600 025.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorariafied Mandamus to call for the records of the respondents, relating to the order of the first respondent in Lr.No.225/CAI/AU/CR_ScrutinyFailed/2018-17, dated 11.05.2018 and quash the same insofar as it grants "No admission status" of affiliation of the Course of M.B.A. for the academic year 2018-19 and direct the respondents herein to grant extension of affiliation to courses run by the petitioner-College for the academic year 2018-19 as approved by AICTE to the petitioner institution by considering the compliance report of petitioner institution, dated 31.03.2018.

For Petitioner: Ms.R.Vaishali
For Respondents : Ms.Narmadha Sampath,
Additional Advocate General,
assisted by Mr.M.Vijayakumar

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Certiorariafied Mandamus to call for the records of the respondents, relating to the order of the first respondent in Lr.No.225/CAI/AU/CR_ScrutinyFailed/2018-17, dated 11.05.2018 and quash the same insofar as it grants "No admission status" of affiliation of the Course of M.B.A. for the academic year 2018-19 and direct the respondents herein to grant extension of affiliation to courses run by the petitioner-College for the academic year 2018-19 as approved by AICTE to the petitioner institution, by considering the compliance report of petitioner institution, dated 31.03.2018.

2. It is the case of the petitioner-institute that it was established in the year 2008 with a mission to provide quality education to students from all walks of life through a systematic learning process and practical exposure. The petitioner-institution made an application to the AICTE for extension of approval for the academic year 2018-2019. During the pendency of the approval application, there was surprise inspection of the petitioner-institution. The first respondent marked the courses M.B.A. and M.E. VLSI Design as "CR", as the petitioner-Colleges does not meet the minimum criteria prescribed by the University for provisional affiliation for the academic year 2018-2019. However, the affiliation can be considered only after receipt of satisfactory compliance report. The status of CR was marked against MBA course, in view of the faculty deficiency and against the course ME VLSI Design, it was laboratory deficiency.

3. The petitioner is said to have complied with the deficiencies immediately by appointing three faculty members for the course of MBA and order of appointment, dated 24.03.2018 was issued to those faculty members and the petitioner further purchased the requisite equipment for the laboratory for the compliance against the deficiency in M.E. VLSI Design course. The petitioner has duly uploaded the compliance report in web portal on 31.03.2018. On 02.04.2018, the compliance report was also sent by courier and the same was also informed to the first respondent and that the rectification of deficiencies had been done and further requested the first respondent to consider giving the provisional affiliation, as the petitioner has complied with the norms. In the meantime, on 04.04.2018, the AICTE granted extension of approval for the academic year 2018-2019, mentioning the approval of intake for 2018-2019 for the course of MBA. On 12.04.2018, the petitioner received telephonic instructions from the second respondent, asking them to re-send the Degree Certificates and the Mark Sheets of the three faculty members who joined the course of MBA due to the fact that the reports uploaded by the petitioner, were illegible, as they were photocopies. The petitioner further complied with the same by sending the Certificates and Mark Sheets by E-mail immediately.

By communication dated 11.05.2018, the first respondent informed the petitioner that the documentary evidence produced by the petitioner in compliance of the rectification of deficiencies, was insufficient and therefore, they were not accepted by the Committee.

4. It is further stated that the act of the first respondent is in gross violation of the principles of natural justice, arbitrary and without considering the facts of the case. The petitioner having complied with the rectification of deficiencies by appointing three faculty members to join MBA course and having sent the compliance report on 31.03.2018 and re-sent the same by courier on 02.04.2018, as requested by the respondents, the first respondent cannot contend that the petitioner has not submitted sufficient documents. The order granting "no admission status" for affiliation of the course of MBA is clearly in violation of law and abuse of powers without jurisdiction. It is admitted case that with regard to the other courses wherein CR was mentioned, the same had been complied with, but the respondents satisfied that the petitioner has complied with the requirements. As the action of the third respondent is illegal, the third respondent shall permit the students to be admitted in the college for the academic year 2018-2019, as the course was approved by the AICTE and that the respondents herein should grant the extension and affiliation to the courses run by the petitioner-College for the academic year 2018-2019 by considering the compliance report.

5. The respondents have filed counter affidavit without disputing the facts stated supra, except the fact that the compliance report was submitted on 31.03.2018 and that the compliance report was not having any Degree Certificates of the faculty members. The petitioner-College submitted only appointment order and joining report of the faculty members of MBA Department. The petitioner-College was also directed to provide the supporting documents including the self-attested copies of Degree Certificates of the appointed faculty members. The petitioner-College uploaded the certificates in web-portal, which were not clear and legible. The petitioner-College was requested telephonically to send all the certificates through E-mail immediately, but the petitioner-College did not send any relevant Certificates nor showed any interest towards the submission of the self-attested copies of the faculty to the respondent-University.

6. It is further stated in the counter that the Scrutiny Committee did not accept all the unclear documents of the three faculties submitted by the petitioner for MBA programme. However, the Scrutiny Committee has accepted the documents submitted for rectification of laboratory deficiency for ME VLSI design course. As the faculty deficiency continued to exist for the MBA programme in the petitioner-College, the sanctioned intake values of the students were reduced to 'zero' for the MBA course in accordance with the norms of Anna University and the College was informed through letter dated 11.05.2018.

7. It is the further stand of the respondents in the counter that the Apex Court has prescribed the deadline to the University to complete the affiliation process to the colleges by 15th May of the relevant year to grant or decline their affiliation. Accordingly, the grant of affiliation is completed for all the affiliated colleges of Anna University before the deadline prescribed by the Supreme Court. Any revision of redemption of seats at this juncture would become a violation of the Supreme Court order dated 13.12.2012 in Civil Appeal Nos.9047 and 9048 of 2012, reported in 2013 (3) SCC 385 (Parshavanath Charitable Trust and others Vs. AICTE and others), in which, the Apex Court has drawn deadline for the AICTE/University/admission authorities to work in tandem every year.

8. It is the further submission of the respondents in the counter that the Apex Court has given a schedule, and further, the Supreme Court has observed that no person or authority shall have the power or jurisdiction to vary the schedule prescribed therein. It is further submitted by the respondents that in another decision of the Supreme Court reported in 2014 (8) MLJ 626 (SC) = 2014 (16) SCC 330 (Varun Saini and others Vs. Guru Gobind Singh Indraprasath University), the Apex Court has cautioned the AICTE/appellate authority and the State University to strictly follow the fixed time schedule. Since the petitioner has not complied with the requirements, the petitioner is not entitled to the relief sought for in the Writ Petition.

9. Heard both sides and perused the materials available on record.

10. The facts mentioned supra are not in dispute. From the facts narrated supra, it is clear that the CR has been referred for the said two courses and that the petitioner has complied with regard to the deficiencies in the M.E. VLSI Design course. The only issue that arises for consideration is as to whether the petitioner has fulfilled with the requirements within the stipulated date with regard to the MBA programme. Admittedly, well within the cut off date, the documents have been forwarded to the authorities. Even though the scanned copy attached and sent through web-portal, is not clear, at the request of the respondents, the copies have also been sent by E-mail and also through courier. The factum that the courier and E-mail have been received, is not disputed by the respondents. Even though in this case, there is full compliance of the submission of records, unfortunately, the unclear copies that have been sent, is the only reason that appears to deprive the continuation of the MBA programme in the petitioner-College and the sanctioned strength intake of students was reduced to zero in MBA. As we are in the electronic age, there is possibility of error while scanning and sending the documents.

11. In this case, the factum of scanning and sending the documents before the cut-off date is not in dispute, and the only grievance is that the documents sent are not clear. That apart, the petitioner has submitted the documents required by the

respondents by courier and also by E-mail. As the receipt of E-mail and courier, is not disputed, the rejection of compliance report on the technical ground that the documents are not clear, cannot be the ground to deprive the College from continuing with the MBA course. As the petitioner has satisfied with the conditions and having forwarded the copies to the respondents, and in case the documents produced by the petitioner are not in accordance with the requirements of the University and that those documents are not suffice to fulfil the conditions, it is open for the respondents to reject the request.

12. Even though there is reference by the respondents in the counter that the observation of the Supreme Court that no person or authority shall have the power or jurisdiction to vary the schedule prescribed therein, from the observations of the Apex Court in the said case of Parshavanth Charitable Trust and others Vs. AICTE and others, reported in 2013 (3) SCC 385, it is clear that the clock has to be set back and when there is illegality, that has got to be set aside. The cut-off date fixed by the Supreme Court in that case, will be applicable if the act of the respondents is legally tenable.

13. Hence, I am of the view that the rejection by the respondents by the impugned order on the score that the petitioner has not submitted the required documents, cannot stand in the eye of law and that the documents sent through E-mail and courier, may be verified and if there are any deficiencies, it is open for the respondents to pass appropriate orders in accordance with law, preferably on or before 25.07.2018.

14. The Writ Petition is allowed and the impugned order is set aside and the matter is remanded back to the respondents for compliance of the observations made in paragraph 13 above. No costs. Consequently, W.M.Ps. are closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar, Anna University,
Guindy, Chennai-600 025.

2. The Director, Centre for Affiliation of Institutions,
Anna University,
Guindy, Chennai-600 025.

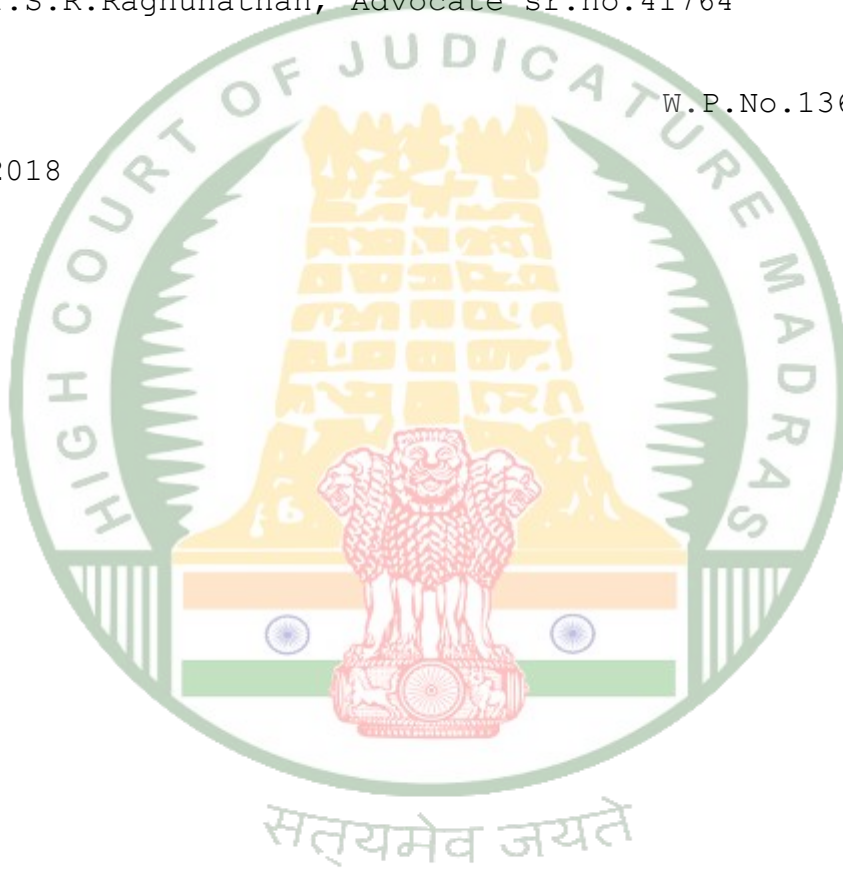
3. The Secretary,
Single Window Admissions,
Anna University,
Guindy, Chennai-600 025.

+lcc to Mr.M.Vijayakumar, Advocate sr.no.41505

+lcc to Mr.S.R.Raghunathan, Advocate sr.no.41764

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