

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.13710 of 2018

and

W.M.P.Nos.16170 and 16171 of 2018

Sri Venkateswara Institute of
Information Technology and
Management,

Rep. by its Chairman,
Commander K.Velu (Retd).,
SF 348/1, 3G Road, Ettimadai,
Palakkad Road,
Coimbatore-641 112.

.. Petitioner

Vs.

The Registrar,
Centre for Affiliation of Institutions,
Anna University,
Chennai-600 025.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the respondent bearing Lr.No.251/CAI/AU/CR_ScrutinyFailed/2018-5, dated 29.05.2018 and quash the same and consequently direct the respondent to permit the petitioner-Institute to admit students for MBA programme for the academic year 2018-2019 onwards.

For Petitioner : Mr.Kalyana Raman for Mr.Jayesh Dolia
for M/s.Aiyar and Dolia

For Respondents : Ms.Narmadha Sampath,
Addl. 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 Certiorarified Mandamus to call for the records relating to the proceedings of the respondent bearing Lr.No.251/CAI/AU/CR_ScrutinyFailed/2018-5, dated

29.05.2018 and quash the same and consequently direct the respondent to permit the petitioner-Institute to admit students for MBA programme for the academic year 2018-2019 onwards.

2. It is the case of the petitioner-Institute that it was established in 2008 by Sri Venkateswara Educational and Charitable Trust having its office at Coimbatore. The petitioner-Institute was granted approval/affiliation by the respondent to admit the students for the earlier academic years 2008-2009 to 2017-2018. In respect of the academic year 2018-2019, the last date for submitting application for intake of students was fixed on 05.01.2018 and as per the communication of the respondent, dated 06.12.2017, the application was submitted through online on 04.01.2018. By proceedings dated 10.04.2018, the respondent issued deficiency report/show cause notice. Under the head General Facilities, as against the Principal, it was stated that 'not eligible'. The deficiency was pointed out with regard to faculty and library. The required number of faculty is 18. There was no admission to MBA programme for the academic years 2016-2017 and 2017-2018 for the first year. For the academic year 2018-2019, the petitioner-Institute has 9 faculties as per the norms prescribed under the University in 20:1 ratio and the petitioner-Institute is eligible to admit students to the academic year 2018-2019. The Inspection Committee of the University found that the Principal was not eligible to hold the said post.

3. It is the further case of the petitioner that on receipt of the deficiency report/show cause notice, the petitioner complied with the same and appointed one Dr.V.Rama Devi as Principal on 23.04.2018 and also four faculties were appointed on 18.04.2018. The compliance report was submitted to the respondent on 25.04.2018. Again on 11.05.2018, the respondent communicated to the petitioner that the faculty deficiency continue to exist and the Principal was not eligible to hold the post and that there is insufficient evidence and the documents were not accepted by the Committee. The AICTE extended the approval granted to the petitioner-Institute by proceedings dated 30.04.2018 and hence, the respondent ought to have accorded affiliation for intake of students for the academic year 2018-2019. By impugned communication dated 29.05.2018, again the respondent expressed inability to re-consider the sanctioned intake of students for the academic year 2018-2019 and there is a reference to the order of the Supreme Court dated 13.12.2012 (reported in 2013 (3) SCC 385 - Parshavannath Charitable Trust and others VS. AICTE and others) and after this, for the last five years, affiliation was granted. The said decision of the Supreme Court is not applicable to the facts of this case, because, the Apex Court issued guidelines to the AICTE for dealing with the application for grant of approval to new

colleges or additional seats, but in the case on hand, the AICTE had accorded approval in 2008 itself, on the basis of which the students were admitted from the academic year 2008-2009 and it continues to hold as on date. Challenging the said communication dated 29.05.2018, the present Writ Petition is filed by the petitioner-Institute.

4. The respondent-Anna University has filed counter affidavit stating that the inspection was conducted by the Anna University on 20.03.2018 by two subject experts, who reported deficiency in the faculty members and also that the Principal was found not eligible for the MBA programme, followed by issuance of show cause notice to the College on 10.04.2018 as per the University norms with a direction to submit compliance report on or before 25.04.2018. The petitioner-College was also issued with the guidelines and general instructions for submissions of compliance report, with supporting documents and evidence and self-attested copies of Degree Certificates of the appointed faculty members and approved building plan for class rooms. Thereafter, the petitioner-College submitted the compliance report on 25.04.2018, which was scrutinised by the Scrutiny Committee on 26.04.2018, which accepted all the faculty documents (4 faculties) submitted for MBA programme. The petitioner-College failed to submit UG, PG and Ph.D. Degree certificates and experience certificates of the newly appointed Principal and hence, the Committee did not approve the Principal as eligible to hold the post.

5. It is further stated in the counter that due to the above deficiency, the sanctioned intake values was reduced to Zero for the M.B.A. course in accordance with the norms of Anna University and the College was informed through letter dated 11.05.2018. The Supreme Court has prescribed a 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. Any revision or redemption of seats would become violation of the order of the Supreme Court reported in 2013 (3) SCC 385 (Parshavanath Charitable Trust and others Vs. AICTE and others). Hence, the College has to only approach the Supreme Court. In the subsequent decision of the Supreme Court reported in 2014 (16) SCC 330 = 2014 (8) MLJ 626 (Varun Saini and others Vs. Guru Gobind Singh Indraprasath University), the Supreme Court has cautioned the AICTE/Approval/Appellate Authority and the State University to strictly follow the fixed time schedule. The University duly informed the status of affiliation to all its affiliated colleges including the Architecture Colleges, after providing sufficient opportunities to the Colleges, although the University is one of the largest technical University in India. For these reasons, the respondent pray to dismiss the Writ Petition.

6. The sum and substance of the argument of the learned counsel for the petitioner is that, by the impugned order dated 29.05.2018, the respondent has rejected the request of the petitioner with regard to the grant of affiliation for the academic year 2018-2019. The petitioner submitted that, on two grounds, the respondent has rejected the affiliation, firstly, on the ground that there was no Principal and secondly, with regard to the faculty, the same has not been fulfilled. Subsequently, the respondent has accepted the contention with regard to the availability of faculty, but however, on the ground that there was no Principal on the date of inspection and that no records have been produced with regard to the same, the impugned order has been passed, relying upon the decision of the Apex Court reported in 2013 (3) SCC 385 (Parshavanath Charitable Trust and others Vs. AICTE and others).

7. The learned counsel for the petitioner further contended that one Dr.V.Rama Devi was to join as Principal on or before 31.05.2018 and that as she did not produce the relevant certificates, another Principal was appointed on 06.06.2018. As the course is going to be commenced on 1st August and that in case of non-fulfilment of any other seat, the period can be extended till 15th August, and there is no justification on the part of the respondent in rejecting the request of the petitioner.

8. In reply, learned Additional Advocate General, assisted by the learned counsel for the respondent, contended that the Apex Court has already fixed the cut-off date as 15th August of every year before which date the requirements that are sought for, need to be complied with. In this case, the petitioner has not shown any arbitrariness or mala-fide on the part of the respondent and that the petitioner has played fraud on the respondent by producing the documents without annexure and that one Dr.Rama Devi had been appointed as Principal and that she was to join before 31.05.2018. It is further contended by the learned Additional Advocate General that the qualification of the said Rama Devi is not as per the norms and that she has Ph.D. in Economics and that the required qualification is Ph.D. in Business Administration. It is further submitted that when there are defects that had been pointed out, the same has not been rectified and that no annexures were enclosed along with the application for granting affiliation and that the respondent was right in rejecting the request of the petitioner. It is true that the respondent has admitted the factum of availability of the faculty, but however, the requirement of appointment of the Principal is not fulfilled. It is further stated that as long as there is no compliance and that the deficiency has been pointed out, which has not been rectified, there is no question of affiliation being granted and the Writ Petition has got to be

dismissed as devoid of merits.

9. In reply, learned counsel for the petitioner relied on the show cause notice dated 10.04.2018 and contended that as the said Dr.Rama Devi did not produce any document required for her to be appointed as Principal of the College, new Principal has been appointed, who has fulfilled the conditions and the documents sought for by the respondent, have been furnished as early as on 06.06.2018 and that the new Principal has been appointed. Learned counsel for the petitioner further submitted that this Court in W.P.No.13709 of 2018, dated 14.06.2018 held that even assuming that there is cut-off date, the same will not be made applicable. In the decision of the Supreme Court reported in 2013 (3) SCC 385 (cited supra), it is observed as follows:

"38. We must notice that the 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.

39. 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/Management quota exams, etc.)	In the month of May
Declaration of result of qualifying examination (12th exam or similar) and entrance examination	On or before 5th June
1st round of counselling/admission for allotment of seats	To be completed on or before 30th June
2nd round of counselling for allotment of seats	To be completed on or before 10th July
Last round of counselling for allotment of seats	To be completed on or before 20th July

Last date for admitting candidates 30th July
in seats other than allotted above However, any number of rounds
for counselling could be
conducted depending on local
requirements, but all the
rounds shall be completed
before 30th July

Commencement of academic session 1st August

Last date up to which students can 30th August
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 30th April
approval by AICTE

Last date of granting or refusing 31st May
approval by University/State
Government

40. The above schedule though was finalised by the Committee on 29-1-2012 but the same appears to have been notified only on 30-9-2012. 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 up to 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.

41. The appropriate Schedule, thus, would be as follows:

Event	Schedule
Conduct of entrance examination (AIEEE/State CET/Management quota exams, etc.)	In the month of May
Declaration of result of qualifying examination (12th exam or similar) and entrance examination	On or before 5th June
1st round of counselling/admission for allotment of seats	To be completed on or before 30th June
2nd round of counselling for allotment of seats	To be completed on or before 10th July
Last round of counselling for allotment of seats	To be completed on or before 20th July
Last date for admitting candidates in seats other than allotted above	30th July
	However, any number of rounds for counselling could be conducted depending on local requirements, but all the rounds shall be completed before 30th July
Commencement of academic session	1st August
Last date up to 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)	15th August
Last date of granting or refusing approval by AICTE	10th April
Last date of granting or refusing approval by University/State Government	15th May

42. 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."

10. From the facts narrated supra, it is clear that the only reason for rejection that can be sustained is that there was no Principal as on the date of inspection by the Anna University through its officials towards verification of fulfilment of norms and standards in the University for the academic year 2018-2019. Even though the respondent has stated that there is no faculty, according to the petitioner, the reason for rejection on that ground cannot stand in the eye of law. But however, admittedly, there was no faculty and the said faculty who was to join before 31.05.2018, has not joined and that another person is said to have joined on 06.06.2018 with necessary documents.

11. Taking note of the decision of the Supreme Court referred to supra, when the cut-off date is fixed for the completion of the process and that there was no qualified Principal as on the date of inspection, I am of the view that the relief sought for by the petitioner cannot be granted on the ground of non-availability of Principal as on the date of inspection. The decision of this Court in W.P.No.13709 of 2018, dated 14.06.2018, relied on by the learned counsel for the petitioner, is not applicable to the facts of this case and it is distinguishable. In that case, this Court came to the conclusion that the impugned order was illegal and if that be the case, the clock will have to be set back. In the present case on hand, when the impugned order is not held to be bad, the contention of the petitioner that the time limit is there till 1st August, which was extended till 15th August, for the purpose of admission, cannot hold good in the eye of law.

12. Further, another decision relied on by the learned counsel for the petitioner reported in 2015 (10) SCC 19 (Royal Medical Trust Vs. Union of India) is also not applicable to the facts of the present case and the same is distinguishable on the facts of the case on hand.

13. For the reasons stated supra, the Writ Petition is dismissed. No costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

CS

To

The Registrar,
Centre for Affiliation of Institutions,
Anna University,
Chennai-600 025.

+lcc to Mr.M.Vijaya Kumar, Advocate, S.R.No.41504

+lcc to Mr.Aiyar & Dolia, Advocate, S.R.No.41225

W.P.No.13710 of 2018

GSP(11/07/2018)



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