

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.13842 of 2018

RVS Educational Trust

Rep by its Trustee

Dr.U.Vishal

(RVS Padmavathy School of Architecture)

No.13, Sethilpakkam,

Thiruvallur District,

Thiruvallur-601 202.

...Petitioner

Vs.

1. Council of Architecture

Rep by its Director

Academic Wing

1st Floor, Lodhi Road

New Delhi-110 003.

2. The State of Tamil Nadu

Rep by its Secretary

Department of Higher Education

Fort St. George,

Chennai-600 009.

3. The Commissioner of Technical Education

Directorate of Technical Education,

Guindy, Chennai- 600 025.

4. Anna University

(Centre for Affiliation of Institutions)

Rep by its Registrar

Guindy, Chennai-600 025.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the fourth respondent University herein to consider and pass orders on the petitioner's representation dated 24.05.2018 (as signed) for sanction of full sanctioned intake of 40 seats to the

petitioner's college namely, RVS Padmavathy School of Architecture, Thiruvallur District, Thiruvallur - 601 202 for the academic year 2018-2019, within a reasonable time.

For Petitioner : Mr.Isaac Mohanlal,
Senior Counsel,
for M/s.Isaac Chambers

For 1st Respondent : Ms.S.Harinyi

For Respondents 2 & 3 : Mr.A.Rajaperumal,
Addl. Government Pleader

For 4th Respondent : Mrs.Narmadha Sampath,
Additional Advocate General Assisted by
Mr.M.Vijayakumar

O R D E R

Petitioner has come up with this Writ Petition seeking a direction to the 4th respondent/University to consider and pass orders on their representation dated 24.05.2018 for sanction of full sanctioned intake of 40 seats to their College, namely, RVS Padmavathy School of Architecture, Thiruvallur District, Thiruvallur - 601 202 for the academic year 2018-2019.

2. According to the Petitioner, their College is offering Under Graduate Programme in Bachelor of Architecture, which is a five year full-time programme. The College has the sanctioned intake of 40 students from the beginning. Out of 40 seats, 26 seats are filled up under Government Quota and 14 seats are filled up under Management Quota. For the purpose of extension of approval for the year 2018-2019, the College preferred an application to the Council of Architecture on 29.12.2018. The 1st Respondent/Council of Architecture sent an Inspection Team consisting of two members to the College on 31.01.2018. The Inspection Team was fully satisfied with the infrastructural and instructional facilities provided by the College and submitted its Report to the Council of Architecture.

3. For the purpose of seeking provisional affiliation for the year 2018-2019, the College preferred online application to the 4th Respondent/University on 04.01.2018 and on 19.02.2018, an Inspection Team visited the College and was fully satisfied with the infrastructural and instructional facilities provided by the College. Thereafter, the 4th Respondent/University vide letter dated 10.04.2018, through email, informed the College that a copy of the Deficiency Report/Show Cause Notice may be

downloaded from the web portal to comply with the deficiencies for grant of provisional affiliation for the academic year 2018-2019. One of the deficiencies pointed out was that the Principal of the College is not eligible. Subsequently, on 13.04.2018, when the Petitioner downloaded the deficiency report from the University's web portal, it was found that the eligibility regarding the Principal was not shown. In view of the same, the Petitioner rectified the other deficiencies by uploading the same online and also by submitting it in person to the 4th Respondent/University.

4. Subsequently, the compliance report was scrutinized by the Scrutiny Committee and the documentary evidences were not accepted by the Committee in relation to the eligibility of the Principal and therefore, it was decided to reduce the student intake by 25% and thereby, reduced the intake from 40 to 30 and no reason was assigned with regard to non-eligibility of the Principal. The then Principal of the College was relieved from the College by an order dated 12.05.2018 and in his place, a qualified person viz. Ms.Amutha, who was earlier appointed as a Professor, was appointed as Principal of the College, by an order dated 12.05.2018.

5. Thereafter, the new Principal along with an Assistant Professor went to the 4th Respondent/University and informed the officials of the University that the then Principal has been relieved and a new Principal has been appointed and requested for full sanctioned intake of 40 seats for admission. However, there was no response from the 4th Respondent/University. Hence, the Petitioner submitted a representation dated 24.05.2018 to the 4th Respondent/University requesting for full intake of 40 seats in view of the appointment of the qualified Principal.

6. Learned Senior Counsel appearing for the Petitioner submitted that the 4th Respondent/University has rejected the Petitioner's request to retain the intake of 40 students for the academic year 2018-19 and sanctioned only 30 on the ground that the Principal of the College was not eligible for B.Arch. Course. It is his contention that though the College made a representation to the 4th Respondent/University on 24.05.2018 requesting full sanctioned intake of 40 seats in view of the appointment of the qualified Principal, the same was not at all taken into consideration. He further submitted that the Council for Architecture has granted extension of approval for 5 year B.Arch. Degree Course for the academic year 2018-19 with the intake of 40 students and that the same will bind the 4th Respondent/Anna University also and contended that there cannot be any reduction in the intake of students.

7. In reply, learned Additional Advocate General appearing for the 4th Respondent/Anna University submitted that the then Principal of the Petitioner's College was relieved on 12.05.2018 and a new Principal was appointed on the same day. She contended that if the then Principal had requisite qualification, he ought not to have been relieved from their College. She further submitted that the Chart produced by the Petitioner shows that the then Principal of their College was promoted from the post of Professor. However, there is no evidence to show that the new Principal of their College, who is said to have been promoted from the post of Professor, has 15 years of experience, as required, when she is only 40 years old.

8. It is further contended by the learned Additional Advocate General that though the new Principal was appointed on 12.05.2018 itself, the College has made a request for full sanctioned intake of 40 seats for admission only on 24.05.2018. In view of the decision of the Apex Court in the case of Parshavanath Charitable Trust and others Vs., All India Council for Technical Education and others reported in 2013 3 SCC 385, the entire exercise has to be completed before 15th May of the relevant year. Beyond the deadline, the University was not in a position to consider the representation of the Petitioner. According to the learned Additional Advocate General, as the details of the erstwhile Principal and the new Principal does not satisfy the requirement, the Petitioner is not entitled to the relief sought for.

9. In reply, learned Senior Counsel for the Petitioner submitted that the College in question has been granted extension of approval by the Council of Architecture for 5 year full-time B.Arch Course for the academic year 2018-19, vide communication dated 04.07.2018. According to him, even assuming that the 4th Respondent/University is independent of the Council of Architecture, and that each have got a separate role to play, the 4th Respondent/University is bound to take into account the extension of approval granted on 04.07.2018. He further submitted that the decision relied on by the learned Additional Advocate General in Parshavanath's case (cited supra) may not be applicable to the case on hand, as the Apex Court, in the said decision has fixed the deadline for the admission of students into the College and the commencement of the Course.

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

11. It is not in dispute that the Petitioner-College had sanctioned intake of 40 students from the beginning of the Course. Since there was no sufficient documentary evidence in relation to the eligibility of the then Principal, the student

intake was reduced by 25%, i.e. from 40 to 30 for the academic year 2018-2019. Further, though the Petitioner is aggrieved by the order dated 11.05.2018 of the 4th Respondent/University pertaining to the reduction of intake of students, they have not challenged the same in this Writ Petition. The only relief sought in this Writ Petition is to consider the Petitioner's representation dated 24.05.2018 seeking sanction of full sanctioned intake of 40 seats to their College.

12. As per the decision rendered in Parshavanath's case (cited supra), any order granting or refusing approval, should 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 should be conducted by the end of May of the relevant year. If not, the said decision of the Apex Court will become futile.

13. In this case, there is no illegality pointed out and furthermore, the order dated 11.05.2018 passed by the 4th Respondent/University is not under challenge. The Council for Architecture should have taken a decision as regards extension of approval, before 30th April 2018, which would have enabled the 4th Respondent/University to permit the sanctioned intake of 40 students, provided the Petitioner fulfils all the requirements. Now, at this stage, even if this Court directs the 4th Respondent/University to consider the Petitioner's representation, that is not going to help the Petitioner for the present Academic year.

14. Even though the Council for Architecture is only a formal party, this Court is of the view that in order to avoid unnecessary unrest among the students, they must take a decision before 30th April every year, to enable the University take a decision as regards the intake of students.

15. In the case on hand, the time limit prescribed by the Apex Court has expired and the Petitioner/College would not be entitled to the relief sought for and that their request could be considered only for the subsequent years. Moreover, the Petitioner/College has not challenged the reduction of intake of seats and the Petitioner has sought to consider and pass orders on their representation dated 24.05.2018 for sanction of full sanctioned intake of 40 seats, which is admittedly made after the cut-off date fixed by the Apex Court. Hence, the Petitioner's request cannot be considered for the present

academic year. However, this Court directs the 4th Respondent/University to consider the case of the Petitioner/College with regard to the sanctioned intake of 40 seats to their College for B.Arch. Course for the academic year 2019-20, provided the Petitioner/College fulfills all the requirements.

This Writ Petition is dismissed with the above direction and observation. No costs. Consequently, connected W.M.P.No.16344 of 2018 is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To:

1. Council of Architecture Director
Academic Wing
1st Floor, Lodhi Road
New Delhi-110 003.
2. The State of Tamil Nadu Secretary
Department of Higher Education
Fort St. George, Chennai-600 009.
3. The Commissioner of Technical Education
Directorate of Technical Education,
Guindy, Chennai- 600 025.
4. The Registrar, Anna University
Guindy, Chennai-600 025.

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GSP(30/07/2018)

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