

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

WRIT PETITION No.16533 of 2018

The Government of Tamil Nadu,
rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Chennai 600 009.

... Petitioner

vs.

1. The Chairman,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj,
New Delhi - 110 067.
2. The Member Secretary,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj,
New Delhi - 110 067.
3. The Chairman,
Standing Appellate Committee,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj, New Delhi - 110 067. ... 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 of the 2nd Respondent bearing Letter F.No.Southern/2018/1-3652420861 LoR, dated 30.04.2018 and to quash the same and consequently direct the Respondents to grant approval for setting up of New Technical Institution bearing Application I.D. 1-3652420861 for Government Polytechnic College, Vanavasi, Mettur Taluk, Salem District for the academic year 2018-19 and to commence the classes on 01.08.2018 (i.e.) within the time limit framed by the Hon'ble Supreme Court.

For Petitioner : Mr.Vijay Narayan,
Advocate General,
assisted by
Mr.C.Munusamy,
Special Government Pleader (Education)

O R D E R

Government of Tamil Nadu has come up with the present Writ Petition seeking to quash the proceedings of the 2nd Respondent vide Letter F.No.Southern/2018/1-3652420861_LoR, dated 30.04.2018 and for a consequential direction to the Respondents to grant approval for setting up of a New Technical Institution for Government Polytechnic College, Vanavasi, Mettur Taluk, Salem District for the academic year 2018-19 and to commence the classes on 01.08.2018, i.e. within the time limit framed by the Hon'ble Supreme Court.

2. According to the Petitioner/Government, the District Collector, Salem District, in his letter dated 06.06.2017 addressed to the Commissioner of Technical Education has stated that a lot of representations have been received from the public for the formation of Government Polytechnic College in Salem District, as it is indispensable in Salem District. The District Collector, Salem has also stated that suitable land has been identified in Vanavasi Taluk, Salem District for the establishment of Government Polytechnic College and he has also requested the Commissioner of Technical Education, Chennai to take necessary action in this regard.

3. Based on the request of the District Collector, Salem District, a detailed proposal was submitted by the Commissioner of Technical Education to the Petitioner requesting for administrative sanction for starting a new Government Polytechnic College at Vanavasi, Salem District for approval, subject to the Policy decision of the Government. In the meanwhile, Chief Engineer, PWD Technical Education Circle has also inspected the above land and submitted the feasibility Report stating that the identified land is feasible for establishment of a new Government Polytechnic College, as the above land is a contiguous land and there is no obstacles such as river, canals, rail tracks, Highways, High Tension lines or any such entity hampering continuity of the above land across the proposed site.

4. It is further stated by the Petitioner/Government that the annual prescribed fee applicable for Government Polytechnic College is Rs.2000/- only per year, whereas, the fee for Self-Financing Polytechnic Colleges is Rs.19,500/- per year. Since there is no Government Polytechnic College in Salem District, deserving meritorious rural poor students in Salem District will have to depend on the self-financing Polytechnic Colleges and pay an excess of Rs.17,500/- every year towards payment of fee for their students. It is also stated by the Petitioner/Government that Salem District is included in the AICTE notified Educationally Backward District against Serial Number 298 in the AICTE Approval Process Hand

5. In view of the above genuine reasons, the Petitioner, i.e. the Government of Tamil Nadu ordered vide G.O.(Ms) No.164, Higher Education (B2) Department, dated 27.06.2017 to start a Government Polytechnic College at Vanavasi Village, Mettur Taluk, Salem District with five courses, viz. Civil Engineering, Mechanical Engineering, Electrical and Electronics Engineering, Electronics and Communication Engineering and Computer Engineering with a sanctioned intake of 60 for each course with the medium of instruction as English.

6. In the said Government Order, the Petitioner accorded administrative sanction for Rs.56.52 crores towards creation of necessary infrastructure and sanction of required posts for the 1st, 2nd and 3rd academic years. The sanctioned amount of Rs.56.52 crores include Rs.20.02 crores towards Recurring expenditure in connection with staff salary for the 1st, 2nd and 3rd years and a sum of Rs.23.00 crores for construction of College Buildings, Rs.9.00 crores for the construction of Hostel Building and Rs.4.50 crores towards non-recurring expenditure in connection with the purchase of Furnitures, Equipments, Library Books & E-Journals and Computers.

7. The Petitioner submitted an online application in the AICTE Web Portal on 25.01.2018 seeking approval of the Council. As per the AICTE Approval Process Hand Book 2018-19, for getting approval for starting a Technical Institution, it is mandatory to submit all original documents related to land, building Plan and other required documents for verification before the AICTE Expert Members Team consisting of an Academic expert, Legal expert and an Architect during Scrutiny Committee meeting. All required original documents for starting Government Polytechnic College in Vanavasi Village, Mettur Taluk, Salem District during the year 2018-2019 were submitted before the Expert Members during AICTE-Scrutiny Committee Meeting held on 20.02.2018 at the Southern Regional Office of the AICTE at Chennai. Thereafter, the Scrutiny Committee straight away recommended for Expert Visiting Committee inspection for verification of the available infrastructure facilities in the above Institution as per the AICTE norms, without insisting for any re-scrutiny.

8. Based on the Scrutiny Committee Report, the Expert Visiting Committee visited the Institution on 26.02.2018 and reported deficiencies for all items in their Report. According to the Petitioner, the Expert Visiting Committee failed to furnish the actual facts regarding ongoing construction of buildings, while the construction of permanent buildings for a total plinth area of 9840.80 sq.m. in the allotted land is in progress. In addition to buildings under construction, additional buildings were also made ready in the adjacent school for conducting 1st year classes at the time of

EVC inspection.

9. Based on the above EVC Report furnished by the Expert Visiting Committee, the 2nd Respondent, in its letter dated 12.03.2018, has conveyed the rejection of application of the Petitioner/Government for setting up of new Technical Institution bearing Application I.D. 1-3652420861 for Government Polytechnic College, Vanavasi, Mettur Taluk, Salem District. In this regard, an Official from the Office of the Commissioner of Technical Education along with the Special Officer of the above Government Polytechnic College appeared before the Standing Appellate Committee at AICTE Head Quarters, New Delhi on 20.03.2018 to make an appeal requesting for grant of approval. But, the request was not considered in favour of the Petitioner and the Standing Appellate Committee has rejected the proposal for approval of starting of Government Polytechnic College at Vanavasi on 20.03.2018.

10. Again, the Petitioner made a request for Approval vide D.O.Letter No.5408/B2/2018-1, dated 04.04.2018. But, the request was not considered and the 2nd Respondent issued final letter of rejection for setting up of the above new Technical Institution, vide Letter F.No.Southern/2018/1-3652420861_LoR, dated 30.04.2018, based on the recommendation of the Standing Appellate Committee.

11. According to the Petitioner/Government, the Classrooms, Tutorial rooms, Laboratories, Workshops, Drawing Hall and Library Buildings required as per the AICTE norms for conduct of first year classes are fully completed. Also, the required equipments, furniture, computers, Library Books and Journals have been purchased to the requirement for conduct of the classes for the 1st year. It is stated by the Petitioner that it is proposed to start the first year classes on 01.08.2018 and the required faculty as per the AICTE norms have been identified and they will be posted immediately after obtaining the AICTE approval, but before commencement of classes.

12. The Petitioner/Government goes on to state that as per item 1.3.3 of AICTE Approval Process Handbook 2018-19, MHRD, Government of India promotes establishment of Technical Institution in un-served/underserved Districts across the Country under the Scheme of "Sub-Mission on Polytechnics". AICTE permits Institutions applying under MHRD Sub-Mission scheme to function in a temporary Campus for a period of two years from the date of Letter of Approval (LoA). In line with the above, the Respondent was requested by the Commissioner of Technical Education vide Letter dated 13.04.2018 to consider and grant approval for the above Government Polytechnic College. The grievance of the Petitioner/Government is that their request for grant of approval was not considered.

hence, the present Writ Petition.

13. Heard Mr.Vijay Narayan, learned Advocate General assisted by Mr.C.Munusamy, learned Special Government Pleader appearing for the Petitioner and Mr.B.Rabu Manohar, learned counsel appearing for Respondents 1 to 3.

14. It is seen that in the final rejection order dated 30.04.2018 passed by the AICTE, certain deficiencies were pointed out. However, the same are curable in nature. At this juncture, it is worth referring to the decision in the case of Parshavanth Charitable Trust Vs. All India Council for Technical Education, reported in 2013 (3) SCC 385, wherein, the Apex Court has clearly held that no person or authority shall have the power or jurisdiction to vary the schedule prescribed therein and when there is illegality, that has got to be set aside.

15. In similar circumstances, I had an occasion to pass orders in W.P.No.13709 of 2018, vide order dated 14.06.2018. Relevant portion of the said order is extracted hereunder:

"13. The decision of the Apex Court in Parshavanath Charitable Trust case is very clear that cut-off date has to be scrupulously followed, provided the decision of the authorities is held to be valid. Even otherwise, academic courses for the present academic year are to commence only on 1st August. In the Respondent's earlier communication dated 11.05.2018, some deficiencies have been pointed out with regard to classrooms and computers and the Petitioner has complied with the same."

16. In the case on hand, the Petitioner is not a self-financing College challenging the order of rejection of approval by the AICTE. Rather, it is the Government, which has approached this Court challenging the order of rejection passed by AICTE. It is seen that public money running to 56.52 crores have been sanctioned for establishing Government Polytechnic College in Vanavasi Village, Salem. It is represented by the Petitioner/Government that they have rectified all the deficiencies pointed out by AICTE. Admittedly, courses are going to commence on 1st August of the present academic year.

17. As the last date of counselling is scheduled on 20.07.2018, Respondents are directed to re-visit the College and conduct inspection within a period of 5 days from the date of receipt of a copy of this order and thereafter, come to a conclusion as to whether the defects pointed out have been rectified. This Court makes it clear that, approval, if any, that may be granted by the Respondents will take effect ***from the present** academic year. It is also made clear that since this is an exceptional case, it cannot be treated as a

precedent.

This Writ Petition is disposed of with the above direction and observation. No costs. Consequently, connected W.M.P.Nos.19713 to 19716 of 2018 are closed.

Sd/-

Assistant Registrar(CCC)

Dated: 10.07.2018

* Amended as per order

of this Court dated 12.07.2018

Sd/- Assistant Registrar(CS IX)

Dated: 12.07.2018.

//True Copy//

Sub Assistant Registrar

To:

1. The Chairman,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj,
New Delhi - 110 067.
To be substituted to the
order already despatched
on 11.07.2018.
2. The Member Secretary,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj,
New Delhi - 110 067.
3. The Chairman,
Standing Appellate Committee,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj, New Delhi - 110 067

+1cc to Government Pleader Sr.No.44051 & 44029

+1cc to M/s.B.Rabu Manohar, Advocate sr.No.45867

W.P.No.16533 of 2018

AK(CO)

sm:11.7.2018

SP(12/07/2018)