

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-08-2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.17665 of 2018
and
W.M.P.No.20935 of 2018

Sri Nandhanam College of Engineering and Technology,
Molagarampatti,
Tiruppatur - 635 601
Vellore District
Rep. by its Chairman,
P.M.N.Mohan Krishnaa
S/o.P.M.M.Nandagopal ... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai 600 009.

2.The Commissioner,
Directorate of Technical Education,
53, Sardar Patel Road, Guindy,
Chennai 600 025.

3.The Registrar,
Anna University,
Guindy,
Chennai 600 025.

4.The Secretary,
Tamil Nadu Engineering Admissions (TNEA),
Anna University Campus,
Guindy, Chennai 600 025. ... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 3rd respondent in Lr.No.02/AFFLN/CAI/AU/2018-19/5128 dated 15.05.2018 and to quash the same and consequently directing the respondents to grant Continuation of Provisional Affiliation for the intake of students in each branch including M.B.A., course, as sought by the petitioner college for the year 2018-19 and as sanctioned by All India Council for Technical Education.

For Petitioner :Mr.G.Sankaran

For Respondents :Mr.K.Kathikeyan, (for R1 and R2)
Government Advocate

Mr.M.Vijayakumar (for R3 and R4)
Standing counsel

O R D E R

The Writ Petition was filed for issuing of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 3rd respondent in Lr.No.02/AFFLN/CAI/AU/2018-19/5128 dated 15.05.2018 and to quash the same and direct the respondents to grant Continuation of Provisional Affiliation (CPA) for the intake of students in each branch including M.B.A., course, as sought by the petitioner college for the year 2018-19.

2.Though the Writ Petition is filed for several courses, the learned counsel for the petitioner constrained his prayer only to the course of B.E., (Marine Engineering).

3.The Petitioner/Institution was established in the year 2001, offering various courses in different disciplines and the same was duly approved by the All India Council for Technical Education (AICTE) and affiliated by the Anna University. Insofar as the B.E., (Marine Engineering) course is concerned, the same has been approved by the Director General of Shipping, Ministry of Shipping and Government of India in the year 2006. The recognition granted by Anna University is after satisfying the infrastructure and institutional facilities by the Petitioner/Institution. When the Petitioner/College has applied for Continuation of Provisional Affiliation (CPA), the officials of the respondent/University found certain deficiencies and issued a notice dated 10.04.2018, to show cause why steps cannot be taken for reduction of intake or withdrawal of affiliation for future courses.

4.The petitioner however states that the deficiencies pointed out by the Respondent/University were complied with immediately and detailed representation was also given to the Respondent/University. However, the Respondent/University issued the impugned proceedings. By the impugned proceedings dated 15.05.2018, regarding reduction of intake of students for various courses, in so far as B.E., (Marine Engineering) is concerned, the intake was reduced from 30 to 15.

5.The learned counsel appearing for the respondent/University submitted that reduction in intake was there from the academic year 2017-18 and that therefore, the petitioner may be directed to comply with the deficiencies and seek appropriate relief for the next academic year.

6.The learned counsel appearing for the petitioner however stated that the Petitioner/College was granted with the approval by AICTE with an intake of 30 students every year for B.E (Marine Engineering). Though the Respondent/University has granted affiliation for B.E., (Marine Engineering), with annual intake of 30 students in the academic year 2016-17, the annual intake of student strength for the next academic year 2017-18 was reduced from 30 to 15. It is stated by the learned counsel appearing for the petitioner that this was not objected by the Petitioner/College, in view of the fact that the Respondent/University assured the Petitioner that the Petitioner/Institution will be given affiliation with full intake of student in the next academic year.

7.It is further submitted that the University passed orders for the previous academic year and the impugned order is on the basis of the subsequent event and therefore, the petitioner is entitled to challenge the impugned order, which is pertaining to the academic year 2018-19, as this is a subsequent cause of action. It is submitted that fresh proceedings initiated by the Respondent/University by conducting an inspection in March 2018. It was further submitted that the show cause notice dated 10.04.2018 was on the basis of the defects, pointed out by the Inspection Committee and by communication dated 25.04.2018, the Petitioner/College has pointed out to the University, the rectification of all the deficiencies pointed by the Inspection Committee. When the Respondent/University passed the impugned order, based on the report of the Inspection Committee, it could have considered the compliance report or the representation made by the petitioner, regarding compliance report.

8.In this case, though in the impugned order the University states that the Petitioner/Institution has got complied with the deficiencies, it is admitted that there was no subsequent inspection by the committee, after the representation of the petitioner, regarding the compliance of deficiencies. Hence, the impugned order is against the principles of natural justice. Having received the communication from the Petitioner/Institution, regarding compliance, the Respondent/University ought to have given an opportunity to the Petitioner/Institution, to substantiate the

contention of the Petitioner. It is the positive case of the petitioner that as per the representation sent by the petitioner, regarding compliance of deficiencies all deficiencies have been completely corrected in all respects. In such circumstances, the respondent/University without verifying the contention of the petitioner cannot proceed to decide, on the basis of the inspection report, which they had obtained earlier. Certainly, this will be contrary to the principles of natural justice.

9. In that view of the matter, this Court is inclined to pass the following direction:

(i) The impugned order insofar as it relates to reduction of intake regarding B.E. Marine Engineering is set aside. The 3rd respondent/University is directed to depute the Inspection Committee to the Petitioner/Institution to verify whether the defects pointed out by the University has been complied with by the Petitioner/Institution or not.

(ii) The deputation of committee should be done, within a period of one week from the date of receipt of a copy of this order.

(iii) The Inspection committee shall be required to submit a report within a period of two days thereof.

(iv) Copy of the report should be furnished to the Petitioner/Institution.

(v) It is open to the Petitioner/Institution to raise any objection or further representation to the University, within a period of three days from the date of receipt of a copy of the report of the Inspection Committee.

(vi) The 3rd respondent/University shall then consider the representation of the petitioner along with report of the inspection committee and other materials and pass an order on or before 30.08.2018.

10. The above order is with regard to B.E., (Marine Engineering) course only, this Court is not actually considering any other issue, regarding any other discipline or course.

With the above directions, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

sai 16.08.2018

For Being Mentioned:

This Matter having been listed on 12.09.2018 for Being Mentioned in pursuance of this order of this Court dated 27.08.2018 and made herein in the presence of

Mr.G.Sankaran, Advocate for the Petitioner and of Mr.V.Annalakshmi, Government Advocate for RR1 & 2 and of Mr.M.Vijayakumar, Standing Counsel for RR3 & 4 the court made the following order:

This matter is taken up today ie., on 12.09.2018 under the caption 'For Being Mentioned'.

2. Mr.M.Vijayakumar, learned Standing Counsel, appearing for the respondents 3 and 4 submits that this Court, by its order dated 16.08.2018, has passed the following direction:

"(i) The third respondent/University to depute the Inspection Committee to the petitioner Institution to verify whether the defects pointed out by the University has been complied with by the petitioner Institution or not;

(ii) The deputation of Committee should be done, within a period of one week from the date of receipt of a copy of this order;

(iii) The Inspection Committee shall be required to submit a report within a period of two days thereof.

(iv) Copy of the report should be furnished to the petitioner Institution.

(v) It is open to the petitioner Institution to raise any objection or further representation to the University, within a period of three days from the date of receipt of a copy of the report of the Inspection Committee.

(vi) The third respondent/University shall then consider the representation of the petitioner along with report of the inspection committee and other materials and pass an order on or before 30.08.2018."

3. The learned Standing Counsel appearing for the respondents 3 and 4 submits that though the copy of the order was made ready on 24.08.2018, it was served on the University only on 28.08.2018. Hence, he seeks indulgence of this Court to grant ten days time from today.

4. In view of the above submissions, this Court is inclined to extend the time. Accordingly, time frame fixed by this Court on 16.08.2018 is extended till 19.09.2018

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai 600 009.

2.The Commissioner,
Directorate of Technical Education,
53, Sardar Patel Road, Guindy,
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3.The Registrar,
Anna University,
Guindy,
Chennai 600 025.

4.The Secretary,
Tamil Nadu Engineering Admissions (TNEA),
Anna University Campus,
Guindy, Chennai 600 025.

+1 CC TO G.SANKARAN Advocate SR.NO. 56719

+1 CC TO MR.M.VIJAYAKUMAR Advocate SR.NO. 56603

+1 CC TO GOVERNMENT PLEADER SR.NO. 56841

W.P.No.17665 of 2018

ASK(23/08/2018)
SP(14/09/2018)