



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.10.2018

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

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W.P.(MD)Nos.8233 of 2014 & 3060 of 2018
and

M.P(MD)Nos.1&2 of 2014& 1 of 2015,W.M.P(MD)Nos.3207&3208 of 2018

W.P.(MD)No.8233 of 2014

The Chairman

The Union Christian Education and Charitable Trust,

Kuttaikode, Melpalai PO

Edaicode,Kanyakumari District-629 152.

... Petitioner

Vs.

1.All India Council for Technical Education,

7th Floor Chandslok Building,

Janapath, New Delhi - 110 001.

2.The Regional Director,

Southern Regional Office, AICTE,

26.Hawods Road, Sarsibhavan,

Chennai - 600 006.

3.The Registrar,

Director of Technical Education,

Chennai - 25.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the order in F.No.2-OC/MISC/2013/SRO/12 dated 23.04.2014 on the file of the first respondent and quash the same and further directing the respondents 1 and 2 to grant extent of approval to the petitioner college viz., St.Xavier Polytechnic College, Seydunganallur for the academic year 2014-2015 and the subsequent years.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.N.Dilipkumar

(for R1 & R2)

Mr.A.Muthukaruppan

Addl. Govt. Pleader (for R3)

W.P.(MD)No.3060 of 2018

The Principal

Union Christian Polytechnic College,

Kuttaikode, Melpalai PO

<https://hcservices.ecourts.gov.in/hcservices/>

Edaicode,

Kanyakumari District-629 152.

... Petitioner



-Vs.

1.All India Council for Technical Education,
7th Floor Chandslok Building,
Janapath, New Delhi - 110 001.

2.The Regional Director,
Southern Regional Office, AICTE,
26.Hawods Road, Sarsibhavan,
Chennai - 600 006.

3.The Commissioner of Technical Education (FAC)
Directorate of Technical Education,
Guindy, Chennai - 600 025.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the Impugned Order in Letter No.40288/H4/2015 dated 04.01.2018 on the file of the 3rd respondent and quash the same and further directing the 3rd respondent to issue the Diploma Certificate and the mark sheet of the 6th semester examination of all the 161 students admitted in the Diploma Course for the academic year 2014-2015 in the petitioner's institution forthwith.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.N.Dilipkumar
(for R1 & R2)

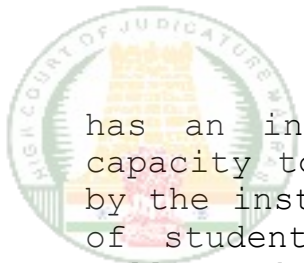
Mr.A.Muthukaruppan,
Additional Government Pleader for R3

COMMON ORDER

Both the writ petitions are related to the admission of the students to the petitioner college for the academic year 2014-15 and therefore, they are taken up together for common disposal as under:-

2.The facts as narrated in W.P(MD)No.3060 of 2018 are stated herein and the facts hold good for the other writ petition as well.

3.The petitioner college was founded by the Trust in 2007 with an objective to render educational and charitable work to the needy people. The petitioner institution was initially started in 2007 as a Christian minority institution at Kuttaicode village in Kanyakumari District. The petitioner college was located in a remote rural place catering the educational needs of the rural people. The students, who are studying in the petitioner institution hail from poor economic background. The college is situated in 5 Acres of land and the institution imparts education and offers 6 Diploma courses namely, Civil, Mechanical, Electrical, Electronics and Computer Application. Each of the Diploma course



has an intake of 60 students and the college is having total capacity to admit 300 students for all the Diploma courses offered by the institution. The college also provides free education to 25% of students, who are economically disadvantaged. The petitioner college has obtained necessary clearance and permission from respondents 1 to 3 commencing from the academic year 2008-09. The respondents 1 and 3 conducted surprise inspection through their committee and after being satisfied with the sufficient infrastructure provided by the petitioner and also Laboratory, equipment and faculty strength permission was granted to the polytechnic courses. The second respondent is the authority to grant permission for each academic year and renew it periodically.

4.While so, on 05.03.2014, a show-cause notice was issued by the first respondent directing the college to submit their explanation in regard to certain deficiencies found in the institution. In response to the show cause notice, an explanation was submitted on 12.03.2014 stating that the deficiency had been rectified as far as possible. Not satisfied with the explanation, the college authority was summoned by the first respondent to New Delhi and on behalf of the college, a representative appeared before the committee on 19.04.2014. Subsequently, an order was issued on 23.04.2014 by the first respondent refusing to grant extension of approval (EOA) for the academic year 2014, as major deficiencies pointed out were not rectified by the petitioner institution. The said order dated 23.04.2014 of the first respondent refusing to grant extension of approval (EOA) is the subject matter of challenge in the other writ petition in W.P(MD)No.8233 of 2014.

5.This Court has entertained the writ petition in W.P(MD) No.8233 of 2014 and while admitting the case, granted interim order of stay of the order impugned therein dated 23.04.2014. It appears that the college on the basis of the interim order of stay granted by this Court has admitted 184 students for the academic year 2014-15. Thereafter, during the pendency of the said writ petition, miscellaneous applications have been filed seeking directions for the students admitted for academic year 2014-15 to appear for the semester examination from time to time. This Court has also granted direction and on the basis of such direction, the students participated in the examination and the results were also declared. Eventually, the said batch of students, who were originally admitted for the academic year 2014-15, had completed three year Diploma course successfully in the academic year 2016-17. Therefore, provisional certificates were given to the students, who have successfully completed the Diploma course.

6.In the meanwhile, it appears that the petitioner institution had rectified the deficiencies pointed out by the first respondent by the earlier show cause notice issued in 2014 and extension of approval (EOA) was granted from the subsequent academic year 2015-16 onwards. According to the petitioner, the extension of approval (EOA) is still valid for the present academic year as well.



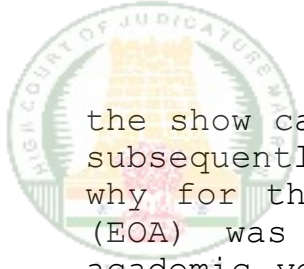
7. According to the petitioner, number of students, who were admitted directly during the subject academic year i.e., 2014-15, were 119 and 42 students were admitted as the lateral entry subsequently, and completed along with the said batch in 2016-17.

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8. In the above circumstances, the petitioner has approached the third respondent for issuance of the Diploma certificate to the students, who have successfully completed the Diploma programme in 2016-17, since the Diploma certificates were essential for the students to secure employment or pursue their higher education. However, the third respondent appears to have passed an order on 04.01.2018 rejecting the request of the petitioner college for issuance of Diploma certificate on the ground that the original extension of approval (EOA) was not granted for the academic year 2014-15 and students were admitted by the college on the basis of the interim order passed by this Court and therefore, the college is not entitled to seek issuance of the Diploma certificate. According to the said communication, the students had been originally admitted without proper approval of the first and second respondents and therefore, no matter whether they completed the course successfully or not, they cannot be granted Diploma certificate, as their entry itself in the course was questionable. The said order dated 04.01.2018 of the third respondent is the subject matter of challenge in W.P(MD)No.3060 of 2018.

9. Mr. G. Prabhu Rajadurai, learned counsel appearing for the petitioner institution would strenuously contend that the students who were admitted in 2014-15 academic year, were allowed to continue in the course and they have successfully completed the course in 2016-17. He would submit that the stand taken by the third respondent that the students were invalidly admitted originally for the academic year 2014-15 cannot be countenanced either in law or on facts for the simple reason that the order of the first respondent dated 23.04.2014 refusing to extend the approval had been stayed by this Court in the other writ petition in W.P(MD)N.8233 of 2014 on 14.05.2014. Once the order refusing to extend approval had been stayed by this Court and the fact that the college was having approval for the previous academic year, as the status quo continued and therefore, the college had admitted the students. Thereafter, repeatedly this Court was approached and only after obtaining orders from this Court, the students were permitted to participate in the examination and the results were also declared. Therefore, the learned counsel would submit that this Court has given a seal of approval for the students, who completed the Diploma programme and having allowed the students to complete the course, it is not open to the third respondent to refuse issuance of the Diploma certificates to the students, who have successfully completed the course in 2016-17.

10. The learned counsel for the petitioner would further submit that the deficiencies pointed originally by the first respondent in



the show cause notice dated 05.03.2014 were very minor in nature and subsequently, the same have been rectified admittedly and that was why for the very next academic year 2015-16 extension of approval (EOA) was granted and that is continued even till the present academic year. Therefore, there was nothing wrong or amiss for the institution, who admitted the students for the academic year 2014-15 particularly in the teeth of the interim order of stay granted by this Court in the other writ petition. According to him, it is a different matter altogether, if the students were admitted without intervention of this Court, in which event, the institution would not be pleading the case of the students before this Court.

11.The learned counsel for the petitioner would further add that originally the major deficiency which was pointed out, was production of building approval by the Town and Country Planning Authority. Later on, the first respondent in its meeting, dated 07.04.2017, had modified the stand and held that the approval by the competent authority was enough. According to the learned counsel, originally the petitioner had approval of the local authority and therefore, the non-grant of extension of approval (EOA) was not for valid reason as there was a substantial compliance by the institution even for the disputed academic year.

12.Lastly, the learned counsel would submit that in identical circumstances, the learned Judge of this Court has passed an order directing the third respondent to issue Diploma certificate vide order dated 22.06.2018 in W.P(MD)No.11926 of 2018. He would draw the attention of this Court to paragraphs 3 to 7 of the order, which are extracted hereunder:-

"3. It is admitted that by an order dated 20.02.2014 due to non-compliance of certain deficiencies pointed out by the first respondent the application for extension of approval for the academic year 2014-2015 was rejected. Challenging the said order, the petitioner filed a writ petition in W.P(MD) No. 8064 of 2014, wherein this Court has granted interim stay of the order passed by the first respondent dated 25.03.2014. It is stated that on the basis of the interim order passed in the said writ petition, the petitioner has admitted 273 students for the academic year 2014-2015. It is also admitted by the learned counsel for the petitioner that on the basis of the order obtained from Court, 273 students were permitted to write the sixth semester examinations and the result of the examinations was published by the third respondent during May 2017. Therefore the third respondent sent a communication dated 18.05.2017 stating that the results may be withheld for the students. Thereafter by way of the interim order, the petitioner got the results published. Since the results were published pursuant to the orders of this Court dated 07.06.2017, it is also admitted that the



provisional certificate and the consolidated mark sheet of the eligible candidates were furnished to the students. Since the validity of the provisional certificates is for a limited period of six months, the petitioner states that on the basis of the marks, the students are likely to join Engineering College by lateral entry. It is further stated that some of the students have also got placement in some reputed companies. Since the engineering college and the organisation who have employed students require original diploma certificates and the mark sheets for the sixth semester examinations, the petitioner has come forward with the present writ petition.

4. The learned counsel for the petitioner further states that some other students have joined this year as lateral entry and they require diploma certificates for applying engineering course. Hence it is submitted that in the interest of justice, the third respondent may be directed to issue diploma certificates to the students, who were admitted in the diploma course in the petitioner institution for the academic year 2014-2015.

5. The learned counsel for the respondent submitted that students were joined only at the instance of the petitioner without approval illegally and hence no indulgence can be shown as it would amount to permit the petitioner to take advantage of its own wrongly purely on sympathetic ground. He would further state that huge sum of amount is involved in this matter and that they face penal action. It is also stated that the respondents are not in a position to take action in view of the pendency of other writ petition. It is to be noted that the students were earlier completed the course pursuant to the interim orders passed by this Court. It is also stated that diploma certificate was also granted in favour of 30 students who have completed their course by taking supplementary examination.

6. Taking into account the interest of the students, this Court is of the view that the writ petition can be allowed, however without prejudice to the rights of the respondents to proceed against the petitioner institution to take proper action against the petitioner in accordance with law.

7. As a result, this writ petition is allowed and the third respondent is directed to issue diploma certificate to all the students admitted in the petitioner's institution in the diploma course for the academic year 2014-2015 within a period of two weeks



from the date of receipt of a copy of this order. However, it is open to the first respondent to take any appropriate action as it is available to them in law. No costs. Consequently connected miscellaneous petition is closed."

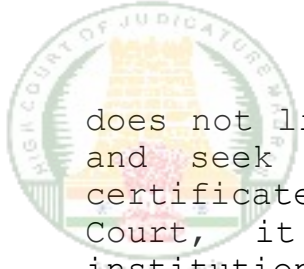
13. He, therefore, implores this Court to pass the similar direction by setting aside the impugned order, dated 04.01.2018 of the third respondent.

14. On the other hand, Mr. N. Dilipkumar, learned counsel appearing for the respondents 1 and 2 has stoutly contended that it has become the usual practice for this kind of educational institution, who would obtain interim direction at every stage during the students' course of study and finally, the institution would put the students before this Court as a shield to cover up their lapses and deficiencies. Admittedly, for the academic year 2014-15, the first respondent has issued "No Admission Status", in view of violating the norms prescribed by the first respondent and the petitioner has merely obtained an interim order of stay and admitted the students. The sum and substance of the arguments advanced on behalf of the respondents 1 and 2 are stated in the paragraphs 11 and 12 of the counter affidavit, which are extracted hereunder:-

"11. I submit, when the petitioner approached this Hon'ble Court initially the stay was granted only in respect of the orders issued by our Institution on "No Admission Status" and it was not a direction to admit the students violating the norms or without getting approval from AICTE during in Admitting Year 2014-15 and the action of the petitioner College in admitting the students is illegal and arbitrary.

12. Insofar as the contentions of the petitioner in various paragraphs and also the contentions under grounds, it is submitted that there were glaring shortcomings and deficiencies and the Petitioner College was run with such state of affairs and when the deficiencies were noticed by the EVC which conducted its surprise visit to the College, as the controlling body these respondents may not turn a blind eye and it is their statutory duty to initiate suitable corrective action and thus the "No Admission Status" for the Academic Year 2014-15 imposed by AICTE is well deserving to the petitioner College and there is no genuine need for the Petitioner College to agitate over the same as this was invited by the college by its own wrong deeds. There is no illegality nor arbitrariness on the part of our Institution in imposing the "No Admission Status" for the academic year 2014-15 in order to make the college to correct itself and to save the interests of the students and improve the standard of education."

15. The learned counsel would submit that having admitted the students without valid approval for the academic year 2014-15, he



does not lie in the mouth of the petitioner college to plead equity and seek direction to the third respondent to issue Diploma certificates to the students. If such direction is issued by this Court, it would tantamount to condoning the conduct of the institution for violating the mandatory norms prescribed by the first respondent. He would lastly plead before this Court that in case this Court accepts the request of the petitioner for issuance of Diploma certificates to the students, who were admitted during the programme commencing from the academic year 2014-15, this Court can at least impose exemplary cost on the petitioner institution for having admitted the students for the academic year 2014-15 without approval.

16. On behalf of the third respondent, a counter affidavit has been filed and in the counter affidavit, it has been reiterated what is mentioned in the impugned order, dated 04.01.2018.

17. Heard the learned counsel appearing for parties.

18. As regards W.P(MD)No.3060 of 2018 is concerned, which seeks to challenge the order, dated 11.01.2018 and for consequential direction to the third respondent for issuing of Diploma certificate, it is rather covered by the decision of the learned Judge of this Court in the aforementioned writ petition.

19. The learned Judge in identical circumstances, has passed the direction directing the third respondent to issue Diploma certificate, therefore, this Court cannot treat the present students differently in such situation. Further, this Court has to see that the petitioner institution has been granted approval prior to the academic year 2014-15 and also for the subsequent academic year onwards from 2015-16. The bone of contention only is with regard to the particular academic year 2014-15. For the said year, it appears that the petitioner institution had not rectified certain deficiencies pointed out by the first respondent, for which, "No Admission Status" was issued by the first respondent, which was the subject matter under challenge in the other writ petition namely, W.P(MD)No8233 of 2014. In the said writ petition, the petitioner has approached this Court repeatedly and obtained interim direction/order and on the basis of which, the students were admitted and allowed to participate in the semester examinations from time to time. Therefore, the learned counsel appearing for the petitioner was right in contending that this Court had intervened in order to help the students to complete the course, notwithstanding the notice issued by the first respondent, dated 23.04.2018 refusing to extend the approval. When this Court has given the seal of approval for such a course and on the basis of which, the students have also completed the course successfully, today, it is not open to the third respondent to refuse to issue Diploma certificates on the ground that the students continued with their programme only on the basis of the interim orders passed by this Court. No doubt, the interim orders are always subject to final outcome of the writ



petition, but in the instant case, this Court has passed interim orders consciously and the effect of the order/direction cannot be undone presently, in the teeth of the fact that the students had successfully completed the course in the academic year 2015-16. Although there is some force in the contention of the learned counsel appearing for the respondents 1 and 2 that the petitioner institution has over-reached itself by admitting the students by merely getting the stay order from this Court, nevertheless, the interest of the students cannot be lost sight of at the end of the day.

20. The above conclusion is also on the basis of the fact that the college had rectified the deficiencies pointed out immediately and admittedly extension of approval (EOA) was granted for the subsequent academic years 2015-16, 2016-17 and 2017-18 etc. It is also mentioned that even for the previous academic year, the college had approval i.e., 2013-14 and earlier also. When that being the case, the students' interest for that particular batch of year 2014-15 alone cannot be jeopardized, no matter the conduct of the petitioner, who had permitted the students for the disputed academic year, without actual approval from the authority concerned.

21. Even otherwise, the conduct of the petitioner college cannot be said to be uncondonable, for the reason that the deficiencies pointed out obviously were rectified for the next academic year and the extension of approval (EOA) was granted by the first respondent, which is the admitted position. But however, this Court refused to believe the version of the petitioner that what was earlier pointed out in 2014, were only minor deficiencies. As could be seen from the impugned order dated 23.04.2014, which is the subject matter of challenge in other writ petition, in W.P(MD)No.8233 of 2014, major deficiencies were pointed out including the infrastructure and faculty strength. The college was found wanting in fulfilment of the norms prescribed by the first respondent for the particular year. Therefore, the college was issued "No Admission Status" for the said academic year and therefore, the college was rightly refused the extension of approval (EOA) for the particular academic year. There is also some force in the contention placed on behalf of the respondents 1 and 2 that merely getting a stay order of 'No Admission Status', the petitioner college admitted the students without getting positive direction from this Court. Such a course adopted by the petitioner institution either wittingly or unwittingly cannot escape from the scrutiny of this Court of the petitioner's intention.

22. It is indeed a fact that the petitioner has over used the simple interim order granted by this Court in order to admit the students for the academic year 2014-15. But at the same time, from the facts as unfolded and narrated above, the college was indeed granted approval for the previous academic years and also for subsequent academic years. Therefore, the brazen indiscretion committed by the petitioner college gets diluted considerably as an extenuating factor.



23. Be that as it may, this Court cannot lose sight of the fact that the petitioner college was not granted approval for the academic year 2014-15 and despite the same, the students were admitted. Therefore, necessary action need to be taken against the institution for flouting the norms of the first respondent. The only silver lining in favour of the petitioner institution is that the deficiencies pointed out originally by the first respondent in the year 2014, have been rectified immediately that is why extension of approval (EOA) was granted to the subsequent academic year 2015-16 onwards. Therefore, this Court would refrain from giving any direction to the first respondent to initiate action against the petitioner college. At the same time, having found the action of the petitioner college in admitting the students for the academic year 2014-15 in the guise of the interim order granted by this Court lacking in bone fides, the petitioner college has to be imposed with exemplary costs so that in future the petitioner college will not venture into such admission of the students against the norms fixed by the competent authority namely, the respondents 1 and 2 herein. This Court is also conscious of the fact that the interim orders have been granted in favour of the petitioner college, at every stage, nevertheless, the interim orders are always subject to the out come of the main writ petitions.

24. For the above said reason, the petitioner college is imposed with exemplary costs of Rs.5,00,000/-. Out of which, Rs.3,00,000/- to be paid to the High Court Legal Services Authority, Madurai and Rs.2,00,000/- to be paid to the Gandhi Museum, Madurai, within a period of two weeks from the date of receipt of a copy of this order.

25. In the light of the above, the writ petition in W.P(MD) No.3060 of 2018 is allowed and the writ petition in W.P(MD) No.8233 of 2014 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. All India Council for Technical Education,
7th Floor Chandslok Building,
Janapath, New Delhi - 110 001.

2. The Regional Director,
Southern Regional Office, AICTE,
26, Jawahar Road, Sarsibhavan,
Chennai - 600 006.



3.The Registrar,
Director of Technical Education,
Chennai - 25.

4.The Commissioner of Technical Education (FAC)
Directorate of Technical Education,
Guindy, Chennai - 600 025.

Copy To:

1.The Officer Incharge,
Legal Services Authority,
Madurai Bench of Madras High Court,
Madurai.

2.The Curator, Gandhi Museum, Madurai.

+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No.92541

+1CC to Mr.N.Dilipkumar, Advocate, SR.No.93176

W.P. (MD) Nos.8233 of 2014 & 3060 of 2018
and
M.P (MD) Nos.1 & 2 of 2014 &
1 of 2015, W.M.P (MD) Nos.3207 & 3208 of 2018
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ES/SKN/RSK/SAR 1/22.11.2018/11P/9C