

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.26962 of 2018

ORDER:

This writ petition is filed challenging the proceedings in F.No.AICTE/AB/SCR/PID 1-24211221/2018-19/5%, dated 09-07-2018, wherein the 4th respondent recommended to keep the petitioner's college under 'No Admission' category for the academic year 2018-19.

Learned counsel for the petitioner submits that the petitioner filed WP.No.19756 of 2018 for consideration of the representation dated 27-04-2018, since they have complied with deficiencies pointed by respondents 2 to 4 and the same was disposed of. In pursuance to the same, inspection was conducted on 02-07-2018 and basing on the same, impugned order was passed on 09-07-2018 showing certain deficiencies. He further submits that in pursuance to the order passed on 09-07-2018, the petitioner has complied with other deficiencies also and made a representation on 23-07-2018. As such, respondents 2 to 5 may be directed to reconsider the issue. He also submits that as far as first deficiency regarding maps is concerned, the petitioner-college was established in the year 2005 and obtained approval from local Grampanchayat and the same was accepted by AICTE during the year 2004-2005. But the Expert Committee insisted for approval from Director of Town and Country Planning, but said authorities give approval for new buildings only, but not the existing buildings. Learned counsel relied on judgment of Madras High Court

in WP.No.20890 of 2016, dated 31-08-2016 and he states that as far as other deficiencies are concerned, they have been complied with by the petitioner.

On the other hand, Sri K.Ramakanta Reddy, learned Standing Counsel appearing for respondents 2 to 5 submits that in pursuance to the directions granted by this Court in WP.No.19756 of 2018, again inspection was conducted on 02-07-2018 and during inspection, Standing Hearing Committee (SHC) pointed out certain deficiencies and when the same were placed before the respondent-Council, the impugned order is passed by the respondent-Council and no exception can be taken. In support of his contention, he also relied on the judgments of **Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS)**¹ and **Mahavir Institute of Medical Sciences V.Union of India** (W.P.No.(C) 818 of 2018).

In this case it is to be seen that admittedly by the time WP.No.19756 of 2018 is filed, deficiencies were pointed out by the respondent-Council. The case of the petitioner is that he complied with the deficiencies and made a representation on 24-07-2018. Basing on the observations, the said writ petition was disposed of. Infact the issue was reconsidered in pursuance to the orders passed by this Court in WP.No.19756 of 2018 at the instance of petitioner and the petitioner could have complied with the deficiencies by the time

¹ (2016) 11 Supreme Court Cases 530

inspection was held on 02-07-2018. Admittedly, the respondent-Council inspected the petitioner-college on 02-07-2018 and found certain deficiencies and even according to the petitioner, the deficiencies have been cured and after inspection is done, the impugned order is passed. Now the respondent-Council cannot be faulted for the same. In fact by taking lenient view, this Court disposed of WP.No.19756 of 2018 and the same was also not objected to by the respondent-Council and gave opportunity to the petitioner, but the petitioner-college could not fulfill the same. Para No.13 of the impugned order reads as under:

“ In view of the above, the compliance submitted by the Institute was considered as per rules in compliance of the Hon’ble High Court directions. In view of the record and the deficiencies namely possessing ‘No occupancy Certificate’, No Barrier Free Environment, shortage in instructional area, Shortage in Amenities area, Shortage in computation facility, Non-payment of salary to faculty members as per sixth pay commission, and No certificate by an architect giving details of sewage disposal system, barrier free environment and toilets created for physically challenged and inadequate number of laboratories as above pointed out by the Standing Hearing Committee (SHC) chaired by an Hon’ble High Court Judge (Retd) accordance with the Rule 13.3 of Appendix 13 of APHB-2018-2019 and in compliance with the Judgment of the Hon’ble Supreme Court in case of MAA Vaishno Devi as reported in (2013) 2 SCC 617 at para 54 and Parshwanath case reported in (2013) 3 SCC 385 Para 28 which explicitly states ‘compliance with the conditions for approval as well as Regulations and provisions of the AICTE Act is an unexceptionable condition”, which aim to ensure for attaining and maintaining of competitive,

recognized global standards in Technical Education, it is undeniably essential to ensure strict adherence to the prescribed parameters for imparting of such educational courses including the requisite infrastructure, which is ultimately aimed at protecting the vital interest of our students.

The above observation goes to show that respondent-Council has considered the case of the petitioner-college and Inspection was also attended subsequently. But in view of the non-compliance of deficiencies by the petitioner-college, the impugned order has been passed by the 2nd respondent. The Supreme Court in the judgment of **Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS)** held in para Nos 25 to 27 as under:

“ 27. The High Court was of opinion that the Inspection Team was required to conduct the inspection with reference to the academic year 2015-16 but the report pertains to the academic year 2016-2017. If that was so, the High Court could have passed an appropriate order in this regard rather than examine and scrutinize the inspection report prepared for the academic year 2016-17 which academic year was not at all the subject matter of consideration or discussion before it. Moreover, invalidation of the inspection report for the academic year 2016-17 would not automatically invalidate the inspection report for the academic year 2015-16. Unfortunately, the High Court spent its energy on adjudicating a non-issue.

28. It appears to us that both the MCI and the Central Government each having twice considered the inspection report submitted by neutral medical Professors, with the Central Government having given a personal hearing to KIMS on the second occasion (and perhaps on the first occasion as well) the matter ought

to have been given a quietus by the High Court at least for the academic year 2015-16.

29. That apart, we are of opinion that the High Court ought to have been more circumspect in directing the admission of students by its order dated 25th September, 2015. There was no need for the High Court to rush into an area that the MCI feared to tread. Granting admission to students in an educational institution when there is a serious doubt whether admission should at all be granted is not a matter to be taken lightly. First of all the career of a student is involved – what would a student do if his admission is found to be illegal or is quashed? Is it not a huge waste of time for him or her? Is it enough to say that the student will not claim any equity in his or her favour? Is it enough for student to be told that his or her admission is subject to the outcome of a pending litigation? These are all questions that arise and for which there is no easy answer. Generally speaking, it is better to err on the side of caution and deny admission to a student rather than have the sword of Damocles hanging over him or her. There would at least be some certainty.”

In view of the facts and circumstances of the case and the law laid down by the Apex Court, I do not see any merit in the writ petition and accordingly the same is dismissed.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

24-08-2018
Nvl



