

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL Nos.1199 AND 1194 OF 2018

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

All India Council for Technical Education/1st respondent in W.P.Nos.21845 of 2018 and 25049 of 2018 is the appellant. Writ Appeal No.1199 of 2018 is treated as the main case by the parties. Writ Appeal No.1194 of 2018 is directed against the interim order dated 31.07.2018 and is an offshoot to the order in W.P.No.21845 of 2018.

The learned counsel consented to disposing of both appeals by referring to the circumstances made out in W.A. No.1199 of 2018.

Respondents 1 to 3 filed W.P. No.21845 of 2018 for Mandamus declaring the order dated 30.04.2018 in F.No.AICTE/AB/SCR/1-5536831/2016-17 withdrawing the approval granted in favour of 2nd respondent institution for the academic year 2018-19, as illegal and unconstitutional.

The writ petition was disposed of at admission stage and one of the grievances of appellant is that the findings recorded in the order dated 29.06.2018 in W.P. No.21845 of 2018 is precluding the appellant/the statutory body from examining facilities provided or established by 2nd respondent college, while considering the request of college for approval for 2nd respondent college. In other words, the order of the learned Single Judge records a finding that the 2nd respondent is required to comply with only two omissions

noted by the inspecting authority for which appropriate directions can be issued. The operative portion reads thus:

“A perusal of the deficiencies mentioned in the impugned order goes to show that the land documents produced by the petitioners are in local language and that the Committee could not be convinced that the land belongs to the petitioner-institute. The learned Senior Counsel for the petitioners submit that the petitioners will file translated documents and building permission plans granted by competent authority. In view of these circumstances, the impugned order is set aside, leaving it open to the petitioners to file translated documents and approved building permissions granted by the competent authority, and within two weeks of filing such documents, the 1st respondent shall reconsider the claim of the petitioners for grant of approval for the present academic year 2018-19, in accordance with law.”

Mr. Ramakanth Reddy submits that keeping in view a few allegations made against 1st and 2nd respondents, the matter requires thorough examination and therefore, pursuant to the orders issued in W.P. No.21845 of 2018, the appellant is reconsidering the issue of approval granted to 2nd respondent institution. At that stage issuing direction in W.P. No.25049 of 2018 is untenable and beyond the scope of prayer in W.P.No.25049 of 2018. He places strong reliance on decisions of the Apex Court in Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS)¹ and order dated 06.08.2018 in W.P.No.818 of 2018. The principal objection of appellant is that the final order passed in W.P. No.21845 of 2018 without counter of appellant and placing the record before the Court, is untenable and hence, the appellant prays for setting aside the order dated 29.06.2018, restore W.P.No.21845 of 2018 to file,

¹ (2016) 11 SCC 530

afford opportunity to appellant to file counter affidavit and contest the matter.

Mr.Pandu Ranga Reddy does not dispute the circumstances which led to the disposal of W.P.No.21845 of 2018 and further submits that in obedience to directions issued by this Court, the approval has been granted by AICTE/appellant.

We have perused the record and noted the submissions, and prima facie we are of the view that the objections now pointed out against consideration of 2nd respondent's case for approval are matters which ought to have been deliberated basing on the material placed before the Court and thereafter final orders as are deemed fit could be passed in the W.P. The converse of the above situation is that the 1st and 2nd respondents herein by referring to the finding recorded by the Court could avoid complying with one or the other essential facility or requirement for consideration of the case of 2nd respondent for approval. Therefore, in our considered view and for the above reasons, disposing of the W.P. without reply by appellant has narrowed down consideration of 2nd respondent's case by AICTE/appellant. Hence, we are satisfied that these two appeals can be disposed of by this common order.

- a) Order dated 29.06.2018 in W.P. No.21845 of 2018 is set aside, the W.P. restored to file and directed to be heard along with W.P.No.25049 of 2018.
- b) The appellant is directed to file counter affidavit within four weeks from today.

c) The order, if any made in favour of 2nd respondent, is subject to further orders in W.P.Nos.21845 and 25049 of 2018.

d) The statement of Mr. Pandu Ranga Reddy that no student for the academic year 2018-19 is admitted, is placed on record.

The appeals are ordered as indicated above. No order as to costs.

In view of the orders passed in W.A. No.1199 of 2018, the order impugned in W.A. No.1194 of 2018 does not survive.

The Registry is directed to post W.P. Nos.21845 and 25049 of 2018 on 04.10.2018.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date:14.09.2018

Note:

C.C. in two days.

B/o.

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