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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 5609/2018 & CM APPL. 21897/2018**

SATYAM EDUCATION AND WELFARE SOCIETY ..... Petitioner

Through: Mr. Siddharth Gupta, Mr. Kush Chaturvedi, Ms. Prerna Priyadarshini, Ms. Priyashree Sharma and Mr. Somay Kapoor, Advocates.

versus

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION AND ORS. ..... Respondents

Through: Mr. Abhinav Tyagi, Advocate for R-1 & 2.
Mr. K.C. Dubey, Advocate for Mr. Mahender Bhardwaj, Advocate for R-3.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER

% **08.06.2018**

1. The present petition has been preferred impugning the order dated 30th April, 2018 passed by All India Council for Technical Education (*hereinafter, 'AICTE'*) by which the Petitioner Institution which was imparting courses since the year 2007-08, has been placed under "No Admission Category" for the year 2018-19 as per the APH 2018-19 Norms.

2. The Petitioner runs an institution `Surabhi College of Engineering and Technology' which has been imparting technical and professional courses approved by AICTE. The first approval letter of the AICTE is dated 2nd

September, 2008 and since then it was continuously admitting students for the various courses and academic years. It is the case of the Petitioner that the last inspection by AICTE was done in 2015. The last annual Extension of Approval, in terms of the AICTE (Grant of Approvals for Technical Institutions) Regulations 2016, was issued on 30th March 2017. As per this approval the Petitioner was given Extension to admit students in Post-Graduate courses relating to Computer Science and Engineering and Power systems; as also Under-graduate courses in Civil Engineering, Computer Science and Engineering, Electrical and Electronic Engineering, Electronics and Communications Engineering, Mechanical Engineering and Masters in Business Administration.

3. However, suddenly on 26th March, 2018 it received an email that an inspection has been scheduled in respect of two institutions of the Petitioner society for the 27th March, 2018. On 27th March, 2018, the inspection was conducted in both the institutions for approx. two hours each. Various submissions have been made as to the manner in which the inspections were conducted. Deficiencies were pointed out in respect of faculty to students' ratio and the built up area.

4. On 16th April, 2018, the Petitioner received an email directing them to appear before the Standing Hearing Committee on 19th April, 2018. The Petitioner appeared before the Standing Committee and submitted a letter dated 18th April, 2018 in respect of each of the deficiencies which were pointed out. Order dated 26th April, 2018 was passed by the Standing Hearing Committee in which the deficiencies were reiterated by the Standing Hearing Committee. It is the case of the Petitioner that this order was uploaded only on 28th April, 2018.

5. In Paragraph 9 of the said order dated 26th April, 2018, the Petitioner was allowed to appear before the Appellate Committee on 29th April, 2018. The Petitioner then submitted letter dated 29th April, 2018 which is at page 97 by which it agreed to, in fact, reduce its intake for the various courses. However, the Appellate Committee passed an order on 30th April, 2018 rejecting the Petitioner's request.

6. When the writ petition was listed before this Court on 23rd May, 2018 and on 28th May, 2018, the counsel for AICTE had sought time to seek instructions in the matter. On 31st May, 2018, again the Court permitted the filing of a counter affidavit and rejoinder.

7. Learned counsel for the Respondent has pointed out that the inspection was conducted by AICTE in March, 2018 pursuant to a complaint received from the Ministry of Finance in respect of allegations against the Petitioner society. The counsel for the Respondent further submits that since there are several deficiencies in the Petitioners' institute they have been put in the "No Admissions Category".

8. Learned counsel for the Petitioner on the other hand submits that as per the Regulations of the AICTE, Regulation 10.3 and 10.6 provide for various actions which can be taken by AICTE if there are any deficiencies found. Putting the Petitioner in the "No Admissions Category" is the harshest punishment which can be awarded to the Petitioner. The Petitioner is willing to reduce the intake of the college and also abide by any other directions which may be passed by the AICTE.

9. This court has considered the rival submissions. The first and most striking feature is the fact that the inspection, even as per the AICTE's counter affidavit was prompted not in view of some deficiency or some

complaint about the institution by a student or a parent, but by the Office of the Assistant Director of Income Tax, Ministry of Finance, dated 28th December 2017. The AICTE sent a letter dated 13th February 2018 which reads as under:

> *"To,*
> *The Regional Officer,*
> *AICTE, Central Regional Office,*
> *Airport Bypass Road, Gandhi Nagar,*
> *Bhopal – 462 036 M.P.*
>
> ***Subject: Irregularities found in case of Satyam Education and Social Welfare Society, Bhopal.***
>
> *This has reference to CVO Office Note No. CVO/AICTE/2018/Comp/SESW dated 10/11.01.2018 (copy enclosed).*
> *The matter pertains to irregularities found in the case of Satyam Education and Social Welfare Society, Bhopal. The CVO has requested Approval Bureau for further necessary enquiries to be carried out in the Society regarding Irregularities.*
>
> *This being case of Corruption/bribery, you are requested to arrange to conduct immediately Surprise Visit to the Institute. The Committee may consist of three Experts. Terms of reference may include focus on interaction with Students and faculty members, checking bank transaction details etc., along with other regular parameters to be checked by the team. The report of EVC may be sent to this office at the earliest.*
>
> *This has the approval of the Competent Authority.*
>
> *Sd/-*
> *Advisor-II (AB)"*

10. Thus, the inspection was to be in respect of interaction with students and faculty members as also checking bank transaction details along with checking of other regular parameters. In the end of March 2017, prompted by this complaint, it decided to conduct an inspection. As per para VI of the Petition, the inspection was conducted around 12 noon on 27th March 2018 and inspection of another institution run by the Petitioner Society was conducted between 2:30 to 4:30 pm. Interestingly, the aspects on which the inspection was to be conducted i.e., bank transaction details and interaction with students and faculty does not appear to have been done. The averments as to the manner of conduct of inspection have gone completely unrebutted by the AICTE.

11. Considering that the Petitioner institution has been in operation since the last ten years and no deficiencies were pointed out at any time previously for almost three years, and renewal was granted in April 2017, without any deficiencies being pointed out, it appears that the inspection was prompted only because of the complaint by the Asst. Director of Income Tax. Any alleged violation by the Petitioner of the Income Tax Act, 1961 may result in consequences under the said Act for the Petitioner, but the Petitioner, cannot be indirectly punished by putting it in the `No Admissions' category. The inspection report also shows that the inspecting team simply records `Data not provided' and `Not accepted' against most entries related to Laboratories, classrooms, Tutorial rooms, Drawing Hall. Actual measurement reports reveal that the available area is more than the total area required as per norms on most entries. However, the final deficiencies pointed out are –

> *"<u>DEFICIENCIES WITH REGARD TO INFRASTRUCTURE</u>*
> 1. *All aspects of infrastructure is in adequate.*
> 2. *There is an acute shortage of faculty and staff.*
> 3. *Faculty list submitted during application does not match in tottery only 1 person is present, rest are new faculty.*
> 4. *The ambience of class rooms and tutorials and labs very poor. The classroom are unduly with no cleaning.*
> 5. *No faculty is paid 6th PC salary.*
> 6. *As informed by faculty, they are expected is bring possible candidate for admission, however, no documentary cadence is available."*

12. Such a detailed report could not have been submitted within an inspection conducted within two hours. Moreover, the deficiencies if they exist could not have been created overnight. The conclusions also do not match the detailed tabular statements that are contained in the inspection reports. It is possible that some of the deficiencies do exist but the Petitioner ought to have been afforded opportunity to either explain the same or correct the deficiencies. Moreover, the manner in which the inspection was prompted due to a complaint from the Income Tax department casts a cloud on the entire inspection itself. Further the Petitioner has been presented with a *fait accompli*, suddenly, as the inspection itself was conducted on 27th March 2018 but the hearing was called for only on 18th April 2018. Between 18th April 2018 and 30th April 2018, no time was even granted to remove the deficiencies.

13. Counsel for AICTE submits that it is bound by the judgment of the Supreme Court ***Parshvanath Charitable Trust & Ors. v. All India Council for Technical Education & Ors. (2013) 3 SCC 385*** wherein the Supreme

Court held as under:-

> *"36. Non-adherence of this Schedule can result in serious consequences and can jeopardise not only the interest of the college students but also the maintenance of proper standards of technical education. The authorities concerned, particularly AICTE, should ensure proper and timely action upon the applications submitted to it. It must respond to the applicant within a reasonable time period and should not let the matter drag till the final date giving rise to avoidable speculations by all stakeholders. Thus, it would be appropriate for these authorities to bring to the knowledge of the parties concerned, the deficiencies, if any, and the defects pointed out by the Expert Committee during the inspection within three weeks from the date of such inspection or pointing out of defects, as the case may be. For better administration, AICTE should also state the time within which such deficiencies/defects should be removed by the applicant. This will help in building of a coherent and disciplined method of working to ensure the proper implementation of the entire formulated scheme of technical education. AICTE will not have any jurisdiction or authority to issue approval for commencement of a new course or for additional intake of students beyond 30th April of the year immediately preceding the commencement of an academic year."*

14. Admittedly, as per the chronology narrated above, the AICTE has not afforded adequate opportunity or a reasonable time period to the Petitioner. The above judgment of the Supreme Court was considered by the Madhya Pradesh High Court in ***Shri Dadaji Dhuniwale Professional Educaiton and Development Cooperative Limited v. All India Council for Technical Education & Anr. [W.P. No. 10458/2015 dated 8th January, 2018]*** wherein

the Madhya Pradesh High Court is observed as under: -

> *6. Therefore, the principal question that arises in the present writ petitions is:*
> *whether the said approach of the AICTE can be countenanced in the fact situation of the present case. We may usefully turn to the Supreme Court decision on which reliance has been placed by AICTE to deny approval is in the case of Parshvanath Charitable Trust v. All India Council for Technical Education, (2013) 3 SCC 385. Para 36 of the said decision reads thus:-*
>
> > *"36. Non-adherence of this Schedule can result in serious consequences and can jeopardise not only the interest of the college students but also the maintenance of proper standards of technical education. The authorities concerned, particularly AICTE, should ensure proper and timely action upon the applications submitted to it. It must respond to the applicant within a reasonable time period and should not let the matter drag till the final date giving rise to avoidable speculations by all stakeholders. Thus, it would be appropriate for these authorities to bring to the knowledge of the parties concerned, the deficiencies, if any, and the defects pointed out by the Expert Committee during the inspection within three weeks from the date of such inspection or pointing out of defects, as the case may be. For better administration, AICTE should also state the time within which such deficiencies/defects should be removed by the applicant. This will help in building of a coherent and disciplined method of working to ensure the proper implementation of the entire formulated scheme of technical education. AICTE will not have any jurisdiction or authority to issue approval for commencement of a new course or for*

additional intake of students beyond 30th April of the year immediately preceding the commencement of an academic year."

7. This decision stipulates the cut-off date of 30th April of the year immediately preceding the commencement of a new course or for additional intake of students. That was not the proposal submitted by the petitioner. The proposal of the petitioner was only for continuation or extension of the approval already granted to the petitioner-Institute and 5 was in force since academic year 2004-2005. Somewhat similar aspect has been dealt with by us in Writ Petition No.7521/2015 decided on 1st July, 2015 whilst relying on Supreme Court decision in the case of Royal Medical Trust (Regd.) Vs. Union of India 2013 (12) SCAL 145, interalia in para 35 onwards. In other words, AICTE has misread and misapplied the decision of the Supreme Court. On this count alone, the impugned decision of AICTE deserves to be quashed and set aside considering the fact that the application for continuation/extension of approval submitted by the petitioner-college was found to be otherwise satisfying all parameters including having been submitted within the specified time coupled with the fact that petitioner-College has been so functioning from academic year 2004-2005 and that the fate of large number of students is dependent on this decision."

15. Since the punishment meted out by the AICTE has almost happened overnight, the Petitioner was not afforded any opportunity to correct the deficiencies for this academic year. The broad timelines have also not been adhered to. The purpose of fixing timelines is to ensure that the Petitioner is not presented with a remediless situation. AICTE is itself to be blamed for its conduct. Under these circumstances, it is deemed appropriate that the request of the Petitioner for reduction of intake is considered by the AICTE.

The institution has been imparting education since almost 10 years. In the facts and circumstances, it is considered appropriate to direct to AICTE to consider the representation of the Petitioner at page 97 and pass appropriate orders in accordance with law within a period of ten days so that the Petitioner is not deprived of making admissions for the academic year 2018-19. If any deficiencies are found, AICTE shall give adequate opportunity to the Petitioner to rectify the deficiencies and not take immediate coercive action.

16. Writ petition is disposed of with the above directions.

17. Copy of this order be given *dasti* under the signature of Court Master.

PRATHIBA M. SINGH, J.
(VACATION BENCH)

JUNE 08, 2018
Rekha