

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6539/2019

**HONOURABLE SHRI BABANRAO PACHPUTE VICHARDHARA TRUST
THROUGH ITS SECRETARY**

VERSUS

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION AND OTHERS

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Shri R.N.Dhorde, Senior Advocate I/b V.S.Kadam, Adv. for petitioner

Shri V.M.Kagne, AGP for respondent State

Shri S.V.Adwant, Adv. For R.3

Shri S.S.Jadhavar, Adv. For R.4.

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**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 26/06/2019

PER COURT :

Leave to correct name of the petitioner.

2] The petitioner is running a Polytechnic college. The petitioner is assailing order dated 10/5/2019 placing petitioner no.2 institute under no admission category.

3] Mr.Dhorde, learned Senior Advocate for the petitioner contends that the EVC was conducted on 18/6/2018. The matter went before Standing Hearing Committee. The Standing Hearing Committee only observed two deficiencies : (1) Barrier Free environment not available and (2) Additional Workshop/Tutorial Room/Seminar Hall/Laboratory/Class Rooms are not available. According to the learned Senior Advocate only on the basis of the same the petitioner is placed in no admission category. The learned Senior advocate

further submits that subsequently under the orders of this Court a fresh EVC was conducted and report was solicited on the said deficiencies as was observed by the Standing Hearing Committee on 26/4/2019. The fresh EVC was conducted and the report is submitted. The said report is contrary to the earlier EVC report. The learned Senior Advocate tried to demonstrate the contradictions in both EVC reports. The learned Senior Advocate contended that in the earlier EVC report of June 2018, the EVC had observed compliance of the requirement and the same are observed in the recent EVC report of June 2019 as the deficiencies. The learned senior advocate submits that it is improper and even if some minor deficiency exists, the same can be rectified and cured. In such circumstances, permission needs to be granted. The learned senior advocate relied on the decision of this Court in the case of **Saraswati Education Society's Saraswati College of Engineering, Kharghar, Navi Mumbai V/s All India Council for Technical Education (AICTE), New Delhi and others reported in 2016 (I) MhLJ 235.**

4] According to the learned senior advocate since the year 2009 the petitioner is constantly running the institute and imparting high quality education. It is further contended that earlier the intake capacity was 480 students now the same is reduced to 180 students and the requirement will have to be considered qua the intake capacity of 180 students. The same has also not been considered.

5] Mr.Adwant, learned advocate for AICTE contends that the deficiencies are to be cumulatively considered and not in isolation. There are serious deficiencies with regard to the infrastructure so also faculties. The same cannot be cured. The learned advocate submits that this Court may not sit as an appellate authority over the decision

taken by the expert body. The learned advocate relied on the judgment of the Division Bench of this Court in the case of **Khalapur Taluka Shikshan Prasarak and another reported in 2013 (5) All M.R. 750.**, The learned advocate further submits that the report of the EVC has to be construed as find observation as the same is based on inspection of the site. Indulgence cannot be shown to the petitioner. The deficiencies which are pointed out cannot be condoned and cannot be allowed to be condoned. The learned advocate relied on the judgment of the Apex Court in the case of **Om Sai Punya Educational and Social Welfare Society and another V/s All India Council for Technical Education and another reported in (2017) 16 SCC 363.**

6] The learned advocate also relied on other judgments of the Apex Court to contend that the findings concurrently arrived at by the Standing Hearing Committee and the Standing Expert Committee shall be considered by this Court. The highest standard of the education will have to be maintained and the institutions with deficiencies cannot be permitted to run the course as that would affect the quality of education to be imparted to the students.

7] We have considered the submissions canvassed by the learned counsel for the respective parties.

8] It is trite that this Court would not consider the case in hand as an appellate authority over the appellate authority of experts committee. The experts naturally are the best judges of the availability of the infrastructure, the requirement of the faculty and all other aspects for running the institute and the courses.

9] We had after hearing the learned counsel for respective parties under our order dated 14/6/2019 directed the fresh inspection by additional Expert Visit Committee as is provided in the hand book under Clause-1.4.2 (D). The petitioner deposited Rs.2 lakhs and the Additional Expert Visit Committee conducted the inspection and submitted the report and the report is placed before us.

In para 3 of the order dated 14/6/2019 we observed thus :

“3] Considering the time constrained, the respondent-AICTE shall continue the EVC immediately and if an amount of Rs.2,00,000/- is deposited by the petitioner online/RTGS on 15th June 2019 with AICTE then the EVC shall be conducted on 17th June 2019, and shall report the status of the deficiencies as pointed out in the order of the Standing Hearing Committee. The report shall be submitted by the EVC immediately.”

10] Under both the reports that the EVC conducted in June 2018 and the EVC conducted under the order of this Court on 14/6/2019 there appears to be some variance with regard to the existence to the deficiencies.

11] As observed supra, we are not the experts in considering the existence of the deficiencies and its compliance if any. It is experts who are better suited to arrive at a conclusion about the existence of deficiencies and its compliance if any. We can only consider about the nature of deficiencies existing as per the report of the EVC and its effect.

12] The hand book provides for the procedure after the Expert Visit Committee. After the Expert Visit Committee submitted its report in June 2018 the matter was taken before the Standing Hearing

Committee and thereafter before Standing Appellate Committee subsequently the order was passed placing the petitioner institute in no admission category.

13] The Standing Appellate Committee observed in para 6 as under :

“6. Whereas, as per provisions contained in the Approval Process Handbook 2019-20, the Institute was provided an opportunity of appeal before Standing Appellate Committee (SAC) of AICTE at its meeting held on 26.04.2019. The Committee had made following observations / recommendation in the matter:-

Sr. No.	Deficiencies noted by EVC	Observation of SAC dt.26.04.2019
1.	Additional Workshop/Tutorial Room/ Seminar Hall/Laboratory/Classroom – Not Available	Approved – building plans approved by Competent Authority are not presented, hence not accepted. Deficiency still exists.
2.	Barrier Free Environment – Not Available	
3.	Internet Bandwidth – Only 32 Mbps is available against 48 Mbps	Document submitted, accepted.

14] Pursuant thereto the fresh EVC has been conducted as observed supra and the report is submitted. Both the reports are not consistent with each other.

15] As additional EVC is conducted, it would be appropriate for the Standing Hearing Committee to assess the deficiencies and compliance if any.

16] In the light of the above, we direct the petitioners to approach

the Standing Hearing Committee of the respondent-AICTE. The petitioner may appear before the Standing Hearing Committee alongwith all its documents. The Standing Hearing Committee shall consider the report before it and take appropriate decision preferably within 3 days after appearance of the petitioner before it. The petitioner shall appear before the Standing Hearing Committee on 5/7/2019. For taking further decision, the impugned order would not be an impediment.

17] Writ Petition is disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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