

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

WRIT PETITION NO. 8323 OF 2019

Umar Bin Khattab Welfare Trust through its President and Another
.. Petitioners

Versus

All India Council for Technical Education through its Secretary and Others
.. Respondents

Mr. Y. B. Bolkar, Advocate for Petitioners.
Mr. S. V. Adwant, Advocate for Respondent Nos. 1 and 2.
Mr. A. B. Dhongade, Advocate for Respondent No. 3.
Mr. P. K. Lakhotiya, AGP for Respondent Nos. 4 and 5.

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

DATED : 23rd JULY, 2019.

PER COURT:-

1. Mr. Bolkar, the learned Advocate for the petitioner submits that the petitioner has been granted approval for new Diploma Level Technical Institution with intake capacity of 60 students from the academic year 2006-07. The learned Counsel submits that Pharmacy Council of India has already granted extension of approval for academic year 2019-20 with intake capacity of 60 students. The AICTE also granted extension of approval to the petitioner institution for the Diploma in Pharmacy with intake capacity of 60 students for the academic year 2019-20 on 29.04.2019. The learned Advocate further submits that on 04.06.2019 without notice to the petitioner the AICTE reduced the intake capacity of the petitioners' college from 60 to 45 students.

2. Mr. Adwant, the learned Advocate for the AICTE submits that on 15.05.2019 order was passed by the AICTE to reduce the intake capacity considering the deficiencies existing and the recommendation of the SAC. The institute has complied some of the deficiencies but could not comply all the deficiencies. The institute is not in a position to prove that building is constructed on the same plot which is assigned to the institute. The learned Advocate submits that no illegality has been committed. The decision taken is in conformity with the approval process handbook. The learned Advocate on instructions further submits that the case of the petitioner can be considered by the committee constituted by the competent authority.

3. Mr. Dhongade, the learned Advocate for Pharmacy Council of India submits that the Pharmacy Council of India has granted extension of approval to the petitioner institution for D. Pharma course for the academic year 2019-20 with intake capacity of 60 students

4. We have considered the submissions.

5. It is not a matter of dispute that for the academic year 2019-20 the petitioner institution has been granted extension of approval to run D. Pharma course with intake capacity of 60 students by Pharmacy Council of India. It is also not disputed that AICTE under order dated 29.04.2019 has granted extension of approval to the petitioner institution for D. Pharma course for the academic year 2019-20 with intake capacity of 60 students, however, it appears that on 15.05.2019, the AICTE without notice to the

petitioner and without hearing the petitioner reduced the intake capacity by 25%. The same appears to be on the premise that the petitioner institution could not prove that the building is constructed on the same plot which is assigned to the institute. It is further observed that most of the other deficiencies are complied with. It is not a matter of dispute that the petitioner is running the institute with D. Pharma course since the year 2006-07 continuously. It is also not the case of the AICTE that the petitioner has changed its location.

6. Moreover, if at all, the AICTE had to reduce the intake capacity of the petitioner after having granted the extension of approval for the year 2019-20 the minimum requirement, of adherence to Principles of natural justice ought to have been made. It also could not have breached the deadline as is laid down by the Apex Court in case of *Parshavanath Charitable Trust and Others Vs. All India Council for Technical Education and Others reported in AIR (2013) 3 SCC 385*.

7. In light of the above, we set aside the impugned order dated 15.05.2019 and restored the order passed by the AICTE dated 29.04.2019.

8. Writ Petition is accordingly disposed of. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

RS.B.