



course on the approved 60 seats for the academic year, 2019-20.

“(c) That a writ of mandamus or any other writ, order or direction be issued ordering and directing the respondent No.1 to visit the petitioner No.2 College, verify whether the petitioners have complied with the norms of the respondent No.1 for running the petitioner No.2 college and after satisfying itself about the same, grant extension of approval.”

2. The 1st petitioner is an education society registered as a Public Charitable Trust under the Maharashtra Public Trusts Act 1950. The 2nd petitioner is the Institute of Management Studies.

3. The 1st respondent before this Court is the All India Council for Technical Education, New Delhi. The 2nd respondent is the University of Mumbai and the 3rd respondent is the State of Maharashtra through the Department of Technical and Higher Education.

4. The 3rd respondent has commenced what is called a Common Admission Process to select students on the basis of their merits for admission to professional courses. The 3rd respondent Directorate has put the petitioner in a no-admission category

pursuant to the 1st respondent Council's recommendation in that behalf.

5. The petitioners claim that a charitable trust has set up the 2nd petitioner institute intending to commence a Master of Management Studies degree course. The petitioners, therefore, made an application to the 1st respondent for grant of approval to commence this course. A regional committee and executive committee made recommendations after inspecting the institute's infrastructure. On the basis of the recommendation, the 1st respondent granted permission/approval dated 27th June 2010 to start the course with an approved intake of 60 students on the terms and conditions set out in the approval letter of that date. At Exhibit "A" is the copy of this letter. This letter reads as under:

"ALL INDIA COUNCIL FOR TECHNICAL  
EDUCATION  
(A STATUTORY BODY OF THE GOVT OF INDIA)  
F.No. West/1-4449921/2010/New  
Date: 27.08.2010

To,  
The Principal Secretary,

Govt. of Maharashtra,  
Higher & Technical Education & Employment  
Department,  
Mantralaya Annexe, Mumbai – 400 032.  
Sub: Approval for New Institute/Integrated Campus from  
academic year 2010-11.

|                       |                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Name of the Institute | Prabhakar Patil Education<br>Society's Management Studies,<br>Plot No. 4 & 6,<br>Survey No. 81/6 at & Post<br>Veshvi<br>Gondhalpada Alibag, Raigad,<br>Maharashtra. |
| Institute type        | New Technical Institution                                                                                                                                           |

Sir

In terms of the provisions under the All India Council for Technical Education (Grant of Approvals for Technical Institutions) Regulations 2010 notified by the Council vide notification number F.No. 04/0007/2003-05/F-No.37-3/Legal/2010 dated 06/02/2010 and other notifications, as applicable and published from time to time, and based on the recommendations of Regional Committee and Executive Committee / Council, I am directed to convey the approval to Prabhakar Patil Education Society's Institute of Management Studies, Plot No. 4 & 6, S.No. 81/6, At & Post Veshvi Gondhalpada, Alibag, RAIGAD-402201 for starting Prabhakar Patil Education Society's Institute of Management Studies, at Plot No. 4 & 6 Survey No.81/6 at & Post Veshvi Gondhalpada Alibag Dist: Raigad Maharashtra of conduct following courses with the intake indicated below for the academic year 2010-2011.

| Sr. No. | Programme  | Name of the Course | Level | Approved Intake for 2010-11 |
|---------|------------|--------------------|-------|-----------------------------|
| 1       | MANAGEMENT | MMS                | PG    | 60                          |

Note:- The approval is valid for two years from the date of issue of this letter for getting affiliation with respective University and fulfilling State Govt. requirements for admission.

The Society/Trust/Institution shall obtain necessary affiliation / permission from the concerned affiliating University as per the prescribed schedule of the University/Admission authority etc. The Applicant Society/Trust/Institution shall send information about commencement of the above courses to AICTE. In case the Institution is not in a position to commence the above mentioned courses for whatever reason during the two years period from the date of issue of this letter, the approval becomes invalid and the application society/Trust/Institution shall make fresh application to AICTE for grant of approval as per the norms prevailing at such time.

Note: The mandatory disclosure in format as prescribed in Approval Process Handbook is required to be hosted on the Institute website as per directions in the AICTE website failing which, action would be initiated as per the rules and regulations of the AICTE.

All Institutions shall fulfil the following general conditions:

1. The management shall provide adequate funds for development of land and for providing related infrastructural, instructional and other facilities as per

norms and standards laid down by the Council from time to time and for meeting recurring expenditure.

2. The admission shall be made only after adequate infrastructure and all other facilities, including the availability / recruitment of the required faculty are provided as per norms and guidelines of the AICTE.

3. The admissions shall be made in accordance with the regulations notified by the Council from time to time.

4. The curriculum of the course, the procedure for evaluation / assessment of students shall be in accordance with the norms prescribed by the AICTE and concerned affiliating university where ever applicable.

5. The management of the Institution shall not close the Institution or the institution shall not discontinue any course(s) or start any new course(s) or alter intake capacity of seats without the prior approval of the Council.

6. No excess admission shall be made by the Institution over and above the approved intake under any circumstances. In case any excess admission is reported to the Council, appropriate action as per the notified regulations shall be initiated against the institution.

7. The institutions shall not have any collaborative arrangements with any Indian and / or Foreign Universities for conduct of technical courses other than those approved by AICTE without obtaining prior approval from AICTE. In case any violation is reported to the Council, appropriate action as per the notified regulations shall be initiated against the Institution.

8. The Institution shall not conduct any course(s) in the field of technical education in the same premises / campus and / or in the name of the Institution without

prior permission / approval of AICTE. If found so, appropriate action as per the notified regulations shall be initiated against the Institution.

9. The Institution shall not conduct any non-technical course(s) in the same premises / campus under any circumstances. In case any violation is reported to the Council, appropriate action as per the notified regulations shall be initiated against the Institution.

10. The Institution shall operate only from the approved location, and that the institution shall not open any off campus study centers / extension centers directly or in collaboration with any other institution / university / organization for the purpose of imparting technical education without obtaining prior approval from the AICTE. If found so, appropriate action as per the notified regulations shall be initiated against the Institution.

11. The tuition and other fees shall be charged as prescribed by the Competent Authority within the overall criteria prescribed by the Council from time to time. No capitation fee shall be charged from the students / guardians of students in any form. If found so, appropriate action as per the notified regulations shall be initiated against the institution.

12. The accounts of the Institution shall be audited annually by a certified Chartered Accountant and shall be open for inspection by the Council or any body or persons authorized by it.

13. The Director / Principal and the teaching and other staff shall be appointed in given time frame and selection shall be done according to procedures, qualifications and experience prescribed by the Council from time to time and

pay scales are as per the norms prescribed by the Council from time to time.

14. The technical institution shall publish an information booklet commencement of the academic year giving details regarding the institution and courses / programs being conducted and details of infrastructural facilities including faculty etc. in the form of mandatory disclosure. The information booklet may be made available to the stakeholders of the technical education. The mandatory disclosure information shall be put on the Institution website. The information shall be revised every year with updated information about all aspects of the institution.

15. It shall be mandatory for the technical institution to maintain a Website providing the prescribed information. The Website information must be continuously updated as and when changes take place.

16. If a technical Institution fails to disclose the information or suppress and / or misrepresent the information, appropriate action as per the notified regulations shall be initiated against the institution.

17. All the laboratories, workshops etc. shall be equipped as per the syllabi of the concerned affiliating University and shall be in operational condition before making admissions.

18. A library shall be established with adequate number of titles, books, journals (both national & international), Subscription, etc. as per AICTE norms.

19. A computer center with adequate number of terminals, printers etc. shall be established as per AICTE norms.

20. AICTE may carry out random inspections round the year for verifying the status of the institutions to ensure maintenance of norms and standards.

21. AICTE may also conduct inspections with or without notifying the dates to verify specific complaints, to verify adherence to AICTE norms & standards, and to verify any mis-representation, violation of norms & standards, mal-practices etc.

22. The Institution by virtue of the approval given by the Council shall not automatically become claimant to any grant-in-aid from the Central or State Government.

23. In the event of a student / candidate withdrawing before the starting of the course, the wait listed candidates should be given admission against the vacant seat. The entire fee collected from the student, after a deduction of the processing fee of not more than Rs.1000/- (Rupees one thousand only) shall be refunded and returned by the Institution / University to the student / candidate withdrawing from the program. It would not be permissible for Institutions and Universities to retain the School / Institution Leaving Certificates in original to force retention of admitted students (See Public Notice AICTE/DPG/03(01)/2008)

24. The Institute shall take appropriate measures for prevention of ragging in any form, in the light of direction of Hon'ble Supreme Court of India in Writ Petition No. 656/1998. In case of failure to prevent the instances of ragging by the Institutions, the Council shall take appropriate action as per the notified regulations.

25. The institution shall provide barrier free environment and toilets for physically challenged persons.

The Management of the Institute shall strictly follow further conditions as may be specified by the Council from time to time. The Council may withdraw the approval, in case it observe any violation of the above conditions and / or non adherence to the norms and standards prescribed by the Council, mis-representation of facts and submitting factually incorrect information to it.

(Dr DK Paliwal)

Member Secretary, AICTE

Copy to:

1. The Regional Officer,  
Western Regional Office of AICTE,  
2nd Floor, Industrial Assurance Bldg.,  
VN Road, Churchgate, Mumbai 400 020.
2. The Director of Technical Education,  
Govt. of Maharashtra,  
3, Mahapalika Marg, Dhobitalao, Mumbai - 400 001.
3. The Registrar, concerned Affiliating University.
4. Prabhakar Patil Education Society's Institute of Management Studies, Plot No. 4 & 6 Survey No. 81/6 at & Post Veshvi Gondharpada Alibag, Raigad Maharashtra.
5. The President/Chairman/Secretary, Prabhakar Patil Education Society's Institute of Management Studies, Plot No. 4 & 6, S.No. 81/6, At & Post Veshvi Gondhalpada, Alibag, DIST: RAIGAD - 402201, Maharashtra.
6. Guard File (AICTE)."

6. A perusal of this letter denotes that this is a conditional approval and as many as 25 conditions have been imposed on compliance of which alone the academic activities can commence.

7. There is an extension of approval granted and on the basis of which the 2nd respondent-University affiliated the petitioner No. 2-college.

8. It is claimed that the norms underwent a drastic change and additional requirements were prescribed and the petitioners were called upon to make a self-appraisal report and forward it online to the 1st respondent-Council to seek an extension of the approval.

9. On receipt of this self-appraisal form, a copy of which is at Exhibit "C", the Committee of the respondent No. 1 noted several deficiencies. It placed the petitioner in the no-admission category. The deficiencies noted inter alia pertained to lack of faculty. The institution was, therefore, placed in a no-admission category for the Academic Year 2019-20. That is why the 3rd respondent has not allotted students.

10. The argument of Mr Vashi, learned Senior Advocate is that the petitioners have made the necessary infrastructural arrangements. There are class rooms, other rooms for offices, departments, libraries and computers, and a cafeteria in place. The petitioners on receipt of the letter at Exhibit “D” approached the Standing Appellate Committee of the 1st respondent and invited its attention to the arrangements made by them. The Standing Appellate Committee is stated to have passed orders but such orders, according to Mr Vashi, are passed and communicated online. The Standing Appellate Committee maintains that there are such deficiencies which cannot be rectified.

11. It is pointed out by Mr Vashi that though the 1st respondent maintains and justifies its stand in the affidavit in reply, still, if any deficiencies noted remain, the petitioners will take the consequences. Today, the petitioners are ready and willing to give an undertaking to this Court that the deficiencies noted in the visit of the Expert Committee of the 1st respondent, particularly about lack of faculty, would be rectified and that this will be done before the

commencement of the academic session. That commences in August 2019. The petitioners therefore pray that they be given time, as per their undertaking, to remove these deficiencies. By the time the academic courses commence, the petitioners will ensure that there is a qualified director and professors/teachers, failing which they would not commence actual teaching activities.

12. The undertaking is tendered today.

13. Mr Abhijeet Joshi appearing on behalf of the 1st respondent Council and the State maintains that if such indulgence is shown to the institutions like the petitioners, then, that may become a precedent for such institutions, and particularly those with faculty deficiencies, which would then approach this Court, give undertakings on the basis of which the students would be enrolled by them, huge fees would be collected but thereafter the merit would suffer if the deficiencies continue or are not cured. In other words, these essential facilities and amenities have to be in place *before* the students are admitted. It is no good giving an undertaking after the end of the April every year (when the appraisal is made),

for, as a policy, the Council does not allow a course to be commenced unless the necessary staff, and particularly teaching faculty and a properly qualified and regularly appointed director are in place. For these reasons, it is submitted that the petition be dismissed.

14. The petitioners have themselves stated that a visit was arranged and in that visit the remark of the Committee is that none of the deficiencies have been removed or rectified. Now the conditions on which the approval was granted for establishing a new institution inter alia are that the institution must not only have the necessary infrastructure, but the director/principal and the teaching and other staff should have been appointed in a given time-frame with the selection being done, according to the procedure prescribed, all possessing the qualifications and experience as prescribed by the Council periodically, on pay-scales conforming to the norms set by the Council. It is no good saying that there is a building, that there is a library, that there is a laboratory, that there are computers and cafeterias and common rooms. Adequate

arrangements for admitted students be provided throughout. The teaching and non-teaching staff be already appointed and in place, and the facilities must be maintained and usable.

15. The faculty has to be in place before-hand, and that is clear from the conditions imposed, particularly condition No. 13.

16. On 17th January 2017, the University granted affiliation, subject to the condition that the college authorities give an undertaking in writing that they will fulfil the conditions mentioned in the report to the satisfaction of the academic Council and payment of requisite affiliation fees for the respective years. Thus the application made on 29th August 2015 for continuation of affiliation for conducting the course or study for Master of Management Studies for the academic year 2016-17 with intake capacity of 60 students was considered, but from that time till date we do not find a director and faculty in place. The deficiency, therefore, remained and though the 1st respondent extended the approval once, it then firmly said that once these deficiencies are not complied with, the Committee of the 1st respondent Council would

place the petitioner under the no-admission category for the current academic session. Such a decision of an expert body, and one that is maintained in an internal appeal, therefore, does not require interference in our jurisdiction under Article 226 of the Constitution of India. We cannot substitute our views and opinion for that of the experts in the field. The Council for Technical Education is an All India body in charge of technical education. It has, after proper study and research, devised a scheme under which the institutions have to function and work. Technical Education institutions are well aware of these requirements prescribed by the Council from time to time vide a governing legislation as also under regulations framed in exercise of the powers statutorily conferred on the Council. The deficiencies are not merely intimated on a paper representation. On occasions, an Expert Committee carries out a personal inspection. It sends back a report of this inspection. Student admitted to technical institutes go through a common admission process. The law permits the Council to grant technical institutes a conditional approval, or to refuse approval.

17. The 1st respondent Council grants enough time to remove any deficiencies noted. It says that it has scheduled its next visit before which the deficiencies ought to be removed. It is stated in the affidavit in reply that at the hearing of the Scrutiny Committee, the College should have submitted plans approved by the Competent Authority but the plans approved by the Competent Authority were not forwarded. Even the anti-ragging measures were found to be lacking.

18. Then there is an email which is forwarded by the Standing Appellate Committee. The Standing Appellate Committee gave a hearing pursuant to this email communication and sought compliance on all counts and particularly of the terms and conditions imposed in the letter of approval. Once it found the institution to be non-compliant it had no alternative but to put the same in a no-admission category.

19. Admitting that there are deficiencies, now the Secretary of the petitioner No. 1 Trust, who is present in Court, gives an affidavit-cum-undertaking. This affidavit-cum-undertaking to our

mind does not inspire confidence. It is inconceivable that the whole faculty, including a director, would be in place in the next two months, commencing from Monday, 1st July 2019, and by the first week of August 2019. We believe this statement to be unrealistic and therefore insincere, because of its sheer impossibility. Even if advertisements to fill up these posts, drafts of which have to be approved by the Competent Authority, are published and the candidates are given time to apply, still, after receipt, the applications have to be scrutinized and verified. For those whose applications are found to be in order, rounds of interviews will follow. That requires, to be in place, a properly constituted selection committee. Any such selection committee is an representative body. It must have a Management representative, a University representative, a representative of the Council, and the representative of the State. These representatives cannot be rounded up and asked to make themselves available at short notice only to suit the petitioners. It is only when they find time to assemble, that interviews will be scheduled. After the interviews, the recommendations of the Selection Committee have to be sent to

the Competent Authorities, who in turn would apply their mind and either accept or reject the recommendations. Appointment orders can be issued only thereafter. Once appointed, a successful candidate must be given enough time to join. We cannot presume that every selected candidate will necessarily join and start teaching immediately. We do not believe it is in the realm of possibility for the petitioner to put in place the required and proper faculty before the commencement of the course scheduled in the first week of August 2019.

**20.** To our mind, the deficiencies which are noted go to the root of the matter. These deficiencies have to be first removed before any admission process is commenced or an institution can be included in a common admission process. In a common admission process, from the pool, students have to be allotted colleges which qualify for inclusion in the process. Therefore, it is for the Authority in charge of the admission process to decide as to which institution sufficiently fulfils the norms for it to be included in the process, and which should be excluded. Institutions with no qualified director or

professors cannot claim an inclusion in the common admission process. In any event, that inclusion is not as a matter of right. On the contrary, an institute's inclusion in the common admission process is a privilege, and like all privileges, this privilege too must be earned by meeting or bettering the stipulated norms. The AICTE's norms are minimum standards. They have to be achieved. There must be a minimum number of qualified teaching faculty in place. A director is not only the titular head of the institute. He has both administrative and teaching duties. He must also be in place.

**21.** An undertaking of the kind proposed by the petitioner conceivably puts at risk the careers of students seeking admission through the common admission process, but who are not necessarily allotted a college of their preference or choice. Many must take up their second or third preferences. In such a scenario, should the petitioners' institute be included in the admission process on the strength of a mere undertaking, and if a student is allotted or given a choice of taking admission to the petitioners' institute, that student may well suffer on account of the petitioners not keeping their

promises and adhering to these undertakings. It is no use saying that the court can compel the fulfilment of these undertakings. We cannot compel the impossible. A continued deficiency invites action by the AICTE and the State directorate. The consequences are visited not just on the institute but on the students who, for no fault of their own, are enrolled into such a institute, severely lacking in many departments.

22. Such a consequence on innocent students must be avoided at all costs. No writ of this Court can be issued when such are the ground realities. In these circumstances, we do not think that in writ jurisdiction we should interfere at the behest of the petitioners or by accepting their undertaking-cum-affidavit. To our mind the undertaking proposes the impossible to delay the inevitable. No indulgence can be shown to the petitioners by accepting this affidavit and the undertakings therein.

23. The writ petition devoid of merits and it is dismissed.

**(G. S. PATEL, J)**

**(S. C. DHARMADHIKARI, J)**