

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.10218 of 2016
and W.M.P.No.9070 of 2016

Ka.So.Ka.Polytechnic Institute,
rep. by its Correspondent,
No.115, T.Palur Road,
Karadikulam Post, Udaiyarpalayam Taluk,
Ariyalur District-621 802. .. Petitioner

Vs.

All India Council for Technical Educational
rep. by its Director (Approval),
7th Floor, Chandralok Building,
Janpath, New Delhi-110 001. .. Respondent

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Certiorarified Mandamus calling for the records of the
respondent in its order dated 14.10.2015 in F.No.1-
411390181/SRO/2011, quash the same and consequently direct the
respondent to grant extension of approval to the petitioner
institution for the academic year 2014-15.

For Petitioner : Mr.Abishek Jenasenan

For Respondent : Ms.AL.Ganthimathi
Standing Counsel

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O R D E R

The challenge in this writ petition is to the order of the
respondent dated 14.10.2015 in F.No.1-411390181/SRO/2011, with a
prayer to direct the respondent to grant extension of approval
to the petitioner institution for the academic year 2014-15.

2. According to the petitioner institution, it was commenced
in the year 2009 by one K.N.Kuppasamy Educational Trust to teach
technical education to the residents. Their request for
approval for the academic year 2011-12 was negatived by the
respondent stating that the buildings were not approved by the
competent authority. They filed W.P.No.20398 of 2011, which was
disposed of, directing the respondent to reconsider their case.

Only thereafter, the order of approval dated 08.02.2012 was issued to the petitioner to conduct four 3- year Diploma courses with a totally intake of 240 students from the year 2012-13 and it was valid for two years.

3. On 30.04.2013, for the academic year 2013-14, the respondent passed an order refusing to extend the approval relying upon the report of the then District Collector. The petitioner laid challenge to the said order in W.P.No.14532 of 2013, which was allowed by this Court quashing the order, however, with a further direction to the petitioner not to admit the students till the matter is reconsidered. The petitioner filed an appeal in W.A.No.1410 of 2013, wherein, an interim direction was given to the respondent to appoint a Committee to go into the report of the District Collector and the Committee gave a report in favour of the petitioner, based on which, the writ appeal was disposed of. After dismissal of the review filed by the respondent, the approval was granted vide order dated 21.10.2013, in favour of the petitioner for the academic year 2013-14.

4. The petitioner institution submitted application for approval for the academic year 2014-15, whereupon, an Expert Visit Committee (EVC) was constituted by the respondent to inspect the petitioner institution. The petitioner was informed that the EVC, in its report, noted certain deficiencies, which was placed before the Standing Complaint Committee (SCC). Thereafter, the petitioner was asked to appear before the SCC on 19.04.2014, without providing the copy of the report of the EVC, but by giving only a gist of the observations on 16.04.2014. Though the petitioner placed all the materials to evidence the fact that they have rectified the deficiencies, without appreciating the same, the order dated 26.04.2014 was passed by the respondent refusing to grant extension of approval for the academic year 2014-15. Again the petitioner came before this Court in W.P.No.13297 of 2014, wherein, an interim order of stay was granted in their favour.

5. While so, the Commissioner of Technical Education, the affiliating body, conducted an inspection in the petitioner institution and gave a report dated 04.07.2014 detailing the availability of sufficient infrastructure. Subsequently, this Court disposed of W.P. No.13297 of 2014 on 13.04.2015 remitting back the case to the respondent for fresh consideration on the ground that the recommendation of the SCC ought to have been communicated to the petitioner, besides giving liberty to the petitioner to present its compliance on the report of the SCC before the respondent. While doing so, the report of the Commissioner of Technical Education was taken into account by this Court.

6. At this stage, the petitioner applied for extension of approval for the academic year 2015-16, thereupon, another EVC inspected the institution and gave a positive report, based on which, an order extension of approval was granted on 30.04.2015 to the petitioner with a 25% reduction in intake.

7. In the meanwhile, the respondent, in order to comply with the directions of this Court dated 13.04.2015 given in W.P.No.13297 of 2014, sent a letter to the Commissioner of Technical Education, marking a copy to the petitioner, to forward a copy of the report dated 04.07.2014 duly signed by all the members of the Inspection Committee. On receipt of the said report, the respondent heard the petitioner and passed the impugned order dated 14.10.2015 holding that the Inspection Report of the Commissioner is a collection of various data and there was no recommendation on merits of the case in favour of the petitioner.

8. The respondent, in the impugned order, after taking note of the fact that its earlier order dated 24.06.2014 was not set aside by this Court in the order dated 13.04.2015, decided not to grant extension of approval for the academic year 2014-15 and instead ordered status quo to be maintained for the Academic Year 2014-15.

9. At this juncture, it is to be stated that the petitioner filed an application before the Chairman of the All India Council for Technical Education (AICTE) seeking to review the recommendations of the SCC dated 24.08.2015, the fate of which is not placed before this Court. Subsequently, they filed this writ petition.

10. When this writ petition was taken up for admission on 18.03.2016, this Court granted an order of interim stay of the operation of the impugned order.

11. Resisting the writ petition, the respondent filed a counter-affidavit, wherein, inter alia, it is stated that the alleged report of the Commissioner of Technical Education cannot be construed to be a recommendation in favour of the petitioner and hence, the impugned was passed. It is reiterated that in addition to the other deficiencies, the petitioner institution does not possess building approval for the entire building, as it got approval only for 4,196 sq. meters.

12. Learned counsel for the petitioner submitted that since this Court granted the relief of interim stay of the operation of the order, the petitioner institution has admitted 74 students out of the sanctioned strength of 180 students for the academic year 2014-15 and on account of not attaining finality of the issue, those poor students could not get their diploma

certificates. It is also submitted that the petitioner institution complied with all the deficiencies, however, the impugned order came to be passed erroneously to the detriment of the students. It is his further submission that the petitioner institution was granted approval from the year 2015-16 to 2019-2020, which itself proves the compliance of the deficiencies pointed out by the Inspecting Teams and hence, the petitioner is entitled to get approval for having conducted the course for the academic year 2014-15.

13. Learned Standing Counsel for the respondent contended that the petitioner institution did not produce the materials with regard to the compliance of the deficiencies, which includes data relating to faculty members, laboratory facilities, computer facilities, etc. for the academic year 2014-15 and as such, the respondent has rightly passed the impugned order.

14. It is to be stated that the petitioner institution was commenced in the year 2009 and it has been imparting technical education by way of diploma courses from 2012-2013. Excepting the disputed academic year 2014-2015, it got approval for all previous and subsequent academic years. It is the claim of the petitioner that on the strength of the interim order granted by this Court, they admitted 74 out of 180 students earlier approved by the respondent. It is claimed by the respondent that this Court has not granted any such positive direction to the petitioner institution. As stated above, the similar order with respect to the very same academic year, i.e., 2014-15 was put to challenge before this Court in W.P.No.13297 of 2014 and this Court without setting aside the order impugned therein, while remitting the matter back to the respondent, directed the petitioner to submit a representation to the AICTE regarding the compliance of the report of the SCC and other facilities along with the report of the team constituted by the Commissioner of Technical Education. Upon such representation being made, the AICTE was directed to consider the same and take a conscious decision after referring to the findings of the affiliating body.

15. The respondent, in compliance of the said order, sought for a copy of the inspection report from the affiliating body, namely, the Commissioner of Technical Education and after receipt of the same held that the said report not illuminative or relevant on the merits of the deficiencies found against the petitioner institution, whereas, it is only a collection of various data and there is no recommendation on merits in favour of the petitioner. Admittedly, the said report speaks of the

facilities available in the petitioner institution and there is no adverse remarks against the petitioner, which itself proves that the petitioner had complied with the deficiencies. However, even after holding so, the respondent refused to extend the approval for the academic year 2014-15 and ordered the petitioner to maintain status quo.

16. Assuming but not admitting that the petitioner did not have required facilities and building approval, in the impugned order the respondent ordered status quo, which said to be prevailing as on the date of passing the said order. Admittedly, by then the petitioner admitted 74 students on the strength of the interim order staying the operation of the similar order dated 26.04.2014 pertaining to academic year 2014-15. Though it is contended that this Court in the interim order did not give any positive direction to the petitioner to admit students and hence, the alleged admission could not be regularized, by virtue of the interim order the operation of the order dated 26.04.2014 was stayed and citing that, the petitioner admitted students and on the date of passing the impugned order, the status of the petitioner institution is there were 75 students on its role, which was claimed to be maintained by the petitioner.

17. The said act of the petitioner is not in consonance with the interim order of this Court. If at all, the petitioner intended to admit the students, they should have obtained prior permission from the respondent or should have filed a petition to that effect and sought for interim direction from this Court. Having failed to do, the petitioner cannot seek equity from this Court.

18. At the same time, the students, who have been admitted, studied and passed out from the petitioner institution for the academic year 2014-15 cannot be made to suffer for the acts and deeds of the petitioner, more particularly, when the petitioner institution obtained approval for the preceding and post academic years to academic year 2014-15.

19. In the light of the above discussion, in order to give quietus to the issue, this writ petition is allowed and the impugned order dated 14.10.2015 passed by the respondent is set aside and the respondent is directed to accord approval to the petitioner institution for the academic year 2014-15, subject to the condition that the petitioner pays costs of a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to M/s.Sri Venkateswara Orphanage, Kaduveli, Naadarpannai, Thiruvaiyaru, Thanjavur-613 203, for their misdeeds, within a period of four weeks from the

date of receipt of a copy of this order. Consequently,
connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Director (Approval)
All India Council for Technical Educational
7th Floor, Chandralok Building,
Janpath, New Delhi-110 001.

2.M/s.Sri Venkateswara Orphanage,
Kaduveli,
Naadarpannai,
Thiruvaiyaru,
Thanjavur 613 203

+2cc to Mr.Abishek Jenasenan, Advocate, S.R.No.36761

+1cc to M/s.AL.Ganthimathi, Advocate, S.R.No.37239

W.P.No.10218 of 2016

Nr1 (CO)

vkr (21/05/2019)

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