

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.06.2019

PRONOUNCED ON : 13.06.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.14820 of 2019 and
W.M.P.Nos.14803, 14805 and 15744 of 2019

M.Kumarasamy Health and Educational Trust,
Administering M.Kumarasamy College of Engineering
Thalavapalayam Post,
Karur - 639 113,
Rep. By its Managing Trustee,
Dr.K.Ramakrishnan.

.... Petitioner

Vs

1.The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

2.Director,
Centre for Academic Courses,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

3.The Director,
Centre for Affiliation of Institutions,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

4.The Member Secretary,
All India Council for Technical Education (AICTE)
Nelson Mandela Marg,
Vasanth Kunj,
New Delhi - 110 067.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the
Constitution of India for a writ of certiorarified mandamus
calling for the records pertaining to the impugned order in

Lr.No.215/CAI/AU/2019 dated 17.05.2019 passed by the third respondent quash the same and direct the respondents 1 to 3 to grant affiliation to the new course (B.E - Computer Science and Business System) approved by the second respondent vide letter No.2390/AU/CAC/Autonomous/2019 dated 13.05.2019 and the fourth respondent vide order in F.No.Southern/1-4266385049/2019/EOA dated 29.04.2019 with an intake of 60 students for the academic year 2019-2020 to the petitioner college.

For Petitioner :Mr.D.Prabhu Mukunth Arunkumar

For Respondents 1 to 3 :Mr.M.Vijayakumar, Senior Counsel

For 4th Respondent :Mr.B.Rabu Manohar,
Standing Counsel

ORDER

Seeking to call for the records pertaining to the impugned order in Lr.No.215/CAI/AU/2019 dated 17.05.2019 passed by the third respondent quash the same and direct the respondents 1 to 3 to grant affiliation to the new course (B.E - Computer Science and Business System) approved by the second respondent vide letter No.2390/AU/CAC/Autonomous/2019 dated 13.05.2019 and the fourth respondent vide order in F.No.Southern/1-4266385049/2019/EOA dated 29.04.2019 with an intake of 60 students for the academic year 2019-2020 to the petitioner college, the petitioner Institute is before this Court with this writ petition.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 to 3 and the learned counsel for the 4th respondent.

3.The petitioner is an education Institute running courses in Engineering since the year 2000, after obtaining due approval from the All India Council for Technical Education (hereinafter referred to as "the AICTE"), the 4th respondent herein. The Institute is affiliated to the first respondent University. In addition to the 14 courses offered by the Institute, with the intention to introduce two new courses in the Undergraduate Engineering and technology program, (BE - Computer Science and Business System and BE - Computer Science and Information Technology), the petitioner sought for National Board of Accreditation (hereinafter referred to as "the NBA") which is a mandatory pre-request to consider their application for approval by AICTE.

4.After conducting on-site evaluation of the program proposed to offer, NBA granted accreditation status for one

course in Computer Science and Engineering vide its communication dated 28/03/2019. The AICTE in response to the request of the petitioner Institute seeking extension of approval for the Academic Year 2019-2020 of the 14 existing courses and one new course namely, Computer Science and Business system, conveyed its approval vide communication dated 29/04/2019.

5.While so, the petitioner in the meanwhile had wrote to the 3rd respondent informing their intention to start two new courses in their Institute from the academic year 2019-2020. This communication was made on 08.02.2019 much prior to the grant of accreditation status by the NBA. The 3rd respondent has in turn had informed the petitioner on 13/02/2019 that Vice-Chancellor had approved these two new courses subject to the outcome of the affiliation inspection. Further, the 3rd respondent has also requested the petitioner Institute to convene its Governing body, Academic Council and Board of Studies and get the approval for curriculum and syllabus.

6.While the fact being so, it is contented by the learned counsel for the petitioner that after getting the approval of the Vice Chancellor to start new course, they tried to include those two new courses in the web portal of the University but it was not possible for them because of the non-availability of the courses in the selection list. Therefore, through their letter dated 23/02/2019 requested the University to include the two new courses in the upcoming affiliation inspection visit for the academic year 2019-2020. However, their request was turned down by the University stating that the extended last date to apply for affiliation with late fee expired on 08/02/2019 and website was kept open upto 16/02/2019 for the colleges to make necessary changes like including courses. Since, the courses are finalized and inspection process has been commenced inclusion of new course cannot be permitted.

7.The learned counsel for the petitioner would further submit that the portal of the University did not provide the drop-down menu for these courses therefore, they were not able to apply within the time prescribed. The non-availability of the drop down menu in the University portal was brought to the notice of the University through letters dated 23/02/2019, 06/03/2019 and 13/05/2019. The University failed to provide the drop-down menu for the new course thereby the petitioner Institute was prevented from making its application on-line, within the time prescribed.

8.The main contention of the writ petitioner is that, AICTE has granted approval for the new course on 29/04/2019 which before the cut of date prescribed by the Hon'ble Supreme Court in Parshavanth Charitable Trust and others -vs- AICTE and others (2013 (3) SCC 385). After grant of approval by AICTE the grant of affiliation by the 3rd respondent is only formal. The 3rd respondent cannot encroach upon the field of AICTE and refuse affiliation which will be contrary to the dictum laid by the Hon'ble Supreme court in Rungta Engineering College, Bhilai and another -vs- Chhattisgarh Swami Vivekanand Technical University and another (2015 (11) SCC 291).

9.The learned counsel appearing for the respondents 1 to 3 would submit that the first respondent University which is the affiliating body for the Institute would submit that it is not a case of any transgression of field or arbitrary exercise of power as contented by the petitioner. Contrarily, the grant of approval by AICTE and grant of affiliation by the University run through two different process and one does not ingress into another. As far as grant of affiliation for courses and admission of students, the University is bound by the time frame fixed by the Hon'ble Supreme Court.

10.To adhere the said time frame, the process for grant of affiliation which includes scrutiny and inspection has to be commenced and complete prior to cut of date prescribed by the Hon'ble Supreme Court in its judgement dated 13/12/2012 In Parshavanth Charitable Trust and others -vs- AICTE and others (cited supra). In the case of the petitioner, the proposal to start 2 new courses was approved by the Vice Chancellor of the University on 13/02/2019 subject to conditions. On compliance of those conditions, the 25th Academic Council of the University met on 02/05/2019 and approved the new course and intimated the same to the petitioner vide its letter dated 13/05/2019. Further, through the letter dated 13/05/2019 which is impugned in this writ petition, the University has duly informed the writ petitioner that the entire process of granting affiliation is at the final stage for all the affiliating colleges conducting inspection for a new course would violate the order of the Supreme court which has drawn deadlines for AICTE/University/Admission authorities to work in tandem.

11.This Court is in total agreement with the submissions made by the learned counsel for the respondents 1 to 3. I find no arbitrariness or illegality or non application of mind in the

impugned order. It is borne on record and also an admitted fact by the petitioner that to start new course or additional course, the College concerned should have proportionate NBA accreditation.

12. Though, the petitioner sought NBA accreditation for two courses, it was granted accreditation for only one course. The said accreditation by NBA was granted only on 28/03/2019. The AICTE which is the approval body has granted approval to the petitioner to start the new course only on 28/04/2019. Whereas, the last date for affiliation application with late fees was fixed as 08/02/2019. The Anna University Web Portal was kept open upto 16/02/2019 for colleges to make any changes. Till that date, the Institute neither had accreditation of NBA nor the approval of AICTE. Therefore, it becomes irrelevant and immaterial, 'whether the university provided drop-down menu for the new courses in its portal, or not'.

13. Except the letter of the petitioner dated 08/02/2019 expressing its intention to start two fresh undergraduate Courses and a subjective approval of the Vice Chancellor, there was nothing for the respondent University to consider. Therefore, the contention of the learned counsel for the petitioner that the University has acted contrary to the dictum of the Supreme court rendered in Rungta Engineering College, Bhilai and another -vs- Chhattisgarh Swami Vivekanand Technical University and another (cited supra) is factually incorrect. In the said judgment, the Hon'ble Supreme Court has observed on examination of facts as below:-

"An examination of all the objections mentioned in the said communication would reveal that each one of those objections squarely fall within the sweep of one or the other areas which only the AICTE has the exclusive jurisdiction to deal with. None of them are demonstrated before us to be matters falling within the area legally falling within the domain of the respondents. AICTE, on inspection of the 1st petitioner college reported that the 1st petitioner college fulfils all the conditions prescribed by the norms and standards laid down by AICTE. The respondents did not make any specific assertion that such a report of the AICTE is factually incorrect. Assuming for the sake of argument that, in the opinion of the respondents, the petitioner college has not

in fact fulfilled any one of the conditions required under the norms specified by the AICTE, the only course of action available for the respondents is to bring the shortcomings noticed by them to the notice of the AICTE and seek appropriate action against the petitioner college".

Whereas, in this case, the University has not refused affiliation as in the case cited. It has intimated the petitioner that the deadline to process their request has expired, so to approach them the next academic year 2020-2021 for starting the new course.

14. Therefore, this Court holds that the order impugned in this writ petition is in consonance to judgment of the Hon'ble Supreme Court in Parshavanth Charitable Trust and others -vs- AICTE and others (cited supra) and does not bristles with any arbitrariness.

15. In the result, the writ petition is dismissed. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

jbm

To

1. The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

2. Director,
Centre for Academic Courses,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

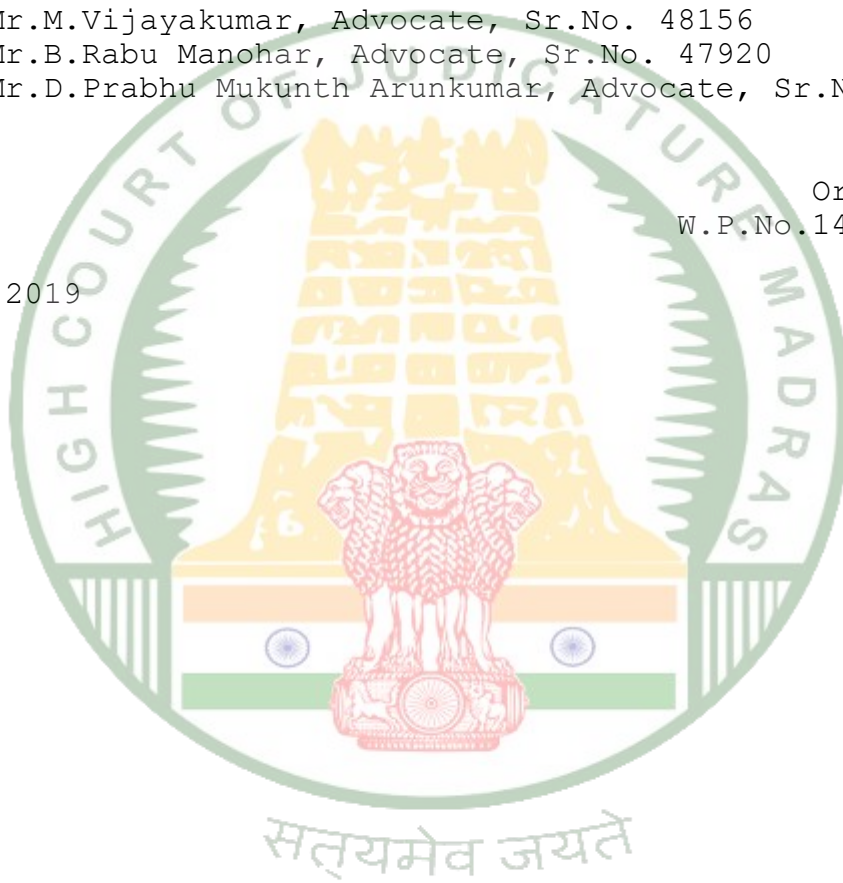
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New Delhi - 110 067.

+1 cc to Mr.M.Vijayakumar, Advocate, Sr.No. 48156
+1 cc to Mr.B.Rabu Manohar, Advocate, Sr.No. 47920
+1 cc to Mr.D.Prabhu Mukunth Arunkumar, Advocate, Sr.No. 47773

KK(CO)
CSL/11.07.2019

Order made in
W.P.No.14820 of 2019



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