



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.06.2019	Pronounced on: 27.06.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.15020 of 2019
& W.M.P.Nos.14983 to 14985 of 2019

1. Excel Engineering College,
Rep. by its Director,
NH-544, Salem Main Road,
Pallakapalayam,
Sankari West Road,
Komarapalayam Taluk,
Namakkal District - 637 303. Petitioner

/versus/

1. The Anna University,
Rep. by its Registrar,
Sardarpatel Road,
Guindy, Chennai-25.
2. The Director,
Centre for Academic Courses,
Anna University, Chennai-25.
3. The Director,
Centre for Affiliation of Institutions,
Anna University, Chennai-25.
4. The Directorate of Technical Education,
Rep. by its Commissioner,
Guindy, Chennai-25. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in Lr.No.299/CAI/AU/2019, dated 21.05.2019 and quash the same and consequently direct the respondents 1 to 3 herein to grant affiliation for B.E Safety and Fire Engineering Course to the Excel Engineering College, NH-544, Salem Main Road, Pallakapalayam, Sankari West Post, Komarapalayam Taluk, Namakkal District - 637 303 for the academic year 2019 - 2020 in the light of the order of the Hon'ble Division Bench in W.A.No.909 of 2017, dated 16.08.2017.

For Petitioner : M/s.Muthumani Duraisami,
Mr.Kandhan Duraisami

For R1 to R3 :Mr.A.Kumar, Additional
Advocate General,
Assisted by Mr.M.Vijayakumar,

For R4 :Mr.Suresh Kumar, Government Advocate

O R D E R

The petitioner herein is an Engineering College at Namakkal District established in the year 2007. The Petitioner/College offering 15 courses in its institution. With intention to introduce a new Under Graduate course namely B.E., Safety and Fire Engineering Course the Petitioner/Excel Engineering College, has submitted application to AICTE for extension of approval for the existing course and for starting new course namely B.E., Safety and Fire Engineering. After making its application to the AICTE, the petitioner/Institute also informed the 2nd respondent/the Director, Centre for Academic Courses, seeking inclusion of new course in the list of courses in Anna University for the academic year 2019-2020 onwards so as to enable the Institutions like the petitioner, to apply through online portal. The 2nd respondent informed the petitioner that being a new course not currently offered by Anna University the curriculum/syllabus, has to be formulated for the new course. In turn, on receipt of the said communication from the 2nd respondent, the petitioner wrote back to the 1st respondent/Anna University, requesting the Authorities to formulate curriculum/syllabus, at the earliest to enable the Institutions, to avail the benefit of new course introduced by AICTE for the academic year 2019-2020 itself.

2. The 2nd respondent/Centre for Academic Courses, informed the petitioner vide letter dated 05.02.2019, that the Vice Chancellor, Anna University has approved the new course namely B.E Safety and Fire Engineering from the academic year 2019-2020. This communication was followed by another intimation from the 2nd respondent indicating the process to be carried out by the institution for starting the said new course.

The petitioner/Institute convened its syllabus committee on 28.03.2019 and 29.03.2019 to frame syllabus for the 1st and 2nd semesters.

3. Meanwhile, AICTE has granted approval to the petitioner college for all the existing course and also the newly introduced Under Graduate Course namely B.E, Safety and Fire Engineering Course from the academic year 2019-2020

onwards. On receipt of the said approval dated 29.04.2019, the petitioner submitted its representation to the 3rd respondent/Centre for Affiliation of Institutions, seeking affiliation for the said course from the academic year 2019-2020. The 2nd respondent/Centre for Academic Course, vide letter dated 06.05.2019 granted approval for the commencement of the said course and also intimated the Commissioner of Technical Education for inclusion of the new course in the admission process for the academic year 2019-2020. Having completed the entire process, the petitioner sought for Affiliation from the Anna University. However, the Anna University has granted Affiliation only to the existing P.G courses and not for the newly introduced course namely B.E, Safety and Fire Engineering. On 21.05.2019, the 3rd respondent/Centre for Affiliation of Institutions, communicated to the petitioner that affiliation for the new course for the academic year 2019-2020 cannot be granted, since the cut off date for the Affiliation process crossed.

4. Contending that the said communication declining to grant affiliation quoting the Hon'ble Supreme Court judgment and stating that the cut off date crossed is illegal and against law. The Vice chancellor has granted approval for the course on 05.02.2019 itself. The Centre for Academic Courses, Anna University confirmed the approval for the Course on 06.05.2019. When the required documents submitted before the cut off date by the Educational Institute, the Anna University cannot take advantage of its own in-action and put it against the Education Institute, quoting the expiry of the cut off date fixed by the Supreme Court.

5. The learned counsel appearing for the petitioner would submit that the institute has obtained approval of AICTE before cut off date to start the new course in B.E, (Safety and Fire Engineering) from the academic year 2019-2020. The Vice chancellor, Anna University, has conveyed the formal approval of introduction a new course and in its letter confirmed the same through the 2nd respondent vide communication dated 06.05.2019. The Registrar of the Anna University has also communicated to the Commissioner of Technical Education, which is the nodal agency for the admission process to include the new course in the admission process viz; TNEA 2019. In the prospectus, the new course along with the intake strength is published. While so, contrary to the judgment of the Hon'ble Supreme Court rendered in W.A.No.909 of 2017, the 3rd respondent has passed the impugned order stating that the Anna University will not grant affiliation for the new course, since the process of granting affiliation has crossed the deadline fixed by the Hon'ble Supreme Court in Parshavanath Charitable Trust and others Vs.

AICTE and others reported in 2013 (3) SCC 385.

6. Mr.M.Vijayakumar, learned Standing Counsel for the respondents/Anna University, who took notice, would submit that AICTE which is the Central Agency for granting approval for all Technical courses, thought fit of introducing new Engineering Under Graduate Course in Safety and Fire Engineering. Pursuant to that, the petitioner college applied to AICTE and got the approval of AICTE on 29.04.2019. Meanwhile, the petitioner has also informed the University about his intention to start the new course in B.E Safety and Fire Engineering course from the academic year 2019-2020. Being a new course, which was not under approved list of the University, the communication of the petitioner was brought to the notice of the Vice chancellor, who in-turn, taking note of the AICTE decision, to include the new Course from the academic year 2019-2020 had intimated the formal approval of including the said course in the University, subject to the out come of affiliation Inspection.

7. The Centre for Affiliation of Institutions, Anna University, represented by the 3rd respondent vide letter dated 24.01.2019 had categorically informed the petitioner Institute that the application for the new courses can be collected only among the approved list of courses given by the Academic courses of Anna University, for which syllabus and curriculum are available in the University. As far as, B.E., Safety and Fire Engineering Course is concerned, it is not in the academic course approved list. Hence, inspection will be conducted only for the course which has already been approved excluding B.E Safety and Fire Engineering courses for the academic year 2019-2020.

8. The process of inspection for affiliation shall commenced only after the approval of AICTE. The approval of AICTE was granted to the petitioner Institute only on 29.04.2019. The petitioner/Institute has not forwarded their syllabus and curriculum in time. Without inspection of the Institute, affiliation cannot be granted. Normally, it takes six months for the University to conduct inspection for affiliation of any new course from the date of approval by the AICTE. In this case, there is no delay on the part of the respondents in processing the request.

9. The learned counsel for the University would contend that, the judgment cited by the petitioner is not applicable to the present case, since its a new course and only formal approval was granted by the University. So far neither the syllabus/curriculum finalised nor physical inspection of the Institute commenced. Since the time frame fixed by the Supreme Court crossed. The process of scrutinising the application and grant of approval for the academic year 2019-2020 is not

possible.

10. The Hon'ble Supreme Court has fixed the following time frame in Parshavanath Charitable Trust and others Vs. AICTE and others reported in 2013 (3) SCC 385:

The order granting or refusing approval, thus, should positively be passed by 10th April of the relevant year. The appeal should be filed within one week and the Appellate Committee should hear the appeal and decide the same by 30th April of the relevant year. The University should grant/decline approval/affiliation by 15th May of the relevant year. Advertisement should be issued and entrance examination conducted positively by the end of the month of May.

11. Having crossed the deadline, the petitioner request for affiliation can be considered only for the next year and not for the present academic year. As far as, the communication of the Registrar to the Commissioner, Technical Education for inclusion of the new course in the prospectus, the learned counsel for the respondent would submit that what is found in the prospectus is amenable for change and in the same brochure, it is clearly informed to the candidates under: Note to the candidates as follow-

5. The courses/branches indicated in this booklet are based on the information given by the respective colleges. Any change in the existing branches/intake or if approval is obtained from the competent authority for changes intake in the existing branches or for any new branches in colleges before the commencement of counselling, such of these details will be verified in the Affiliating University web portal. It is the responsibility of the candidates to note carefully such additional information before exercising their option for the college and branch.

The details given in this booklet are as received from the colleges concerned as on 10.05.2019. Changes if any, will be uploaded in the Web Portal.

12. Regarding the communication given to the Commissioner, Technical Education by the Director, Centre for academic course vide letter dated 06.05.2019 the respondent counsel submit that it was due to inadvertence. After same was brought to the notice of the Vice Chancellor, Department action against the Erring Officer is contemplated and instruction to exclude the new course from the brochure also been duly given.

13. From the records furnished by the petitioners, it is clearly seen that AICTE has included the new course B.E, Safety and Fire Engineering in its approval process handbook in the academic year 2019-2020 published on 03.01.2019 only thereafter, the petitioner has thought fit to include that said course in his college and had commenced the process of getting approval from AICTE and Affiliation from the Anna University. Being a new course Anna University has taken a policy decision to include the said course in its University and same has been communicated to the petitioner vide letter dated 05.02.2019. This is only a formal intimation about the acceptance of the University to introduce the new course. Further, the said communication by the Centre for the Academic courses clearly indicates that the approval is subject to the out come of affiliation inspection. Neither approval by AICTE nor a formal expression of the Vice Chancellor to approve the introduction of new course in its University tantamount to affiliation. More so, when the communication of Vice Chancellor is very specific that the approval is subject to out come of affiliation inspection.

14. In the light of this communication, when the records of the petitioner/Institute is perused, till date inspection for affiliation not been conducted. In anticipation of AICTE approval for the new course, the petitioner has applied for the Anna University and the University has also intimated the formal approval. However, at the same, the Director, Centre for Academic Courses/2nd respondent herein vide its letter dated 08.02.2019 has specifically informed to the petitioner that in continuation of the earlier letter dated 05.02.2019, which has granted initial approval for starting the new course, the following procedure has to be completed by the University.

- * Syllabus Sub Committee is to be constituted for the preparation of Curricula and Syllabi.
- * Board of Studies Meeting is to be conducted.
- * The Curriculum and Syllabi are to be submitted for approval in the Academic Council Meeting.

15. The University has also informed the petitioner herein that the University has started the above process in good earnest. However, this may take some time to complete the process. Immediately after completing the process, the institute will be advised for the course of action.

16. Thus, it is clear that the 1st respondent/Anna University has in all earnest commenced the process for including the new course in its University in anticipation of petitioner getting approval from AICTE. The said approval for starting the new course has been issued by the AICTE on 29.04.2019 thereafter, the other process like approving the curriculum and syllabus, inspection of the Institute by the affiliation committee, opportunity to rectify the defects has to follow. Therefore the contention of the learned counsel for the petitioner that it has completed all the process and only the University has delayed in issuing the order, is factually incorrect.

17. The University, which is supposed to maintain good standard and monitor the Education Institution regarding faculty, infrastructure and standard of Education, cannot be forced to grant affiliation by-passing the procedures. The University has communicated to the petitioner as early as 08.02.2019, regarding the process to be undertaken by the University and the process to be undertaken by the Educational Institution. The approval by AICTE and Affiliation by the University are sine quo for admitting students. Both the pre-requisite has to be in place before the cut off date fixed by the Hon'ble Supreme Court in Parshavanath Charitable Trust and others Vs. AICTE and others reported in 2013 (3) SCC 385.

18. In the case in hand only few days before the cut off date, the petitioner/Institute has got the approval of AICTE. Thereafter there are several procedures to be passed through before finally passing order of affiliation. This process will take at least six months. Therefore, it is justifiable on the part of the University to issue the impugned order intimating the petitioner that having crossed the deadline and the request for granting affiliation to the new course to be considered only for the next academic year.

19. With the above observations, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-

Assistant Registrar(CS VI)

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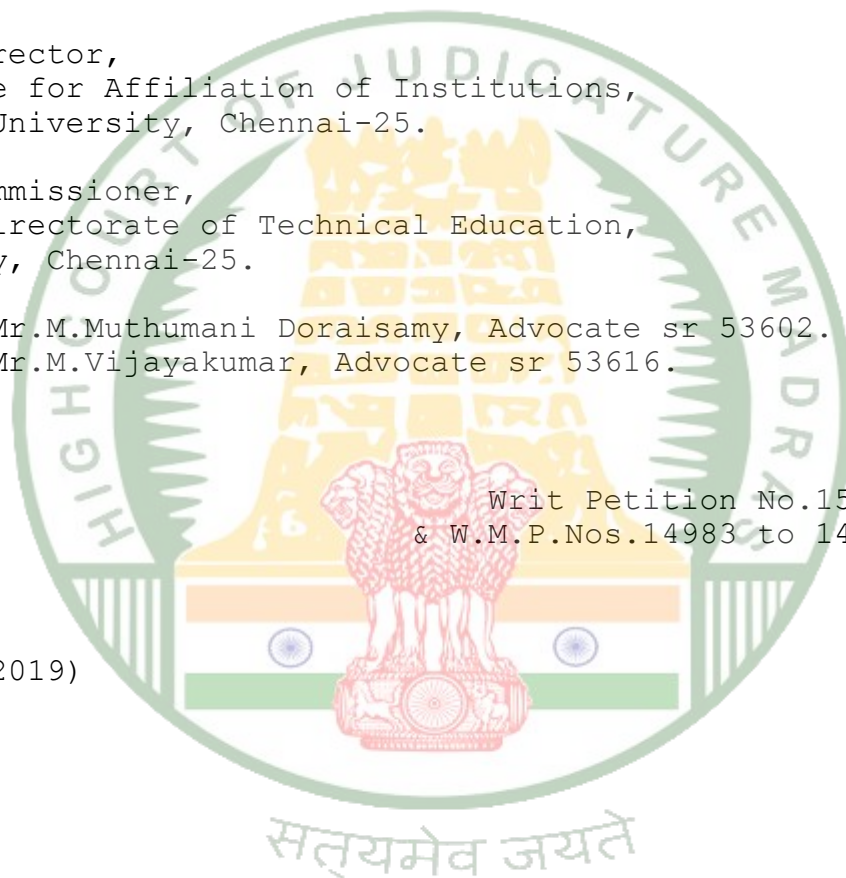
Sub-Assistant Registrar

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To

1. The Registrar,
The Anna University,
Sardarpatel Road,
Guindy, Chennai-25.
 2. The Director,
Centre for Academic Courses,
Anna University, Chennai-25.
 3. The Director,
Centre for Affiliation of Institutions,
Anna University, Chennai-25.
 4. The Commissioner,
The Directorate of Technical Education,
Guindy, Chennai-25.
- +1 CC to Mr.M.Muthumani Doraisamy, Advocate sr 53602.
+1 CC to Mr.M.Vijayakumar, Advocate sr 53616.

Writ Petition No.15020 of 2019
& W.M.P.Nos.14983 to 14985 of 2019

VGI (CO)
SP(03/07/2019)



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