

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.06.2019

PRONOUNCED ON : 27.06.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.15102 of 2019 and
W.M.P.Nos.15083 and 15085 of 2019

M/s.Shree Venkateshwara Educational &
Charitable Trust,
Represented by its Chairman,
P.Venkatachalam,
Administering Shree Venkateshwara
Hi-Tech Engineering College,
Sri Kalaivani Nagar, Othakuthirai,
K.Mettupalayam (Post),
Gobichettipalayam - 638 455,
Erode District.

... Petitioner

Vs

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

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

3.The Member Secretary,
All India Council for Technical Education (AICTE),
Nelson Mandela Marg,
Vasanth Kunj,
New Delhi - 600 025.

4.The Director,
Directorate of Technical Education (DOTE),
Guindy,
Chennai - 110067.

... 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 letter in

Lr.No.282/CAI/AU/CRF/2019 dated 11.05.2019, issued by the first respondent and the consequential impugned letter in Lr.No.298/CAI/AU/2019 dated 22.05.2019 issued by the second respondent quash the same in so far as reducing the seats to 30 instead of 60 for B.E Computer Science & Engineering and B.E Electrical and Communication Engineering and not affiliating M.E Power Systems Engineering for the petitioner college and direct the respondents 1 and 2 to grant affiliation to B.E Computer Science & Engineering and B.E Electrical and Communication Engineering for 60 seats instead of 30 respectively and affiliate M.E Power Systems Engineering with 24 seats for the petitioner college as approved by the third respondent AICTE.

For petitioner : Mr.Prabhu Mukunth Arun Kumar
For Respondents 1 & 2: Mr.L.P.Shanmugasundaram,
Standing Counsel Anna University

For 3rd Respondent : Mr.B.Rabu Manohar
For 4th Respondent : Mr.V.Kathirvelu,
Special Government Pleader

ORDER

The averments made in the affidavit filed by the petitioner is that, the petitioner Trust is administering an Engineering College by name "Shree Venkateshwara Hi-Tech Engineering College" at Gopichettipalayam, Erode District since, the academic year 2008 - 2009 with approval of the All India Council for Technical Education (hereinafter referred to as "the AICTE") and provisional affiliation granted by the Anna University. Presently, the petitioner College conducting 5 undergraduate courses; 5 post graduate courses and a MBA programme.

2.For the academic year 2019-2020, the petitioner College applied for extension of approval (EOA) from the AICTE (3rd respondent) and affiliation from the Anna University (1st and 2nd respondents). In response to the application, the Inspection Committee of the Anna University visited the petitioner institution on 07/03/2019 to verify the continued fulfillment of the requirements as per the statutory affiliation norms and standards of the University. After the inspection, the report pointing deficiencies was communicated to the petitioner on 29/03/2019. To rectify the deficiencies in faculty, Library, Laboratory and class room and to appoint qualified Principal, the petitioner College was granted time till 12/04/2019. The petitioner institute submitted the compliance report on 11/04/2019. In the meanwhile, the AICTE granted approval for all the 11 courses, with full intake vide its letter dated 10/04/2019.

3.While so, despite the compliance of all defects/deficiencies pointed out by the Inspection Committee, the Scrutiny Committee of the first respondent University vide its proceedings dated 11/05/2019 rejected the compliance report and reduced the sanctioned intake for the following two under-graduate courses:-

"1) BE - Computer Science and Engineering from 60 to 30 and
ii) BE - Electrical and Electronics Engineering from 60 to 30"

and placed the one Post Graduate course M.E - Power Systems Engineering under 'no admission status'.

4.The order reducing the intake strength for two undergraduate courses and placing one post graduate course under 'no admission status' is under challenge, in this writ petition.

5.According to the petitioner, there is no deficiency in the faculty strength, library and laboratory. Whatever deficiency pointed by the Inspection Committee, the petitioner College has rectified and reported in time. The first respondent University which has no power to reduce the intake strength sanctioned by the AICTE as per the Judgment of the Supreme Court rendered in *Rungta Engineering College v. Chattisgarh Swami Vivekanand Technical University* (2015 (11) SCC 291). The power to approve the intake strength is vested with the AICTE. If any deficiency found in the petitioner College which warrants reduction of intake strength, it can be done only by the AICTE. Even if any deficiency in the infrastructure or other requirement is found, the affiliating authority namely the Anna University can only recommend to the AICTE for reduction or suspension and it is for the AICTE to decide. Affiliating authority cannot reduce the intake strength, on its own. The impugned order of the University is without jurisdiction and beyond its power.

6.The other contention of the learned counsel for the petitioner is that, the impugned order of the first respondent University dated 11/05/2019 is without reasoning and justification. It is non-speaking, vague, bereft of details and passed without application of mind and without putting on notice. On receipt of the order communicating the reduction of strength and no admission status, the petitioner gave a representation on 13/05/2019 informing the first respondent University about the full compliance of the defects pointed by the Inspection Committee. To the said representation, citing the judgment of the Supreme court rendered in *Parshvanth Charitable Trust v All India Council for Technical Education* (2013 (3) SCC 385), the first respondent University has declined to entertain

the representation saying the last date for granting affiliation has crossed. This reason is not correct since, the petitioner College has complied the necessary conditions before the last date of affiliation i.e on 15/05/2019. Therefore, the cut off date fixed by the Hon'ble Supreme Court for affiliation will not apply.

7. In response to the averments made in the affidavit, the first respondent has filed his counter and enclosed few documents in the type-set wherein, it is stated that being the affiliating body, as per the University Regulations it is competent to reduce/suspend the intake strength, if any deficiency either in infrastructure or in the academic is found. During the visit by the Inspection Committee on 07/03/2019, the committee notices several deficiencies in the petitioner College. A detailed report with annexures was sent to the petitioner and time for rectification and to report compliance was granted. The petitioner submitted the compliance report on 11-04-2019. The Scrutiny Committee considered the compliance report and found that the petitioner College has not rectified the deficiencies in faculty, library and laboratory. The petitioner though claimed to have complied all the deficiencies noted, it failed to produce documents, in support of it. When the show cause notice was issued on 07/03/2019, it was made clear to the petitioner College that there will be only one opportunity to submit 'compliance report', after rectifying the existing deficiencies. The petitioner without rectifying the deficiencies pointed in the annexures to the inspection report, submitted its 'compliance report' and made a false claim that, it has rectified the defects before the cut off date i.e, on 15/05/2019.

8. The Scrutiny Committee on verification of records found that, the petitioner has not recruited new faculty members to make up the shortage noted during inspection. The list of faculty was same as the list of faculty produced at the time of initial inspection. During inspection, some of the faculty shown in the list were not physically present or the signature of the person who was present found vary with the admitted signature. For all these reasons, intake in two courses in Under Graduate was reduced and for one course in Post Graduate admission was declined.

9. The same was informed to the petitioner on 11/05/2019. After receiving the communication said dated 11/05/2019, the petitioner College gave a representation on 13/05/2019 reiterating that they have complied the the deficiencies and requested for re-inspection. For that, the first respondent University wrote to the petitioner pointing out that the time for granting affiliation for the academic year 2019-2020 has

crossed.

10.The learned Special Government Pleader appearing for the first respondent University taking through the Inspection Report has highlighted the deficiencies in the faculty strength, library and laboratory. He submitted that, the deficiencies found in the inspection report never rectified before 12/04/2019. The cut off date fixed by the Hon'ble Supreme Court is sacrosanct and cannot be deviated. If the request of the petitioner College to re-inspect the College and grant affiliation is acceded, it will amount violation of the Hon'ble Supreme Court guidelines which is the law declared and binding on all Courts.

11.During the course of hearing, this Court called the 2nd respondent to explain and clarify certain observations made by the Inspection Committee regarding shortage of faculty. Accordingly, Mr. M.Madhusoothanan, the Director of the Centre for Affiliation of Institutions, Anna University was present in the Court on 17/06/2019 along with the file and explained that Mr.S.Mrugashankar, Ms.P.Sudhaselvanayaki and Mr.Arun Kumar, faculty shown in the list produced by the petitioner College were not physically present at the time of inspection. The signature of one of the faculty by name Mr.Senthil is mismatched. The said observations of the Inspection Committee was duly accepted and the Principal of the petitioner College has affixed his signature.

12.The perusal of the Inspection Committee report dated 29/03/2019 and its annexures, shortage of faculty in the rank of professor (1) , Associate Professors (3) and Assistant Professors (2) noted for B.E (EEE) and B.E (ECE). Shortage of faculty in the rank of Professor (1) and Associate Professor (1) was noted in M.E (Power Systems Engineering) and these courses were placed under 'SN' (show cause notice) category which means does not meet the minimum criteria prescribed by the Anna University for provisional affiliation for the year academic year 2019-2020. However, the affiliation can be considered only after receipt of satisfactory explanation for the show cause notice and the satisfactory compliance report.

13.On receipt of the compliance report, the first respondent, on scrutiny, found that the petitioner College has not appointed any new faculty to overcome the shortage and the documents produced to show fulfillment of the requirement not satisfactory. Hence, observed that faculty deficiencies continue to exist. Therefore, the first respondent reduced the intake by 50% for the B.E (EEE) and B.E (ECE) and placed the M.E (Power Systems Engineering) under 'no admission category'.

14.The learned counsel for the petitioner reiterating that the petitioner College has adequate faculty and had appointed one Mr.Vimalraj as Assistant Professor for BE (EEE) and M.E (Power Systems Engineering) but the Scrutiny Committee did not consider this compliance. This document indicates that, as against huge shortage of faculty, pointed in the report, the petitioner College has appointed one person as Assistant Professor with 25 days experience and try to impress upon the Committee that, they have complied the deficiencies. Whereas, the Scrutiny Committee, in its wisdom, has found that, the Institute has not comply the requirement. The decision of the academic bodies cannot be dislodged by the Court unless, it is found to be illegal or erroneous patently in the eye of a common man of prudence. In Maharashtra State Board of Secondary and Higher Secondary Education -vs- Paritosh Bhupeshkumar Sheth reported in 1984 (4) SCC 27 the Hon'ble Supreme Court has observed that,

"29.....the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them."

15.Therefore, the observations made by the Scrutiny Committee regarding non compliance of the deficiencies pointed out by the Inspection Committee holds good and the contention of the petitioner that they have complied the requirements but the 2nd respondent rejected the compliance report without applying mind and assigning reasons, is found to be factually wrong on verifying the records.

16.The other contention of the learned counsel for the petitioner that the first respondent University as affiliating authority has no power to reduce the intake strength sanctioned by the AICTE is based on the observation made by the Hon'ble Supreme Court in Rungta case (cited supra). The relevant portions of the said judgment which are essential to understand the dicta laid in the said judgment is extracted below:-

". In the light of sharp difference of opinion between the petitioners and the first respondent University, during the pendency of the present writ petition, we thought it fit to call upon AICTE by the order dated 08.8.2014 to "inspect the

petitioner's College and submit a report whether the petitioner has complied with all the requirements of law". In view of the said direction, AICTE conducted inspection and reported. The substance of which is that the petitioner College has complied with all the requirements of law.

The respondent University and the State very vehemently argued that notwithstanding the opinion expressed by AICTE there are still some shortcomings examined in the light of the norms and standards of the University for granting affiliation to any institution imparting technical education.

It is argued that the University, which is a statutory body brought into existence pursuant to an enactment made by the legislative assembly of the State of Chhattisgarh, is obliged to discharge the duties enjoined upon it by the 2004 Act and it cannot be prevented from discharging its obligation of being satisfied that the petitioner institution qualifies for affiliation in terms of the norms and standards prescribed by it in discharge of its statutory powers and compelled to grant affiliation notwithstanding the fact that the University is not satisfied with the eligibility of the first petitioner College for affiliation.

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."

17. Therefore, in the said context, the Hon'ble Supreme court has said that the AICTE has occupied the field therefore, the first respondent University cannot transgress into it. The facts of the above said case, is the inspection report of the AICTE filed pursuant to the Hon'ble Supreme Court direction. It was latest in point of time. Whereas, the University wants to differ from the finding of the AICTE Inspection Committee and put the College and 'no admission category'. Hence, the said judgment.

18. In the present case, the AICTE has granted approval not after visit to the petitioner College but based on past records and documents. Whereas, the inspection of the respondent University is the latest. Further, the Statutes for Affiliation, 2004 of the first respondent University vest the power to the University to withdraw/suspension of affiliation of any academic programme, in case of any failure to observe/implement any of the conditions of affiliations, or the college conducts in any manner prejudicial to the interest of the University education and /or students.

19. Attempt to conduct courses without the required number of faculty with qualification is sufficient ground to reduce the intake or suspend affiliation as per Regulation 7.9 of the Statute for Regulations for affiliation, 2004 as amended on 21-02-2007. The same is extracted below:-

"7.9 Suspension / Withdrawal of Affiliation of an Academic Programme:

The affiliation (provisional/permanent) granted to any academic programme(s) in a college may be suspended/withdrawn after adopting the procedures laid down in the Regulations, if the college fails to comply with the provisions made in this behalf or the college has failed to observe/implement any of the conditions of affiliation, or the college has conducted in a manner which is prejudicial to the interests of university education and/or students."

Therefore, reduction of intake or suspension of affiliation cannot be a field exclusive within the domain of the AICTE. The University which is the Affiliating Authority is equally responsible for maintaining the education standard and has to protect the interest of the Students from getting admitted in the Institutions which does not comply the basic requirements prescribed. When the power to grant affiliation is exclusively vested to the University, the power to suspend or reduce the intake is implied. The observation made in the Rungta case is for the said case under the peculiar facts and circumstances narrated in the said case and it does not apply to the cases which differ in facts. Therefore, this contention of the petitioner is also unsustainable.

20.Lastly, regarding the crossing of cut off date fixed by the Hon'ble Supreme Court in Parshvanth Charitable Trust v All India Council for Technical Education case (cited supra), the Hon'ble Supreme Court, after confirming the time schedule in a particular manner, has made it clear to all concern that none of the authorities shall have power or jurisdiction to vary these dates. Neither the University nor this Court has any authority to vary the dates fixed by the Hon'ble Supreme Court therefore, the letter dated 22/05/2019 issued by the first respondent is reminder of the Hon'ble Supreme Court, direction and in conformity with the Supreme Court direction. Therefore, the 2nd respondent cannot be faulted for the said communication.

21.In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

jbm

To

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

WEB COPY

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

3.The Member Secretary,
All India Council for Technical Education (AICTE),
Nelson Mandela Marg,
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4.The Director,
Directorate of Technical Education (DOTE),
Guindy,
Chennai - 600 025.

+1cc to Mr. Prabhu Mukunth Arun Kumar , Advocate SR.No. 53270
+1cc to Mr.B.Rabu Manohar , Advocate SR.No. 53717
+1cc to Mr.L.P.Shanmugasundaram, , Advocate SR.No. 53956
+1 cc to Government Pleader Sr.No.53978

W.P.No.15102 of 2019

A.SK(26/07/2019)



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