



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 21.06.2019	Pronounced on: 26.06.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.15132 of 2019
& W.M.P.Nos.15115 & 15118 of 2019

SMK Fomra Institute of Technology,
Rajiv Gandhi Salai (OMR),
Kelambakkam,
Chennai-603 103,
Kancheepuram District,
Rep.by its Principal,
Dr.V.Krishnakumar Petitioner

/versus/

The Registrar,
Anna University,
Guindy,
Chennai-600 025. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication issued by the Respondent University in Lr.No.282/CAI/AU/CRF/2019 dated 11.05.2019 (served on 17.05.2019) and to quash the same in so far as reduction of students strength for two Under Graduate courses and no affiliation of four Post Graduate courses is concerned and consequently directing the respondent to grant continuation of Provisional Affiliation for the Engineering courses conducted by the Petitioner college for the sanctioned intake of students approved by All India Council for Technical Education for the academic year 2019-2020 forthwith.

For Petitioner :Mr.G.Sankaran
For Respondent :Mr.A.Kumar, Additional Advocate General
Assisted by Mr.M.Vijayakumar

O R D E R

The Short point involved in this Writ Petition as below.

2. The petitioner/SMK Fomra Institute of Technology, established in the year 2001 has been duly approved by AICTE for

conducting courses in Engineering for Under Graduate and Post Graduate students. On the approval of AICTE for the specific courses and specific intake, the University being the affiliating agency grants Continuation of Provisional Affiliation (CPA) for the approved intake of students every year. Till the last academic year 2018-2019, the petitioner/Institute was enjoying the Affiliation for the full intake. While so, for the current academic year 2019-2020, the respondent/Anna University, issued a communication dated 10.12.2018, calling for application for the grant of Provisional Affiliation or Continuation of Provisional Affiliation for the existing courses through online. Accordingly, the petitioner/SMK Fomra Institute of Technology, applied for Continuation of Provisional Affiliation (CPA) for the existing course. During the 1st week of April 2019, Inspection Committee of the respondent/Anna University, visited the petitioner College and verified the fulfilment of requirements as per the norms and standards of Anna University. Consequence to the inspection, deficiency report/show cause notice dated 12.04.2019 placing four courses under Compliance Report (CR) status and two courses under Show Cause Notice (SN) status was issued. Time till 26.04.2019 was granted for rectifying the defects and report compliance.

3. Accordingly, the petitioner/SMK Fomra Institute of Technology, rectified the deficiency and reported compliance. While so, the respondent/Anna University has issued a communication vide order Lr.No.282/CAI/AU/CRF/2019, dated 11.05.2019, indicating that the deficiency mentioned in the inspection report regarding Library and Laboratory, continue to exist for some courses and therefore, recommended for Provisional Affiliation with 25% reduced intake of students for two UG courses viz; B.E (Electronic and Communication Engineering), B.E(mechanical Engineering) and no affiliation for four P.G courses viz; M.E (Computer Science Engineering), M.E (Power System Engineering), M.E (Thermal Engineering), M.E (VSLI design). The said communication dated 11.05.2019 is impugned in this Writ Petition as ex-facie illegal, arbitrary and against the law.

4. According to the petitioner, the deficiency report/Show Cause Notice dated 12.04.2019 issued by the respondent/Anna University, mentioning certain deficiency relating to Library and Laboratory are actually incorrect. The petitioner/Institute has submitted its compliance report with all the details and documents relating to existence of infrastructure facilities based on purchase order, invoice, stock register and photographs of the equipments. Without reference to those details furnished by the petitioner in the compliance report, the impugned order has been passed. As per

the instruction of the respondent/Anna University, the compliance report was uploaded in the official web portal of the respondent/University. All along, the University being satisfied, has given Continuation of Provisional Affiliation to the petitioner/University for the said courses. While so, when certain infrastructure deficiency was pointed out, same was rectified and compliance report was submitted with details. The respondent/Anna University, has not chosen to consider the same and conduct re-inspection but passed the impugned order reducing the students strength for two U.G courses and denied the affiliation for four P.G courses, without any reason.

5. The learned counsel appearing for the petitioner would submit that as far as deficiency in library is concerned, it is incorrect. List of journals available in the University has been uploaded in the affiliation Web portal of the respondent/University. Apart from that, even at the time of inspection, the availability of DELNET database was noted by the Inspection team. DELNET database is a software for Engineering Courses approved by AICTE. When the DELNET database is available, the question of deficiency in library does not arise. In respect of laboratory deficiency, the petitioner/SMK Fomra Institute of Technology, has rectified all the deficiencies mentioned in the inspection report and informed the same through the compliance report. For example, the Inspection report in Serial Nos.84 and 85, had pointed out the dot matrix printer and server are not available. Whereas, in the compliance report, the photograph of the dot matrix printer and server has been uploaded, along with the copy of the purchase order and invoice copy. While so, there is no ground for the respondent/Anna University, to reduce the intake.

6. The impugned communication issued by the Respondent/University, dated 11.05.2019, was received by the petitioner/SMK Fomra Institute of Technology, only on 17.05.2019. By communicating the impugned order belatedly with antedate, the respondent/Anna University, attempts to breach the deadline prescribed for grant of affiliation and admission. Without verification of the compliance report and conducting inspection, the University cannot refuse Affiliation or reduce the students strength. In similar circumstances, the Court has ordered fresh consideration and pass order, after due verification of the compliance of deficiency.

7. In support of his submissions, the learned counsel for the petitioner would circulate the judgment of this Court in Sri Nadhanam College of Engineering and Technology Vs. The State of Tamil Nadu and others, in W.P.No.17665 of 2018, wherein, this Court has passed the following order.

8. In this case, though in the impugned order the University states that the Petitioner/Institution has got complied with the deficiencies, it is admitted that there was no subsequent inspection by the committee, after the representation of the petitioner, regarding the compliance of deficiencies. Hence, the impugned order is against the principles of natural justice. Having received the communication from the Petitioner/Institution, regarding compliance, the Respondent/University ought to have given an opportunity to the Petitioner/Institution, to substantiate the contention of the Petitioner. It is the positive case of the petitioner that as per the representation sent by the petitioner, regarding compliance of deficiencies all deficiencies have been completely corrected in all respects. In such circumstances, the respondent/University without verifying the contention of the petitioner cannot proceed to decide, on the basis of the inspection report, which they had obtained earlier. Certainly, this will be contrary to the principles of natural justice.

8. The learned Additional Advocate General appearing for the respondent/Anna University, has filed the counter, wherein, it is stated that, University inspection team conducted inspection of the petitioner/SMK Fomra Institute Technology, on 03.04.2019. The deficiency found in the infrastructure facilities were pointed out to the petitioner/Institute vide communication dated 12.04.2019 and the petitioner college was directed to comply the deficiency by 26.04.2019. It was further intimated to the petitioner in the Show Cause Notice that if the management of the college fails to submit a suitable reply to the show cause notice along with compliance report, steps may be initiated for reduction in intake/withdrawal of affiliation of such courses, as the University is at liberty to take "suo-motu" action to disaffiliate the courses and to request the AICTE/UGC/appropriate authority to withhold its approval for the next academic year 2019-2020.

9. As far as, the petitioner/Institute is concerned, it was clearly instructed to submit the details of Library journals and Laboratory details online and also to submit paper evidences to the University showing rectification of deficiencies. The college was also instructed to provide supporting documents including Purchase order, Invoice bill for the library journals

and laboratory. The petitioner/college was also informed that there will be only one opportunity to submit the compliance report.

10. In this case, the petitioner has submitted the compliance report on 26.04.2019. The documents submitted by the petitioner/Institute with reduced font size, making it unreadable failed to satisfy the requirements of the petitioner/Institute, which has specifically stated that the compliance report if any, for the CR status courses and reply to Show Cause Notice if any, along with compliance report for the SN status courses have to be submitted through web portal and one separate softbound documents of compliance report must reach the Director, Centre for Affiliation of Institution, Anna University on or prior 26.04.2019.

11. Pointing out the font size of the Invoice, Purchase order and other documents annexed in the typed set, the learned Additional Advocate General for the respondent would submit that the petitioner has furnished the documents as found in the typed sets, which are unreadable and unclear. This has prompted the respondent/Anna University, to reduce the intake in few course and placed few courses under "No admission category". The deadline to the University to complete the affiliation process to the colleges is 15.05.2019 as per the guidelines of Hon'ble Supreme Court. The petitioner/Institute cannot direct the respondent/Anna University, to grant affiliation in violation of Hon'ble Supreme Court order dated 13.12.2019, in Parshavanath Charitable Trust and others Vs. AICTE and others reported in 2013 (3) SCC 385.

12. The learned counsel appearing for the petitioner in response to the above submission would submit that the compliance report was uploaded in the respondent/Anna University portal, on 26.04.2019. One separate softbound documents of compliance report was also submitted to the respondent/Anna University, on 26.04.2019 before the date prescribed for submitting compliance report. If the respondent/Anna University, had any difficulty in reading the documents due to the font size of the document copy, they should have given opportunity to the petitioner to rectify it or they could have verified the same with the soft copy uploaded in their web portal. With malafide intention, the respondent has waited till the expiry of the deadline and communicated the impugned order giving antedating.

13. The inspection committee constituted by the University has inspected the petitioner/Institute, to verify the fulfilment of faculty, Library and laboratory equipments, as per

the curriculum and syllabi of Anna University for the courses offered by the Petitioner/Institute to consider Continuation of Provisional/permanent affiliation for the academic year 2019-2020. As per the inspection committee report.

(i). Two U.G. Courses were placed under 'CR' status (Compliance Report) which means does not meet the minimum criteria prescribed by the University for provisional affiliation for the academic year 2019-2020. However, affiliation can be considered only after the receipt of satisfactory Compliance report.

(ii). Two P.G Courses were placed under 'SN' category (Show Cause Notice) which means does not meet the minimum criteria prescribed by the University for provisional affiliation for the academic year 2019-2020. However, affiliation can be considered only after the receipt of satisfactory explanation for the Show Cause notice and a satisfactory Compliance Report.

14. The petitioner/Institute was put to notice about the defects noted and directed the petitioner to rectify the defects detailed out in the Annexures to the report as a note to this letter, the Registrar of the respondent/Anna University has informed the petitioner that there is only one opportunity to submit compliance report, after rectifying the existing deficiencies. The annexure to the inspection report pointing out there is 9% deficiencies in computers and 6 satisfactory facilities such as, Web Portal with mandatory disclosure, Barrier free facility for disabled and elderly, Student amenities a).Medical facilities, b). Common rooms, c). Canteen facilities and d). Placement and training Facilities are not available.

15. The deficiencies in faculty Library and Laboratory were pointed out and same was directed to be rectified and report before 26.04.2019. No doubt, the petitioner/Institute has submitted the compliance report in time but as pointed by the learned Additional Advocate General for the respondent, the soft bound copy containing the details of invoice bills and Purchase orders for the equipments and Library books are not readable.

16. Be it as it may, this Court could not find from the typed set of papers, whether the petitioner/Institute herein has rectified the other shortages and deficiencies, as pointed out in the annexure in the courses having CR & SN status. Since, the major deficiencies pointed out in the laboratory, though claim to be available in the Institute and reported in the compliance report, the photocopy of documents which are unreadable in most cases and readable in few cases does not

indicate that the Petitioner/Institute has already purchased those equipments and available in their laboratory. It only indicates that they have placed order for supply and the probable date of supply not known.

17. In the said circumstances, when the affiliating agency points out the deficiency and expect the petitioner/Institute to rectify it and report compliance, within specific period, the said compliance must be in letter and spirit and not mere a reply without true compliance. Therefore, the observation made by this Court in Rathinam School of Architecture Vs. The Registrar, Anna University, Chennai, the judgment relied by the petitioner herein which say that if the compliance of deficiencies is made before the cut off date, the Anna University cannot refuse to consider the compliance report quoting cut off date does not apply to the facts of this Case. Whereas, in this case, though the compliance report is submitted, there is no true compliance of deficiencies. The said judgment is applicable only when the Petitioner/Institute has rectified the deficiencies pointed out and submitted its compliance report before the cut off date and not for Institute, which has not rectified the defects but merely submitted the report of compliance without rectifying.

18. For the above said reason, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

bsm
To,

The Registrar,
Anna University,
Guindy,
Chennai-600 025.

+1 CC to Mr.G.Sankaran, Advocate sr 53264(28/06/2019)

+1 CC to Mr.M.Vijayakumar, Advocate sr 52999(05/07/2019)

W.P.No.15132 of 2019
& W.M.P.Nos.15115 & 15118 of 2019

SP(27/06/2019)