

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.06.2019

PRONOUNCED ON : 02.07.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.15556 of 2019 and
W.M.P.Nos.15488 to 15490 of 2019

Surya Engineering College,
Rep. By its Correspondent,
Perundurai Road,
Kathirampatti Post,
Erode - 638 107.

.... Petitioner

Vs

1. Anna University,
Rep. By its Registrar,
Sardar Patel 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. Directorate of Technical Education,
Rep. By its Commissioner,
Guindy, Chennai - 25.

.... 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 of the first respondent relating to letter Lr.No.282/CAI/AU/CR-F/2019 dated 11.05.2019 in so far as it reduced the intake by 50% with reference to Under Graduate

Courses and Nil intake with reference to Post Graduate Courses and the order of the 3rd respondent in letter Lr.No.298/CAI/AU/2019 dated 21.05.2019 and quash the same and consequently direct the respondents 1 to 3 to grant affiliation for the full intake of 60 seats in B.E Civil Engineering, 60 seats in B.E computer Science Engineering, 30 seats in B.E Electrical and Electronics Engineering, 60 seats in B.E Electronics Communication Engineering, 90 seats in B.E Mechanical Engineering, 60 seats in M.B.A Master of Business Administration, 18 seats in M.E Applied Electronics, 18 seats in M.E Power Systems Engineering of Surya Engineering College, Perundurai Road, Mettukadai, Kathirampatti Post, Erode - 638 107 for the 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 :Mr.Kandhan Duraisami

For Respondents 1 to 3:Mr.A.Kumar,
Additional Advocate General,
Assisted by Mr.M.Vijayakumar

For 4th Respondent :Mr.S.Sureshkumar, Government Advocate

ORDER

The petitioner Institute have the approval of the All India Council for Technical Education (hereinafter referred to as "the AICTE") to run College for seven courses in Engineering and one course in Master of Business Administration. For the current academic year 2019-2020, the AICTE has issued the Extension of Approval (EOA) on 29.04.2019. The petitioner Institute is entitled to admit students in the following courses to the extent of intake sanctioned by the AICTE.

Sl.No.	Degree	Courses	Sanctioned Intake
1	B.E	Electronics & Communication Engineering	60
2	B.E	Mechanical Engineering	90
3	B.E	Electrical and Electronic Engineering	30
4	B.E	Computer Science Engineering	60

Sl.No.	Degree	Courses	Sanctioned Intake
5	B.E	Civil Engineering	60
6	M.E	Applied Electronics	18
7	M.E	Power Systems Engineering	18
8	M.B.A	Master of Business Administration	60

2.While so, the first respondent University which is the affiliating Authority caused inspection of the petitioner College on 08.03.2019 and after inspection, issued a show cause notice pointing out certain deficiencies and directed to rectify those deficiencies and report compliance on or before 12.04.2019. The petitioner Institute submitted its compliance report on 11.04.2019. The first respondent despite, rectification of the defects by the petitioner, passed the impugned order dated 11.05.2019 reducing the intake for four Under Graduate courses and denied permission for admitting students for three Post Graduate courses. The said order of the first respondent University is challenged in this writ petition.

3.The learned counsel for the petitioner questions the vires of the impugned order, in the following grounds.

(i)The second respondent inspected the petitioner College on 08.03.2019 and issued show cause notice dated 29.03.2019 pointing out certain deficiencies. The same was rectified by the petitioner College and reported compliance on 11.04.2019. Without considering the compliance and without affording opportunity to explain, the impugned order was passed on 11.05.2019 without assigning any reasons. Hence, being a non speaking order, it is liable to be quashed in view of the order rendered by this Court in Rathnam School of Architecture vs. The Registrar, Anna University (W.P.No.19804 of 2018 dated 29.08.2018).

(ii)The second respondent before passing the impugned order, ought to have furnished the details of the compliance and scrutiny report to enable the petitioner to explain. Without furnishing the report, the impugned order is passed which is an act deprecated by this Court in Kongu School of Architecture vs. Anna University (W.P.No.14704 of 2017 dated 29.06.2019).

(iii)The second respondent after passing the cryptic order

which is now under challenge, tried to improve the case by assigning new reasons which is impermissible as per the dictum of the Hon'ble Supreme Court laid in Mohinder Singh Gill vs. Chief Election Commissioner (1978 (1) SCC 405).

4. In response to the affidavit, the first respondent University has filed a counter wherein, the details of the inspection report and the scrutiny report is extracted wherein, the deficiencies regarding faculty found to be not rectified by the scrutiny committee of the petitioner College.

5. The gist of the scrutiny committee report for Mechanical Engineering, only 7 faculty members were available whereas, 10 faculty members are required. In the compliance report the college has produced documents for 4 faculty member the Scrutiny Committee accepted all the faculties.

(i) For B.E Electronics and Communication Engineering, only 4 faculty members were available whereas, 11 faculty members are required. In the compliance report, the petitioner College has produced documents for 5 faculty members.

(ii) For M.B.A Department, only three faculty members were available whereas, 6 faculty members are required. In the compliance report, the petitioner College has produced documents for only one faculty member, the scrutiny committee did not accept his candidature so, the deficiency continue to exist.

(iii) For M.E Applied Electronics, only 2 faculty members were available whereas, 4 faculty members are required. In the compliance report, the petitioner College has produced documents in respect of 2 faculty members.

6. As a consequence of these serious deficiencies in faculty and for non compliance of deficiencies pointed out in the library, the Scrutiny Committee has passed the order on 11.05.2019 as below:-

Sl.N o	Courses	Deficiency Fac/Lab/Cl.Rm/P.Eligen- bility
1	B.E.Civil Engineering	Library Deficiencies continue to exist

Sl.No	Courses	Deficiency Fac/Lab/Cl.Rm/P.Elignability
2	B.E Computer Science and Engnee	Library Deficiencies continue to exist
3	B.E Electrical and Electronics Engine	Library Deficiencies continue to exist
4	B.E Electronics and Communication Engineering	Facilty and Library Deficiencies continue to exist
5	B.E Mechanical Engineering	Library Deficiencies continue to exist
6	M.B.A Master of Business Administration	Faculty and Library Deficiencies continue to exist
7	M.E Applied Electronics	Faculty and Library Deficiencies continue to exist
8	M.E Power System Engineering	Library Deficiencies continue to exist

As a consequence, the intake has been reduced for four Under Graduate courses and 'no admission' instruction given to three Post Graduate courses as below:-

Sl.No	Courses	Intake Sought 2019-20	Sanctioned Intake 2019-20
1	B.E.Civil Engineering	60	30
2	B.E Computer Science and Engnee	60	30
3	B.E Electrical and Electronics Engine	30	15
4	B.E Electronics and Communication Engineering	60	30
5	B.E Mechanical Engineering	90	45

Sl.No	Courses	Intake Sought 2019-20	Sanctioned Intake 2019-20
6	M.B.A Master of Business Administration	60	0
7	M.E Applied Electronics	18	0
8	M.E Power System Engineering	18	0

7. In the light of the above counter and the statistics given by the respondents, this Court finds that, it is incorrect to say that the petitioner was not put to proper notice and not considered the compliance report given by the petitioner. Only after considering the compliance report submitted by the petitioner on 11.04.2019, the respondents after scrutinizing the same have found that there is deficiencies in faculty as well as in library. Along with the impugned order, the annexure indicates the percentage of deficiencies in faculty as well as in the library facilities. Therefore, the judgments rendered by this Court in Rathinam School of Architecture vs. The Registrar, Anna University and Kongu School of Architecture vs. Anna University (cited supra) are not applicable to the facts of the present case.

8. As far as the deficiencies in library is concerned, the petitioner has not produced proper purchase bills and the documents produced regarding the faculty, were not satisfactory. As a result, the respondents have passed the impugned order along with the annexure pointing out the percentage of deficiencies. Since, the petitioner Institute was put to notice about the deficiencies during the inspection and sought to rectify the deficiencies to the show cause notice dated 29.03.2019 along with annexures of pointing out the deficiencies, the petitioner Institute cannot claim that they were not put to notice about the deficiencies in their Institute.

9. In Rathinam School of Architecture vs. The Registrar, Anna University, this Court has observed as below:-

"10. The admitted fact is that the

petitioner has submitted a detailed compliance report on 24.04.2018. It is further stated that the petitioner has acquired the required books and journals to satisfy the respondent and the details were communicated to the respondent. The impugned order has been passed without giving reasons as to how the library is inadequate. The respondent has not denied or disputed the fact regarding compliance report as well as the procurement of books and journals and other Library requirements before the impugned order was passed. The deficiency can not be detailed when syllabus is not declared, the library requirement cannot be ascertained and the institution cannot be blamed."

10. Whereas, in this case, it is not only deficiencies in library but also in faculty has been noted and a detailed report has been communicated to the petitioner immediately after the inspection. Thereafter, the petitioner Institute sought to rectify the deficiencies through the show cause notice dated 29.03.2019.

11. The deficiencies report with general instructions has been enclosed along with the show cause notice. The detailed report about the deficiencies found in the Institute has also been made known to the petitioner. Further, it has been specifically stated in the show cause notice that there will not be second opportunity to submit another compliance report. Note to the deficiency report also specifically stated that there will be only one opportunity to submit compliance report after rectifying the existing deficiencies.

12. Having made clear to the petitioner that they have to rectify the deficiencies and submit the compliance report before 12.04.2019 and no further opportunity will be given to them, the petitioner Institute has not rectified the entire deficiencies pointed out. After the compliance report submitted by the petitioner Institute on 11.04.2019, the Scrutiny Committee, for compliance report has examined the compliance and has found there is non compliance of deficiencies in faculty and library. The annexure to the scrutiny report indicates as below:-

7328- Surya Engineering College				Inspection Report		Compliance Report				
S. No	Course	Name of the Course	Sanctioned Intake		Principal - Eligible		Principal Eligible % of Deficiency			
			2018-2019	2019-2020	% of Deficiency	% of Deficiency				
			Course Type		Faculty	Library / Other Facilities	Class Room	Laboratory / other facilities	Class Room	Recommendation
1.	B.E	Civil Engineering	60	30	0	67	0	67	0	
2.	B.E	Computer Science and Engineering	60	90	25	67	0	67	0	PH
3.	B.E	Electrical Engineering	70	30	9	67	0	67	0	PH
4.	B.E	Electronic Hardware Engineering	60	90	55	67	0	67	0	PH
5.	B.E	Engineering Mechanical	80	90	31	67	0	67	0	PH
6.	M.B.A.	Master of Business Administration	40	60	50	67	0	67	0	NA
7.	M.E	Applied Electronics	18	18	67	67	0	67	0	NA
8.	M.E	Power Systems Engineering	18	18	33	67	0	67	0	NA

13.The percentage of deficiencies pointed above reflects the pathetic infrastructure available in the petitioner Institute. This has led the first respondent to reduce the intake for Under Graduate courses and as far as the Post Graduate courses under 'no admission' category.

14.The very factum of submitting compliance report taking note of the annexures found in the show cause notice proves the fact that the petitioner Institute was served with inspection report copy. After submitting the compliance report, the scrutiny committee, has assessed the deficiencies as noted above and the percentage of deficiencies been communicated to the petitioner.

15.The inspection held on 08.03.2019 culminated in show cause notice dated 29.03.2019, the petitioner has submitted the compliance report on 11.04.2019. On scrutinizing his compliance report, the second respondent found deficiencies existing. Hence, he has communicated the same to the petitioner Institute on 11.05.2019. There is no crossing of any time limit. Therefore, the judgment cited by the learned counsel for the petitioner in Kongu School of Architecture vs. Anna University (cited supra) where the Court after perusing the record found that the correspondence between the petitioner and the respondents had crossed the cut of dates at every point of time and the show cause notice itself, it has been made clear that any rectification must be before 12.04.2019 and no further communication will be entertained.

16.An administrative action which is subject to judicial review was to be judged by the reasons stated while making the order. Any supplementary reasons in the shape of affidavit to be excluded as per the Hon'ble Supreme Court judgment in Mohinder Singh Gill v. Chief Election Commissioner (1978 (1) SCC 405). The judgment of the Constitution Bench of the Hon'ble Supreme Court regarding the power of Court while examining the administrative action and application of the principle of natural justice can have no second opinion.

17.As far as this case is concerned, in the Scrutiny Committee report, the non rectification of the deficiencies pointed out in the show cause notice been mentioned. There is no additional explanation by way of counter affidavit, in this case. The respondent has only explained certain technical observations made in the annexures to the impugned order. Therefore, on this score also, the contention raised by the learned counsel for the petitioner is unsustainable.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. Anna University,
Rep. By its Registrar,
Sardar Patel Road,
Guindy,
Chennai - 25.

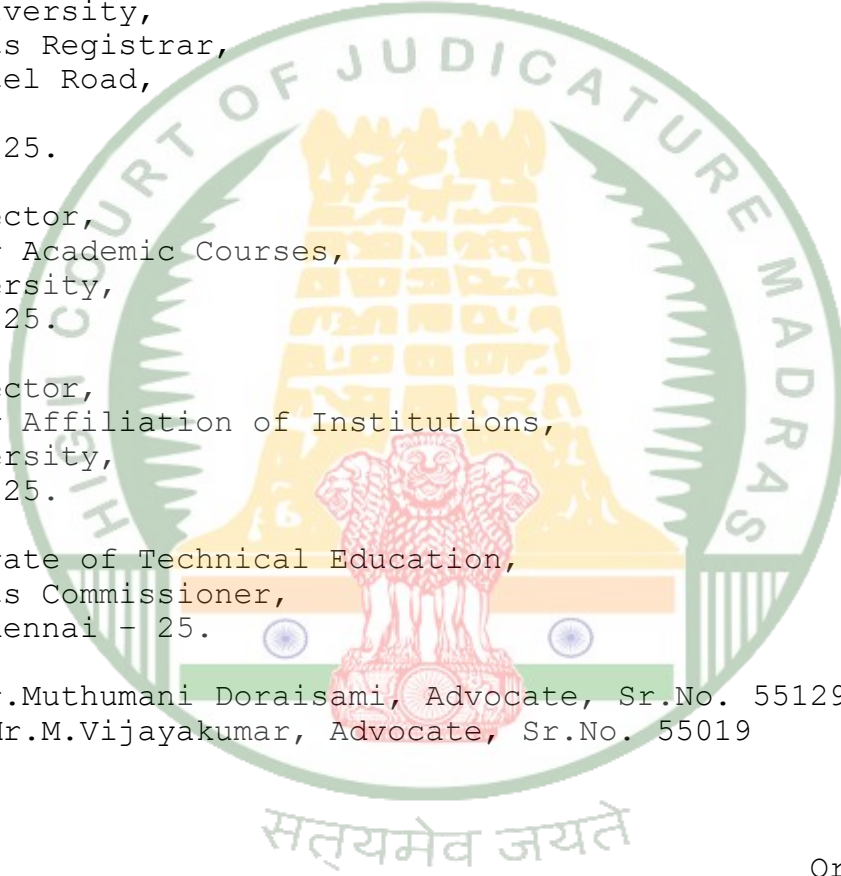
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+1 cc to Mr. Muthumani Doraisami, Advocate, Sr.No. 55129

+1 cc to Mr. M. Vijayakumar, Advocate, Sr.No. 55019



Order made in
W.P.No.15556 of 2019

CSL/03.07.2019

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