

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.07.2019

PRONOUNCED ON : 06 .08.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.18284 of 2018 and
W.M.P.Nos.17640, 17643 & 17645 of 2019

Swathi Educational and Charitable Trust,
(S.R.S College of Engineering & Technology)
Rep. By its Secretary,
No.4/25, Sivasamy Street,
Salem - 636 001.

.... Petitioner

Vs

1.Standing Appeal Committee,
All India Council of Technical Education,
Nelson Mandela Marg,
Vasant Kunj, New Delhi - 110 070

2.Approval Bureau,
Rep. By Project Officer/DD,
All India Council of Technical Education,
Nelson Mandela Marg,
Vasant Kunj, New Delhi - 110 070

3.The Regional Officer,
AICTE - Southern Regional Office,
Shastri Bhavan, 26, Haddows Road,
Nungambakkam, Chennai - 600 006.

4.Anna University,
Rep. By its Registrar,
Guindy,
Chennai.

5.The Director,
Directorate of Technical Education,
Chennai.

... Respondents

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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 F.No.AICTE/AB/SR/PID 1-6690913 dated 13.05.2019 issued by the 2nd respondent and quash the same and consequently direct the 2nd respondent to grant extension of approval to the petitioner college for admission of students for the current academic year 2019-2020 in their S.R.S College of Engineering & Technology situated in Harur Main Road, Kuppanur Post, Salem - 636 122, for the courses viz., B.E Mechanical (60 students), B.E Civil (60 students) and B.E Electrical and Electronics (60 students) within a reasonable time to be fixed by this Court.

For Petitioner :Mr.P.Ganesan

For Respondents 1, 3 & 5 :No Appearance

For 2nd Respondent :Mr.B.Rabu Manohar,
Standing Counsel

For 4th Respondent :Mr.M.Vijayakumar, Standing Counsel

ORDER

In the year 2009, the petitioner Trust has established an Engineering College by name 'S.R.S.College of Engineering and Technology' at Salem with the approval of All India Council for Technical Education (In short, "the AICTE"). The said College is duly affiliated to the Anna University and were permitted to conduct 7 branches in Under Graduate with annual intake of 60 students each and one branch in Post Graduate with annual intake of 18 students. Till the academic year 2018-2019, the AICTE has extended the approval, periodically. While so, during the month of October 2017, the Expert Visiting Committee (shortly referred as EVC) of the AICTE made a surprise visit to the petitioner College and found certain deficiencies relating to infrastructure, faculties, payment of salary and barrier free environment etc. The Standing Hearing Committee (shortly referred as SHC) based on the EVC report, placed the petitioner college under 'No admission' category for the academic year 2018-2019.

2.Aggrrieved by the said order, the petitioner appealed to the Standing Appeal Committee (SAC). The Standing Appeal Committee confirmed the order of the SHC. A review application

was made by the petitioner college. The Review Committee permitted the petitioner College to conduct 3 branches in Under Graduate with annual intake of 60 students in each branch for the academic year 2018-2019, subject to inspection of Expert Visiting Committee (EVC) before granting extension of approval for the next academic year 2019-2020.

3. Accordingly, the EVC conducted inspection of the petitioner College on 24/01/2019 and noted various deficiencies and the same was placed before the Standing Hearing Committee (SHC). On 28/02/2019 the petitioner was asked to appear before the SHC to explain the deficiencies noted by the EVC. The committee not being satisfied with the explanation of the petitioner College, based on the SHC report, the AICTE has issued 'no admission' instruction for the academic year 2019-2020. The appeal to the Standing Appellate Committee (SAC) dated 21/03/2019 preferred by the petitioner College was not considered by the AICTE. Hence, the petitioner College filed a writ petition in W.P.No.14976 of 2019 for the following relief:

"Writ of mandamus directing the second respondent to place the petitioner's appeal dated 21.03.2019 filed against the order in Ref.No.F.No.AICTE/AB/SR/PID/1-6690913 dated 11.03.2019 on the file of the second respondent, before the first respondent appellate committee for consideration and disposal on merits and in accordance with law within a reasonable time to be fixed by this Court."

4. While this writ petition was pending, the Standing Appellate Committee (SAC) of the AICTE dismissed the appeal of the petitioner vide order dated 13/05/2019 confirming the order of the Standing Hearing Committee placing the petitioner college under 'no admission' category, stating that the deficiencies pointed still exists. Hence, the present writ petition is filed challenging the order of the AICTE dated 13/05/2019 placing the petitioner college under 'no admission' category.

5. The learned counsel for the petitioner states that the Standing Appellate Committee/first respondent herein has not considered the appeal properly. The Standing Appellate

Committee/the first respondent by verbatim, reproduction of the reasons given by the Standing Committee, had exposed its non application of mind. Without considering the documents produced to prove the compliance of the deficiencies noted by the Standing Committee, the Standing Appellate Committee has for no reason, refused to accept the documents. No valid reasons given by the second respondent for accepting the recommendation of the Standing Appellate Committee/first respondent.

6.The petitioner has obtained building permission from the local authority prior to the year 2011. The approval of DTCP is required only for the building constructed after the year 2011. While so, the 2nd respondent has declined to grant extension of approval citing the requirement which is not applicable to the petitioner College. Further, the College is an existing College with approval since 2009. By the impugned order, the 2nd respondent has virtually ordered to close the college. The petitioner College has all the necessary infrastructure facilities like building, laboratories, library, seminar hall, faculties, staff etc. The Principal of the petitioner College appeared before the Standing Appeal Committee and explained in person with documents, the availability of facilities and compliance of all requirements. Still if any deficiency, the petitioner is ready to rectify the same immediately. Therefore, the order of the 2nd respondent is liable to be quashed and permission to admit students in the 3 branches of UG course has to be ordered.

7.Per contra, in the counter affidavit filed on behalf of the respondents, it is stated that the petitioner Institute applied for extension of approval for the academic year 2019-2020 for three courses viz B.E (mechanical), B.E (Civil) and B.E (Electrical and Electronics) with intake of 60 students each. The Expert Visiting Committee (EVC) carried its inspection and found several deficiencies.

8.The petitioner Institute was given opportunity to rectify the deficiencies and report. The petitioner Institute did not rectify the deficiencies pointed out by EVC. The compliance report submitted by the petitioner Institute to the Standing Hearing Committee (SHC) and later to the Standing Appeal Committee (SAC) were not supported by documents hence, the petitioner Institute was put under 'no admission' category and the same was informed to the petitioner by the 2nd respondent through the letter dated 13/05/2019.

9.The learned Standing Counsel for the 2nd respondent submitted that, the petitioner Institute was inspected by EVC on 24/01/2019. The EVC report was placed before the SHC on 28/02/2019. The SHC observed the deficiencies and recommended 'no admission for the academic year 2019-2020'. The said observation and recommendation was communicated to the petitioner Institute through letter dated 11/03/2019 inviting appeal within 10 days, if desired. The petitioner Institute submitted its appeal dated 21/03/2019. Since, the petitioner did not submit any documents to prove the rectification of deficiencies, the no admission order was passed.

10.By letter dated 10/04/2019 the petitioner Institute submitted that they have rectified the deficiencies noted and submitted relevant documents for perusal. The documents were not acceptable hence, the Higher Education Secretary, Government of Tamil Nadu was informed through letter dated 30/04/2019 that the application of the petitioner Institute to extend the approval for the academic year 2019-2020 not granted. This information as uploaded in the web portal of the AICTE. Detailed speaking order along with reasons/deficiencies was issued on 13/05/2019.

11.As per the dictum of the Hon'ble Supreme court in Parshavanth Charitable Trust and others -vs- AICTE and others (2013 (3) SCC 385), the last date for granting or rejecting the request for approval is 30th April. No authority can alter or deviate the cut off date. In this case, the petitioner Institute despite opportunity to rectify the defects/deficiencies noted, failed to provide adequate documents for reconsidering the decision. Hence, the petitioner Institute was placed under 'no admission' category.

12.Heard the learned counsel for the petitioner; learned Standing Counsel for the second respondent; learned Standing Counsel for the fourth respondent and there is no representation for the respondents 1, 3 and 5. Perused the pleadings and records relied by the respective counsel.

13.The records produced by the petitioner reveals the Expert Visiting Committee (EVC) of the AICTE conducted

inspection on 24/01/2019 and noted the following major deficiencies:-

- "a) area of land is not adequate
- b) As built plan does not tally with approved plan
- c) Class rooms, labs, seminar hall library numbers and area are inadequate.
- d) Furniture and other supporting facilities for learning are not adequate
- e) Learning materials like books, Journals (hard copy) Internet bandwidth, MOOCS facility, Audio visual facilities are not adequate.
- f) No facilities for differently abled persons
- g) Only 33 faculty are available as against 59 required
- h) Faculty are not paid as per 6th AICTE pay scales
- i) Staff and students are not covered under insurance."

14. The report of EVC was placed before the Standing Hearing Committee (SHC). The petitioner Institute was informed through letter dated 22/02/2019 that the meeting of SHC is to be held on 28/02/2019 and in the meeting, the petitioner Institute shall participate and present its case along with all the documentary evidence, in original and their true copies, in compliance of deficiencies. In the said meeting, the petitioner Institute had participated and produced documents to show rectification of deficiencies. However, the SHC has found that the documents produced were not acceptable and the deficiencies pointed out still exist. Therefore, the SHC observations regarding non-compliance of deficiencies, its recommendation to refuse approval for admission and right of appeal to the Standing Appeal Committee was communicated to the petitioner vide letter dated 11/03/2019. Out of total 24 deficiencies noted by EVC in its report 24/01/2019, some of the main deficiencies where documents regarding rectification of defects not produced are:-

- "i) group insurance of faculty, staff and students.

- ii) Shortage of faculties (only 33 as against the required strength of 59).
- iii) Payment to the faculty not through RTGS/NEFT/ online.
- iv) The faculties are not paid salary as recommended by the VI pay commission.

15. For the rest of the deficiencies, the documents produced by the petitioner Institute was accepted by the SHC. Therefore, it has recommended as below:-

" Most of the deficiency identified including the barrier free environment, faculty shortage etc, still exist."

The committee therefore, recommends No Admission for the academic year 2019-2020.

16. As per the provisions in Approval Process Handbook 2019-2020, the petitioner Institute may, if so desire, submit an appeal for consideration by the Standing Appeal Committee (SAC) within 10 days from the date of issue of the order by the SHC. From the impugned order dated 13/05/2019, this Court finds that, the petitioner has exercised the appeal remedy by preferring appeal before SAC along with documents and request to grant approval. The appeal dated 21/03/2019 along with the submissions made by the petitioner Institute during the Standing Appeal Committee meeting on 11/04/2019 were considered by the SAC and observed that the deficiencies pointed out by the Hearing committee still exists.

17. From the scrutiny of the inspection report of EVC, the observations and recommendations of SHC and SAC it is seen that one of the major deficiency consistently pointed out is regarding shortage of faculty. It is noted during the EVC inspection that only 33 faculty were available as against the required strength of 59 faculty. The petitioner Institute is not able to produce documents to show it has employed 59 faculty. The required documents to prove could be their employment orders, attendance, pay particulars etc. None of these records are produced by the petitioner. More particularly, the payment of salary to the faculty if made through RTGS/NEFT/Online, the actual number of faculty employed and pay scale will be disclosed. Conveniently, the petitioner

has neither produced these particulars when the Standing Committees called for those documents.

18. Even if the other deficiencies are taken as minor in nature and could be rectified, the major deficiency regarding faculty has not been rectified. Without compliance of the conditions in the regulation, approval cannot be granted. Therefore, the order of the 2nd respondent placing the petitioner Institute under 'no admission' category cannot be faulted.

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

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

jbm
To

1. Standing Appeal Committee,
All India Council of Technical Education,
Nelson Mandela Marg,
Vasant Kunj,
New Delhi - 110 070

2. Approval Bureau,
Rep. By Project Officer/DD,
All India Council of Technical Education,
Nelson Mandela Marg,
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3. The Regional Officer,
AICTE - Southern Regional Office,
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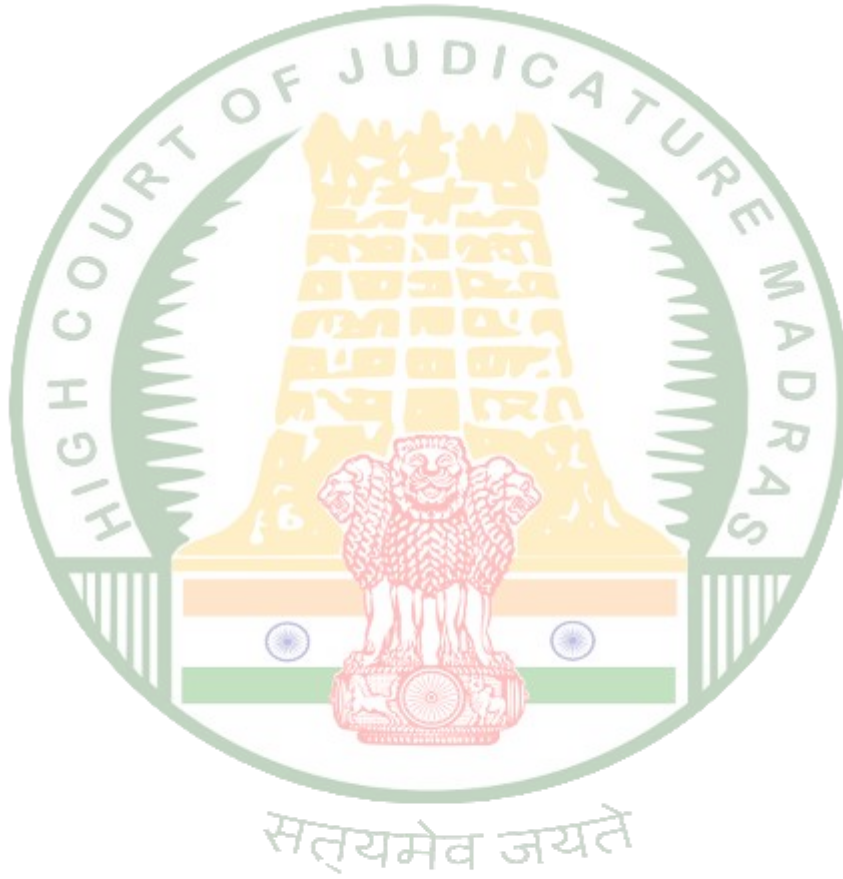
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5.The Director,
Directorate of Technical Education,
Chennai.

+1cc to Mr.B.Rabu Manohar , Advocate SR.No. 67190
+1cc to Mr.M.Vijayakumar , Advocate SR.No. 67167
+1 cc to Government Pleader Sr.No. 68097

W.P.No.18284 of 2019

A.SK(09/09/2019)



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