



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 26.11.2019

Pronounced on: 29.11.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.30707 of 2019
& W.M.P.Nos.30788 & 30790 of 2019

Elumalai Polytechnic College,
Rep. by its Secretary Mr.S.Selvamani,
No.32, Trichy Truck Road, Salamedu,
Villupuram - 605 602.

... Petitioner

/versus/

1. The Standing Appellant Committee (SAC),
All India Council for Technical Education,
Nelson Mandela Marg, Vasant Kunj,
New Delhi - 110 067.
2. The Southern Regional Office,
Rep. by the Regional Officer,
All Indian Council for Technical Education,
Shastri Bhawan, Nungambakkam,
Chennai.
3. The Director,
Office of the Directorate of Town and Country Planning
Department,
No.807, Anna Salai,
Chennai - 600 002.
4. The President,
Ayyankovilpattu Village Panchayat,
Kolliyanur Panchayat Union,
Villupuram District.

.... Respondents

(R3 & R4 are impleaded vide Court order dated 22.11.2019 by Dr.GJJ IN wmp.33124/19 in WP.NO. 30707)

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 impugned report of the scrutiny committee dated 23.02.2019 constituted by the 2nd respondent followed by impugned order dated 24.03.2019 of the 1st respondent and quash the same as illegal and against the laid down by this Hon'ble Court and consequently directing the respondents to process the Petitioner's online application I.D.No.1-4260621311 pending on the file of 2nd respondent in No.730-52-028 (E/ET/96) dated 21.02.2019 for change of site of petitioner college without

insisting upon approval from the DTCP as the Petitioner's building plan had already been approved by the competent local body by their proceedings of the year 2006 and 2008 respectively.

For Petitioner : Mr.K.M.Vijayan, Senior Counsel,
for Mr.E.Vijay Anand

For R1 & R2 : Mr.B.Rabu Manohar,
Standing Counsel,

For R3 & R4 : Mr.N.Inbanathan,
Additional Government Pleader

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The Petitioner/Elumalai Polytechnic College is functioning since 1983 with the approval of All India Council for Technical Education (in short AICTE). They decided to change the site for better administration to the land and building situated in S.Nos.201, 202, 203, 204/1A, 1B, 1C, 108/1, 2, 3, 4, 5, 109/3 at Ayyankoilpattu Village Panchayat, Villupuram District. Hence, the Petitioner made application to the respondent on 14.02.2017 to grant permission for change the site of the College. The said application was rejected on the ground that, the building plan in which the proposed site was intended is approved by local body namely Executive Officer of Ayyankoilpattu Village Panchayat Union by proceedings vide Mu.Mu.7/101/2006, dated 06.09.2006, wherein, the building plan approval has to be obtained from Directorate of Town and Country Planning, as per AICTE Rules.

3. According to the petitioner, the procedure to get Planning Permission from DTCP came into force only after the amendment to the Tamil Nadu Town & Country Planning Act, 1971, which was brought in by insertion of new provisions namely Section 47-A in the year 2011, since the petitioner building in the new site was constructed prior to that date and Planning approval was obtained from Village Panchayat vide Mu.Mu.No.7/101/2006, dated 06.09.2006 and building plan approval from the competent local body vide proceedings K.DIS:01/08-09, dated 28.08.2008, insistence of DTCP by the Department is against the settled proposition of law. Therefore, the petitioner herein stating the legal position, preferred an appeal to the 1st respondent. Then again, the 1st respondent/AICTE vide proceedings dated 24.03.2019 had rejected the petitioner appeal stating that, the Building Plan approval is not from the competent Authority. Hence, the present Writ Petition is filed citing the legal position as well as the pronouncement of this Court in this regard.

4. The Learned Additional Government Pleader appearing for the 3rd & 4th respondents has circulated the communication dated 25.11.2019 by the Assistant Director, Town and Country Planning, Villupuram, addressed to Director, Town and Country Planning, Chennai, wherein, it is stated that the application of the petitioner was returned for want of documents. If the petitioner submits his application through online along with the documents, same will be considered.

5. The 1st respondent has filed written submission stating that the time schedule fixed by the Hon'ble Supreme Court, for grant of approval to the College/Institute closes on 30th April of the concerned year and if the petitioner Institute seeks permission for grant of approval in the new site, same shall be considered by AICTE, only for the ensuring academic year.

6. To buttress his said submission, the judgment of the Hon'ble Supreme Court has fixed the time frame in Parshavanath Charitable Trust and others Vs. AICTE and others reported in 2013 (3) SCC 385 is referred.

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.

7. The request of the petitioner is to consider their application to shift the Polytechnic College to the new site, where the building was constructed before 2011 with the approval of the Local Body. Its application has to be considered in view of the judgments rendered by this Court and taking note of the fact that, the petitioner has already applied to DTCP through the Local Authority on 15.04.2019 to ratify the Planning Permission granted by the Local Body.

8. The submission made by the Learned Senior Counsel for the petitioner, the Standing Counsel for the 1st & 2nd respondent and Additional Government Pleader for the 3rd and 4th respondents are considered.

9. It is an admitted case that, the building in the new site where the petitioner intend to shift the College hold a valid Building Planning approval issued by the Local Authority.

The application forwarded to the DTCP for ratification on 09.05.2019 has been returned for want of particulars. The 1st respondent/AICTE is ready to consider the application for approval for the ensuring academic year.

10. Therefore, it is suffice to direct the 1st respondent/AICTE, to consider the application of the petitioner herein taking note of the fact that, as far as the Building Planning Permission is concerned, the petitioner has taken necessary measure to get it ratified by DTCP in compliance with Rules 47-A. Therefore, without insisting upon the approval from DTCP, the application of the petitioner shall be scrutinized by the 1st respondent/AICTE and appropriate orders shall be passed, within a period of eight weeks, from the date of receipt of a copy of this order.

11. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy// Sub Assistant Registrar

bsm

To,

1. The Standing Appellant Committee (SAC),
All India Council for Technical Education,
Nelson Mandela Marg, Vasant Kunj,
New Delhi - 110 067.
2. The Regional Officer,
The Southern Regional Office,
All Indian Council for Technical Education,
Shastri Bhawan, Nungambakkam, Chennai.
3. The Director,
Office of the Directorate of Town and Country Planning
Department, No.807, Anna Salai, Chennai - 600 002.
- 4.4. The President,
Ayyankovilpattu Village Panchayat,
Kolliyanur Panchayat Union,
Villupuram District.

+1cc to Mr.B.Rabu manohar , Advocate SR.No. 99860

+1cc to Mr.E.Vijay Anand , Advocate SR.No. 100004

Writ Petition No.30707 of 2019

A SR (03/12/2019)