

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2019

CORAM:
THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.27052 of 2018

McGan's Ooty School of Architecture,
Rep. By its Chairperson E.Sumathy,
P.B.No.17, 5/635, Perar, Kothagiri Road,
T.Mynala Post, Ooty,
The Nilgiris - 643 002.

.. Petitioner

Vs

1.The Registrar,
Anna University,
Anna University Campus,
Sardar Patel Road,
Guindy,
Chennai - 25.

2.The Council of Architecture,
Rep. By its Registrar,
India Habitat Centre,
Core 6A,
1st Floor,
Lodhi Road,
New Delhi - 110003.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the first respondent dated 21.08.2018 in Letter No.319/CAI/AU/2018 and quash the same and pass such further orders.

For petitioner : Mr.T.Mohan
for Mr.R.Gopinath

For R1 : Mrs.Narmadha Sampath, AAG
Assisted by Mr.M.Vijayakumar

For R2 : Mr.S.Sathish Rajan

ORDER

The present writ petition filed by McGan's Ooty School of Architecture, The Nilgiris, is directed against the impugned proceedings dated 21.08.2018 of the first respondent / the Registrar, Anna University, Chennai, reducing the intake for B.Arch. Course from 120 students to 60 students and putting the M.Arch. Course for the academic year 2018-19 under 'No Admission Category'.

2. Assailing the impugned proceedings, learned counsel for the petitioner submitted that the petitioner institution is one of the reputed School of Architectures in the State of Tamil Nadu and as per the ranking list published by the National Association of Students of Architecture (NASA), the petitioner institution is ranked at No.12 in India. Since the establishment of the petitioner institution in the year 2008 by Sri Angala Parameswari Educational Trust, they have been running full time Under Graduate programme in Architecture with an intake of 120 students as approved by the Regulating Body, namely, the Council of Architecture, New Delhi / second respondent herein, and that the said approval is valid till 2018-2019. This apart, they have been running full-time Masters Programme in Architecture with an intake of 20 students in M.Arch (Environmental Architecture). Considering all these facts, the first respondent University has also duly granted affiliation to conduct the aforesaid courses upto the last Academic Year.

3. Whiles, it is submitted, the first respondent University has conducted the inspection in the petitioner institution on 20.03.2018 for the ensuing Academic Year i.e., 2018-2019, and thereafter, the University has issued a show cause notice dated 10.04.2018 to the petitioner institution directing them to submit a compliance report on or before 25.04.2018. Subsequently, although the petitioner institution submitted its compliance report on 23.04.2018, the first respondent University, without considering the same, mechanically passed an order dated 11.05.2018 reducing the intake of B.Arch. Course in the petitioner institution from 120 seats to 60 seats, besides putting the M.Arch. Course under 'No Admission Category'. Aggrieved by the same, the petitioner institution made a representation dated 15.05.2018 to the first respondent University requesting to reconsider the said proceedings dated 11.05.2018, as they were not furnished with a copy of the inspection report as well as the report of the Scrutiny Committee.

4. Continuing his arguments, learned counsel for the petitioner further submitted that a perusal of the compliance report dated 24.04.2018 submitted by the petitioner/Institution

shows that they have also requested the first respondent University to reduce the intake from 120 to 80 furnishing the faculty strength at 59. Therefore, when the compliance report dated 24.04.2018 clearly shows that they have got sufficient faculty members, namely, 59 faculty members, for 120 students, they themselves have requested to reduce the intake from 120 to 80, that goes without saying that they have got sufficient faculty members. Therefore, it is further submitted that when the petitioner/Institution is having more than sufficient faculty members to cater to the needs of 60 students, the first respondent University, while passing the impugned order, should have mentioned on what basis the petitioner/Institution is still falling shortage of any norms.

5. Assailing the second reasoning given in the impugned order, learned counsel for the petitioner submitted that the first respondent University, finding that the petitioner/Institution established in the year 2008 is having all the required infrastructural facilities, granted affiliation to run the Institution, therefore, that goes without saying that without the planning permission from the local competent authority in the year 2008, they would not have granted the approval for running both UG and PG courses, hence, the further requirement of the petitioner/Institution to obtain building plan approval from the DTCP, that would arise only with effect from 01.01.2011, by virtue of Section 47A of the Town and Country Planning (Amendment) Act, cannot be put against them retrospectively. It is also further submitted that although the petitioner / Institution is having 59 faculty members for 120 students and 25% of the Teaching Load should be allotted to the visiting faculty members, this vital fact also has been completely overlooked. Therefore, for all these reasons, the impugned order is liable to be set aside and the matter may be remitted back to the first respondent University to re-examine the issue again without being influenced by the reasons stated in the impugned order.

6. Learned Additional Advocate General appearing for the first respondent University submitted that on 02.05.2018, the Expert Committee has scrutinized the compliance report dated 24.04.2018 submitted by the petitioner/Institution and thereafter, although they have accepted all the documents submitted for the faculty members, they have not accepted the documents submitted for class rooms as no document relating to building plan was submitted. Therefore, as per the COA norms (COA Minimum Standard of Architectural Education, 2017), the faculty strength should be 60, but, even after consideration of the newly appointed faculty members, the total faculty strength was only 42, which is falling short of 30%. Hence, as class rooms and faculty deficiency continued to exist in the College, the sanctioned intake values were reduced for the B.Arch. Course

from 120 to 60 and for M.Arch. (Environmental Architecture), it was put under 'No Admission' category in accordance with the norms of Anna University. This communication was also rightly informed to the petitioner/Institution on 11.05.2018. Thereafter, in response to the communication dated 15.05.2018 of the petitioner / Institution, the first respondent University, vide its communication dated 30.05.2018, intimated them that the University would not give a copy of the inspection report or scrutiny report.

7. Aggrieved by the said communication, the petitioner / Institution preferred a Writ Petition No.13092 of 2018, whereby, this Court, vide its order dated 27.07.2018, directed the University to reconsider the representation dated 15.05.2018 submitted by the petitioner / Institution. Subsequently, the Vice-Chancellor of the University has appointed a Scrutiny Committee comprising of two members to reconsider the said representation of the petitioner / Institution. Finally, the meeting was held on 28.08.2018 at 11 a.m., whereby the Committee, while answering all the questions raised by the petitioner / Institution, observed the deficiencies in classrooms and faculty members and after placing this report to the Standing Committee, the same was also conveyed to the petitioner / Institution through a letter dated 21.08.2018. Therefore, since the Hon'ble Apex Court has prescribed a deadline to the University to complete the affiliation process to the Colleges by 15th May of the relevant year to grant or decline their affiliation, the grant of affiliation was completed for all the affiliated Colleges of Anna University before such deadline, hence, it is contended, any revision or redemption of seats at this point of time would become a violation of the order passed by the Hon'ble Apex Court in Parshavanth Charitable Trust and others Vs. AICTE and others [2013 (3) SCC 385]. Concluding her arguments, learned Additional Advocate General submitted that if the petitioner / Institution makes a fresh representation indicating that they would comply with the new norms, their request would be considered in accordance with law.

8. Learned counsel appearing for the second respondent / the Council of Architecture, New Delhi, submitted that the first respondent University has no authority either to increase or decrease the number of admissions in the Architectural Colleges, since the Council of Architecture / second respondent herein is the responsible authority for fixing the standard of Architectural Education and also to oversee that the standards are maintained. Since the Council of Architecture is the Primary Expert Body to lay down the conditions for recognition and norms for imparting recognized qualifications including fixing of intake of admission, the first respondent University cannot interfere with those powers vested with the

second respondent. Moreover, as the second respondent, being the Apex Body, has laid the conditions for recognition and norms for imparting recognized qualification, every University in the State cannot prescribe different yardstick as that will create inconsistent standard and inconsistent syllabus in the Colleges imparting Architectural Education.

9. Heard the learned counsel appearing on either side and perused the materials available before this Court.

10. The petitioner / Institution was established in the year 2008 by Sri Angala Parameswari Educational Trust. Since then, they have been running a full-time Undergraduate programme in Architecture with an intake of 120 students as approved by the Regulating Body, namely, Council of Architecture / second respondent herein. It is also seen that on 07.10.2018, the National Association of Students of Architecture (NASA) has published the ranking list of the Colleges imparting Architectural Education, wherein the petitioner/Institution is ranked at No.12 in India. Since they are also running full-time Masters Programme in Architecture with an intake of 20 in M.Arch. (Environmental Architecture), the first respondent University has granted affiliation to the above said courses upto the last academic year i.e. 2017-2018. In the meanwhile, after conducting the inspection on 20.03.2018, finding certain deficiencies, the first respondent has issued a show cause notice dated 10.04.2018 to the petitioner / Institution calling upon them to submit their compliance report on or before 25.04.2018. Thereafter, a detailed compliance report dated 23.04.2018 was also submitted and on receipt of the same, the first respondent University, vide proceedings dated 11.05.2018, reduced the intake of B.Arch course from 120 seats to 60 seats and put the M.Arch. Course under 'No Admission Category'. The reason cited therein shows that the petitioner / Institution was not having sufficient faculty members.

11. It may be mentioned herein that the petitioner / Institution, vide letter dated 14.03.2018, addressed to the Apex Body, namely, the Council of Architecture, have requested them to refix the intake from 120 students to 80 students. Such factum was also communicated to the first respondent University by the petitioner / Institution through their compliance report dated 23.04.2018 indicating further that they have got 59 faculty members and out of 59 faculty members, they are also entitled to have 25% of visiting Professors from outside. This apart, when the petitioner / Institution is also offering Masters programme in Architecture with an intake of 20 students in M.Arch., it is claimed that all the faculty members appointed to take care of the said Course are also available even now. Therefore, if this calculation is properly taken into account by the first respondent University, they would not have passed the

present impugned order directing them to reduce the intake from 120 students to 60 students.

12. Secondly, one another reason assigned in the impugned order shows that the petitioner / Institution has not obtained planning permission from the Directorate of Town and Country Planning (DTCP). It is not in dispute that the petitioner / Institution was established in the year 2008 after obtaining planning permission from the local authority concerned. As a matter of fact, only with effect from 01.01.2011, the authority giving planning permission was changed from local authority to DTCP. The petitioner / Institution, obtaining planning permission in the year 2008 from the competent local authority, constructed the present institutional building. Based on the planning permission obtained, the respondents have granted the approval for running both UG and PG Courses. Therefore, the contention of the first respondent University that the petitioner / Institution should obtain building approval from the DTCP is wholly untenable, the reason being that only for the building constructed after 01.01.2011, by virtue of Section 47A of the Town and Country Planning (Amendment) Act, the planning permission has to be obtained from the DTCP. This Court also has held that the planning permission shall be obtained from the DTCP for the new building going to be put up after 01.01.2011. Therefore, when the petitioner / Institution was able to satisfy such facts in their detailed compliance report dated 23.04.2018, it is not known why this vital/crucial facts have been completely overlooked.

13. Thirdly, the second respondent claims that they are the Apex Body, therefore, they have got primacy over the University to find out whether the petitioner / Institution is having sufficient infrastructural facilities, including the faculty members. When the approval was already granted by the second respondent, which is the Apex Body, for the purpose of affiliation, faculty strength alone has to be taken note of by the first respondent University. As the first respondent University has also made it clear that even as on today, they have got 59 faculty members to run full-time UG programme in Architecture, in addition to the faculty members imparting Master Programme in M.Arch. (Environmental Architecture), in my considered view, the impugned order passed by the first respondent University without there-being any discussion with regard to the above said factual position, is liable to be set aside and accordingly, it is set aside. The petitioner / Institution is directed to furnish a fresh list of faculty members available as on today and also the building plan approval obtained at the time establishment of the Institution in the year 2008 to the first respondent University. On receipt of the same, the first respondent University shall consider the claim of the petitioner / Institution afresh for the academic

year 2019-2020 and pass orders thereon within a period of four weeks thereafter.

14. In fine, for the reasons stated above, the writ petition is allowed in the above terms. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar,
Anna University,
Anna University Campus,
Sardar Patel Road,
Guindy, Chennai - 25.

2.The Registrar,
The Council of Architecture,
India Habitat Centre,
Core 6A, 1st Floor,
Lodhi Road, New Delhi - 110003.

+1cc to Mr.M.Vijayakumar, Advocate, S.R.No.9202
+1cc to Mr.R.Gopinath, Advocate, S.R.No.9322
+1cc to Mr.S.Sathish Rajan, Advocate, S.R.No.9261

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SPD(CO)

rrs 14/02/2019

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