BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.06.2019
CORAM:
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
W.P.(MD) No.12532 of 2019
and
W.M.P(MD)Nos.9333, 9334 and 9335 of 2019

Vijay Institute of Management,
Represented by its Principal and Director,
Dr.N.Swarnalatha, NH -7, Madurai Road,
Near Gandhigram University,
Kalikampatti (Post), Dindigul - 624 303,
Dindigul District. ... Petitioner

vs.

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

2.The Director,
Centre for Affiliation of Institutions,
Anna University, Guindy,
Chennai - 600 025. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to quash the impugned orders passed by the 1st respondent in his proceedings in Lr.No.282/CAI/AU/CRF/2019, dated 11.05.2019 and consequential order passed by the 2nd respondent in his proceedings in Lr.No.298/CAI/AU/2019, dated 21.05.2019 and direct the respondents to grant affiliation intake for the year 2019-2020 based on the communication letter dated 18.05.2019 sent by the petitioner along with compliance particulars for his institution for Master of business Administration course within a time frame as stipulated by this Court.

For Petitioner : Mr.B.Saravanan,
for M/s.S.Sarvagan Prabhu

For Respondents : Mr.M.Rajarajan,
standing counsel for Anna University

ORDER

Challenging the proceedings of the 1st respondent, dated 11.05.2019 and the consequential order passed by the 2nd respondent dated 21.05.2019 and for a consequential direction to the respondents to grant affiliation for the petitioner's institution for Master of Business Administration course for the academic year 2019-2020, the petitioner is before this Court with this writ petition.

2. The petitioner Institution is an approved institute by the statutory authority, namely, All India Council for Technical Education (in short 'AICTE') and has been imparting the management courses for UG degree, viz.,, BBA and PG degree viz., MBA for last nearly about 10 years.

3. From 2010-2011 onwards, the Institution has been continuously running with these courses with the approval of AICTE and affiliation of the respondent University. As per the procedure in vogue, the affiliation of the respondent University given to these courses are only for the particular academic year and therefore, for extension of such affiliation for the subsequent academic year, the Institution has to make an application on or before a particular cut off date well before the commencement of the succeeding academic year.

4. On making such application, after scrutiny of the same, the respondent University will intimate the Institution concerned to make inspection and thereby all necessary infrastructures and instructional facilities have to be kept ready for inspection.

5. After having inspected the institute, if the inspection team found any deficiency to be rectified by the Institution concerned, the same shall be intimated to the institution by the University requiring them to comply with the same within a particular date. On such compliance, after having scrutinized the same and verified the same, the University can take a final decision for grant of extension of affiliation or otherwise.

6. With these working system/procedure being adopted by the respondent University for grant of affiliation and extension of affiliation for its affiliated institution/courses, this year also, i.e., for the academic year 2019-2020, the University on 10.12.2018, issued a communication to all institutions including the petitioner's institution to make an application with relevant details seeking for extension of affiliation on or before 05.01.2019. Subsequently, the said date was extended upto 18.02.2019. It is the fact to be noted that, within the said stipulated time, the petitioner institution also has made application for extension of its affiliation to its PG Management course, namely, MBA., with an intake capacity of 120 students per year. On 04.02.2019, the respondent University sent a communication to all the institutions including the petitioner institute to keep ready the infrastructures and instructional facilities. By a subsequent communication dated 23.03.2019, the University, intimated the institute that, the inspection team would make the inspection on 27.03.2019. Accordingly, the inspection had taken place on 27.03.2019. After considering the inspection report, a deficiency letter dated 05.04.2019 was issued by the University to the petitioner's Institute, where according to the University, there had been three deficiencies.

6.1. First deficiency relates to classroom. So far as the second and third deficiencies are concerned, it relates to the library.

7. After having rectified the deficiencies pointed out by the University through its inspection team, a compliance report was submitted by the petitioner Institute on 22.04.2019.

8. According to the petitioner, in *toto*, three deficiencies pointed out by the University have been complied with and a compliance report to that effect has been submitted to the University on 22.04.2019.

9. However, by the original impugned order dated 11.05.2019, the University had rejected the request of the petitioner for grant of continuation of affiliation for its MBA course for the academic year 2019-2020. But the alleged deficiency, according to the University, is still persist, as the same has not been complied with by the Institute. According to the University, as reflected in the impugned order, the deficiency is with regard to the library.

10. Though such an impugned order dated 11.05.2019 was issued by the University, on receipt of the same, on 18.05.2019, the petitioner Institute had sent a communication, where, as a proof with regard to the compliance of the deficiencies pointed out by the University in its library, bills showing the purchase orders and the purchase of additional books for library had also been annexed. It is to be noted that, in this context, it is the case of the petitioner Institute that, those purchase have already been made and these bills have also been supplied along with the compliance report, but as an abundant caution, yet another copy of the bills showing the proof of purchase of additional books as pointed out by the inspection team, had once again been annexed in the said communication, dated 18.05.2019 and accordingly, the petitioner Institute requested the University for re-consideration/re-look of the matter.

11. However, once again, by a consequential impugned order dated 21.05.2019, the University has rejected the request of the petitioner by reiterating their earlier order of refusal for continuation of affiliation, by placing the petitioner Institute under no admission category for its PG course, namely, MBA course, for the academic year 2019, for the entire annual intake of 120 students. Challenging the said impugned order dated 11.05.2019 as well as the consequential order dated 21.05.2019, the petitioner has filed this Writ Petition with the aforesaid prayer.

12. Mr.B.Saravanan, learned counsel appearing for the petitioner, has pointed out that, though there were originally three deficiencies pointed out, all the three were rectified and a detailed compliance report has been submitted as early as on 22.04.2019 and the said compliance report, if considered in proper perspective, the impugned order dated 11.05.2019 could not have been issued.

13. Nevertheless, the learned counsel contended that, by subsequent communication dated 18.05.2019, once again, the bills showing the purchase of additional books for the library, which was originally submitted along with the compliance report, been annexed. Despite the same, the consequential impugned order, dated 21.05.2019, was passed by the University by reiterating the very same reason mechanically and therefore, both the impugned orders cannot be sustained in the eye of law.

14. Per contra, Mr.M.Rajarajan, learned Standing counsel appearing for the respondent University, having produced the original compliance report submitted by the petitioner Institute to the University as well as the inspection committee report submitted in this regard, has submitted that, the scrutiny committee, having considered the three deficiencies pointed out and the rectification report in this regard from the institute, has accepted the first deficiency with regard to the classroom as having been complied with.

15. So far as the deficiencies in respect of the library, the scrutiny team has not satisfied with the compliance report on the main ground that, the invoices submitted by the petitioner institute for purchase of additional books and journals for a total amount of Rs.47,953/- has not been filed in proper format and therefore, the invoice submitted by the institute obtained from one Hindustan Subscription Service appears to be not genuine and therefore, in that context, the inspection team/scrutiny team had not accepted those bills and invoices as a proof for purchase of additional books and journals and accordingly, the inspection team/scrutiny team had sent a report stating that, the deficiencies pointed out by the inspection team insofar as the library is concerned is still persists, ie., 100% deficiencies and therefore, in view of such 100% deficiencies in Library, the University had taken a decision to place the petitioner Institute under no admission category for the academic year 2019-2020 and the said decision, having been taken pursuant to the inspection report and Scrutiny Committee report, after scrutinizing the compliance report submitted by the University. Therefore, the said decision taken by the University cannot be found fault with. Accordingly, the said impugned orders passed by the University are to be sustained, as it do not require any interference by this Court.

16. I have considered the said rival submissions made by the learned respective counsel and have perused the materials placed before this Court.

17. Insofar as the facts narrated in the above paragraphs, there has been no much dispute between the parties. The only area where there is a conflict between the parties is insofar as the compliance made by the Institute in respect of the deficiency pointed out by the University pertaining to the additional books and

journals at the library. In this context, it is to be noted that, the learned Standing Counsel for the respondent University had produced the copy of the original annexure of the inspection team/scrutiny team, where the learned Standing counsel relied upon the note/recommendation submitted by the inspection team, which reads,

"journals subscription bills are not found to be in proper format"

sd/- on 23.04.2019...

This note has been made by the members of the Expert committee constituted by the University to verify the compliance report of the Institute submitted on 22.04.2019.

18. In the compliance report, the petitioner Institute, in respect of the deficiencies pertaining to the library, has submitted the bills given by one Tagore Publication Private limited, where, 6 number of titles of books were purchased for a sum of Rs.1,359/- along with that, the institute has also annexed a copy of invoice for the purchase of number of journals or books through Hindustan Subscription Services at Chennai for a sum of Rs.47,953/-. Also the petitioner, in the said compliance report, had annexed the photocopy of the cheque paid to the said Hindustan Subscription Services dated 12.04.2019 for a sum of Rs.47,953/-.

19. Only on having scrutinized the aforesaid bills and invoices, the scrutiny committee has made its comment stating that, the bills submitted by the Institute is found to be not in proper order. In this context, when this Court specifically asked the learned Standing Counsel for the University as to whether there is any specific form is provided to submit the bills, as a proof for having purchased the books for the library, the learned counsel submitted that, there is no such form has been prescribed.

20. However, the learned Standing counsel would point out that, the bills/invoices shown by the Institute do not reflect the payment of GST. In the absence of payment of any GST, it cannot be construed as a genuine publication or source from which, the books having been purchased and only in that context, the enquiry committee constituted by the University has come to the conclusion that, the bills, vouchers and invoices produced by the Institute may not be genuine and therefore, only in that circumstances, the expert committee has given a note that, the bills submitted by the Institute are found to be not in order. However, the learned counsel appearing for the petitioner, by relying upon some of the documents filed in the additional typed set of papers, which is part of the deficiency report, has submitted that, insofar as the library books are concerned, which is the only deficiency, according to the University, apart from the invoices given by the Hindustan Subscription Services Limited, the money paid to the said services and also the titles of books purchased by the Institute and kept them in the library and its list had also been submitted. In this regard, the learned counsel for the petitioner would further add that, the University has not specified as to which 10 books additionally have to be purchased and which are all the journals

additionally have to be subscribed by the Institute and in fact, when this was specifically requested by the Institute, the academicians, who came as part of the inspection team, had suggested some books; having taken note of those books suggested by the members of the inspection team, those books have been purchased, apart from some more books suggested by the faculties concerned of the MBA programme.

21. In this regard, it is to be further noted that, when this aspect has also been subsequently asked by this Court as to whether the University has prescribed any particular books or title of books to be purchased as additional books for MBA programme to be kept in the library, the learned Standing counsel, on instructions from the officials concerned of the University, had submitted that, there has been no such category or list of books or titles prescribed by the University to be purchased for the MBA programme at the library of the petitioner Institute, instead, he would submit that, any worthy books/title of books, numbering 10 related to or pertaining to or covering a subject of MBA can be purchased and be kept at the library and therefore, the name or title of the books have not been prescribed by the University.

22. When this is the position that, the University itself has not prescribed the title of books to be purchased by the Institute to keep it in the library for the MBA Students, the University cannot blame the Institution that, these are all the title of books, which have already been prescribed, have not been purchased by the University and therefore, it is a deficiency. It is also to be noted that, admittedly, the library of the petitioner Institute, according to the prescription of the University, must have 1080 books, which is required up to May, 2018. However, at the time of inspection, the inspection team found that, there were 3134 books available in the library, ie., almost three times than the required one.

23. However, the grey area is only in respect of the very few books numbering about 10 to be added in the library, after May '2018, where according to the inspection team, the required books were 10 in numbers, whereas, the 10 numbers to be added were not available. Therefore, in that context only, the inspection team found the deficiency in the library, which according to them was 100%.

24. However on factual matrix, the 10 books additionally to be added with any title, of course, related to MBA programme have already been purchased by the petitioner Institute and in this regard enough materials have been produced by way of compliance report by the Institute to the University.

25. It is also to be noted and in fact, even this Court wants to take judicial notice of the fact that, when an Institution is having 3 times more than the required number of books in the library

(required 1080; available 3134), no prudent man can expect that the Institute will be shy of buying only 10 more books.

26. Moreover, it is not a new Institution started from this academic year and seeking affiliation from the University. The Institution has been functioning for nearly about one decade and the MBA programme has already been approved by the AICTE, having been affiliated by the very same University and only the extension of affiliation now has been sought for. The only deficiency, even according to the respondent University, was lack of 10 number of books and journals. In order to fulfil the same, not only 10 books and journals, more number of books and journals have already been purchased and kept in the library. When that being so, for the said single or sole reason, where such a drastic action of placing the Institution under no admission category can be extended is the moot question, where this Court finds an answer that, the University ought not to have rejected the application of the petitioner Institute for extension of affiliation, as according to the University, only one deficiency was pointed out by them, in fact, that has been complied with and this fact has been factually found out by this Court, after having perused all the materials placed before this Court both by the petitioner as well as the University.

27. If at all, the inspection team found that, the bills and vouchers filed by the petitioner Institute is not in proper format, before making a note, the inspection team or Expert team must have verified whether the University has given such a format. The fact remains that, there is no such format provided by the University. When that being so, the expert team could not have issued such a note to state that, the bills and vouchers submitted by the Institute is not in proper form. More so, when the Institute is having 3134 books, where the requirement was only 1080, only adding of 10 more books is not a big job for the Institute to do, which in fact, has been done by the Institute and literally books are available with the library.

28. If the number of books to be added is only 10, those 10 books could have been asked to be produced for physical verification to the University inspection team/inspection committee concerned. Even if that gesture has been shown, definitely, that would have been complied with by the petitioner Institute.

29. Therefore, looking from any angle, the reason cited for rejection of the application for extension of affiliation is, in the considered opinion of this Court, undoubtedly, unjustifiable, arbitrary and colourable exercise of power. Therefore, this Court has no hesitation to hold that, the impugned order dated 11.05.2019 and subsequent impugned order dated 21.05.2019 are unsustainable. Accordingly, these orders are liable to be quashed.

30. In the result, the Writ Petition is allowed and the impugned orders are quashed, thereby the respondent University is

directed to issue an order with regard to grant of extension of affiliation to the petitioner Institution for MBA programme for intake of 120 students per year for the academic year 2019-2010 forthwith, at any rate, within one week from the date of receipt of a copy of this order, enabling the Institution to run the programme continuously for the academic year 2019-2020 also.

31. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To
1.The Registrar,
Anna University, Guindy,
Chennai – 600 025.

2.The Director,
Centre for Affiliation of Institutions,
Anna University, Guindy,
Chennai – 600 025.

+1 CC to Mr.S.SARVAGAN PRABHU, Advocate SR-67289.

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and
W.M.P(MD)Nos.9333 to 9335 of 2019
06.06.2019

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