

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on	Pronounced on
23.07.2019	02.08.2019

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CORAM:**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

W.P. (MD) Nos.14774 and 14775 of 2019
and W.M.P. (MD) Nos. 11187 & 11188 and
11189 & 11190 of 2019

W.P. (MD) No.14774 / 2019

KAPI Polytechnic College,
Rep. by its Principal
R.Vivek Pandiarajan
Gandhigram Mama Dr.G.Ramachandran Nagar,
Sithyankottai Post,
Palayamkottai via
Palayamkottai Village,
Dindigul Taluk & District.

... Petitioner

Vs.

- 1.The Chairman,
All India Council for Technical Education,
Nelson Mandela Mark,
Vasanth Kunch
New Delhi 110070
- 2.The Member Secretary
All India Council for Technical Education,
Nelson Mandela Mark,
Vasanth Kunch
New Delhi 110070
- 3.The Project Officer,
Approval Bureau
All India Council for Technical Education,
Nelson Mandela Mark,
Vasanth Kunch
New Delhi 110070
- 4.The Principal Secretary,
(Higher Education)
Government of Tamilnadu
N.K.M. Building,
6th floor, Secretariat
Chennai - 600 009.



5.The Director
Southern Regional Office,
All India Council for Technical Education,
Shastri Bhavan 26
Haddows Road,
Chennai - 600 006

6.The Director of Technical Education,
Guindy, Chennai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to the impugned order passed by the 2nd respondent in F.No.Southern/1-4260619526/2019/No Admission dated 30.04.2019 and the 3rd respondent in F.No.AICTE/AB/SR/PID 1-476324101 dated 13.05.2019 and quash the same and consequently direct the respondents 1 to 3 to grant extension of approval for the petitioner college for the academic year 2019-20.

For Petitioner :Mr.T.Mohan
for Mr.N.K.Ponraj

For Respondents :Mr.N.Dilipkumar for R1 to R3 and R5
standing counsel for AICTE
Mr.V.Anand
Government Advocate for R4 & R6

W.P. (MD) No.14775 / 2019

Kamatchi Polytechnic College,
Rep. by its Managing Director
P.Rajathi
Vasantha Nagar,
Thogamalai Main Road,
Pothavur Village,
Inampuliyur Post,
Trichy District - 639103

... Petitioner

Vs.

1.The Chairman,
All India Council for Technical Education,
Nelson Mandela Mark,
Vasanth Kunch
New Delhi 110070



2.The Member Secretary
All India Council for Technical Education,
Nelson Mandela Mark,
Vasanth Kunch
New Delhi 110070

3.The Principal Secretary,
(Higher Education)
Government of Tamilnadu
N.K.M. Building,
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5.The Director of Technical Education,
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... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to the impugned order passed in F.No.Southern/1-4260802692/2019/No Admission dated 30.04.2019 and F.No.AICTE/AB/SR/PID 1-753723611 dated 13.05.2019 and quash the same and consequently direct the respondents 1 and 2 to grant extension of approval for the petitioner college for the 1st year of the academic year 2019-20.

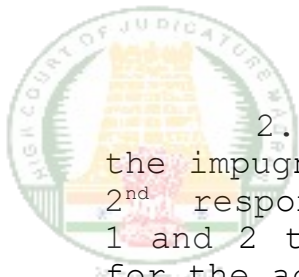
(Prayer amended vide order of this Court, dated 15.07.2019
in W.M.P. (MD) No.12532/2019)

For Petitioner :Mr.T.Mohan
for Mr.N.K.Ponraj

For Respondents :Mr.N.Dilipkumar for R1 to R2 and R4
standing counsel for AICTE
Mr.V.Anand
Government Advocate for R3 & R5

COMMON ORDER

W.P.(MD) No.14774 of 2019 has been filed challenging the impugned orders, dated 30.04.2019 and 13.05.2019, passed by the 2nd and 3rd respondents respectively and for a consequential direction to the respondents 1 to 3 to grant extension of approval for the petitioner college for the academic year 2019-20.



2. W.P.(MD) No.14775 of 2019 has also been filed challenging the impugned orders, dated 30.04.2019 and 13.05.2019, passed by the 2nd respondent and for a consequential direction to the respondents 1 and 2 to grant extension of approval for the petitioner college for the academic year 2019-20.

W.P. (MD) No.14774 / 2019:

3. The facts in nutshell are as follows:

The petitioner is a Polytechnic College, which was approved by the All India Council for Technical Education (In short 'AICTE') by its approval order dated 08.09.2010. Therefore, on the strength of the said approval order, the Institution has been functioning from the academic year 2010-11. As per the procedure in vogue, the approval granted by the AICTE would be for a particular year or block years. On expiry of the approval given by the AICTE, application seeking for extension of approval has to be made by the Institution.

4. In this regard, it is to be noted that, for academic year 2018-19, the petitioner applied for extension of approval and such extension was granted by the AICTE on 04.04.2018 and however, the said extension of approval for the year 2018-19 was a conditional extension, as, according to the AICTE, some deficiencies were pointed out, which had to be complied with by the Institute within a period of six months.

5. According to the petitioner, on receipt of such conditional extension of approval for 2018-19 through the approval order, dated 04.04.2018, the petitioner, having rectified the deficiencies, had attempted to submit the compliance report to the respondent AICTE. However, the petitioner was directed to appear before the scrutiny committee on 19.11.2018. Accordingly, compliance report was submitted to the scrutiny committee.

6. Having considered the said compliance report by the scrutiny committee, it seems that, the scrutiny committee has recommended that, the petitioner Institution can be put under 'no admission category' for the academic year 2019-20. A further opportunity was given to the petitioner before the standing appellate committee, which was scheduled to be conducted on 05.02.2019, for which, according to the petitioner, the e-mail communication dated 03.02.2019 issued by the AICTE was noticed by the petitioner only on 06.02.2019, as the petitioner was expecting communication by post and that is the reason why, before 05.02.2019, since the petitioner could not access with the e-mail communication, by default, the petitioner could not appear before the appellate committee on 05.02.2019.

7. In the meanwhile, the AICTE already opened inviting applications for extension of approval for the year 2019-20, via their web portal from the month of January 2019. Therefore, on



12. According to the learned counsel for the petitioner, it is the case of the petitioner that, the petitioner Institution has been approved from 2010-11 onwards and every year such approval has been extended by the AICTE and last such extension was given for the year 2018-19, however, with a condition to state that, certain deficiencies pointed out by the AICTE should be rectified and compliance report to that effect shall be filed by the institution to the AICTE within a period of six months. In this context, it is the submission of the learned counsel for the petitioner that, though compliance had been immediately made and when the same was about to be submitted or attempted to be submitted, the AICTE directed the petitioner to appear before the scrutiny committee on 19.11.2018 to present their case. Accordingly, it was presented before the scrutiny committee. However, the said scrutiny committee, having considered the said compliance, without giving any further opportunity, seems to have recommended for 'no admission category' for the academic year 2019-20.

13. In this context, it is the submission of the learned counsel for the petitioner that, as far as 2019-20 is concerned, it is a fresh application to be filed for extension of approval, for which, web portal was opened in January 2019 and on 08.02.2019, application was submitted with relevant fee of Rs.1 lakh and the said application was processed and the AICTE created / generated a nil deficiency report on 21.02.2019. Therefore, it become clear that, as on 21.02.2019, the Institution does not have any deficiency. Therefore, there can be no further impediment for the respondent AICTE to clear the institution by giving extension of approval for the academic year 2019-20, since the institution is running continuously for a decade.

14. The learned counsel for the petitioner would also submit that, if at all the AICTE is having any doubt over the compliance of the report submitted by the petitioner, on 08.02.2019, as the petitioner could not appear before the standing appellate committee on 05.02.2019, the same could have been clarified.

15. Assuming that the standing appellate committee meeting was over on 05.02.2019, that relates to the academic year 2018-19, for which, conditional approval was given and students were admitted. However, as far as the academic year 2019-20 is concerned, it is a fresh application seeking extension and the same has been processed and nil deficiency report has been generated. Therefore, the procedure contemplated to decide every such application seeking approval of extension shall be followed by the respondent, ie., AICTE. Without following the same, if the impugned order dated 30.04.2019 and detailed/consequential impugned order dated 13.05.2019 placing the petitioner under 'no admission category' is passed, that is totally unlawful and therefore, the said orders are liable to be quashed and directions may be given to the AICTE to complete the process for grant of extension of



approval for the academic year 2019-20.

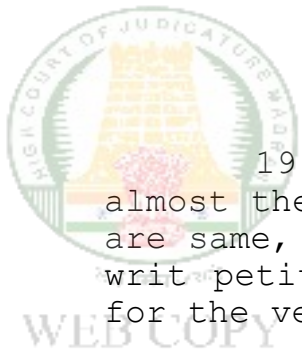
16. Per contra, the learned standing counsel for the respondent AICTE, by relying upon the averments made in the counter affidavit and on further instructions, would submit that, insofar as the academic year 2018-19 is concerned, the extension of approval given to the petitioner Institute on 04.04.2018 was only a conditional approval and if at all any conditions imposed therein, having not been fulfilled by the petitioner, within six months period stipulated therein, that would make the institution liable to face the consequences.

17. The learned standing counsel would further submit that, since the conditional order has not been complied with as a sequel or consequence, the institution has been placed under 'no admission category'. Before the petitioner institution has been placed under 'no admission category', two opportunities were given:

One is by way of scrutiny committee and another one is by way of standing appellate committee.

If at all the petitioner had a compliance report to the fullest extent possible with regard to the deficiencies already pointed out, they could have very well appeared before the standing appellate committee on 05.02.2019, for which, notices have already been given through the AICTE E-mail. Having failed in appearing before the standing appellate committee, the petitioner cannot now come and say that, subsequent to the standing appellate committee meeting, compliance report has been uploaded on 07.02.2019 or 08.02.2019, as whatever compliance submitted, beyond the date of standing appellate committee meeting, cannot be taken into account.

18. The learned standing counsel for the respondents AICTE would further submit that, as far as the academic year 2019-20 is concerned, though the application was submitted on 08.02.2019 and nil deficiency report was generated on 21.02.2019, since the conditional order given for the academic year 2018-19 have not been fulfilled before the cut off date, at least, before the standing appellate committee meeting held on 05.02.2019, the AICTE considered it as a non compliance of the conditional order. The resultant consequence would be that, the petitioner institution has to be placed under 'no admission category'. Accordingly, for the year 2019-20, it has been placed under 'no admission category' through the impugned orders. Therefore, the petitioner cannot take a shelter stating that, the AICTE, having created or generated nil deficiency report on 21.02.2019, cannot refuse extension of approval for the year 2019-20, as extension of approval for the year 2019-20 is subject to the fulfilment of conditions imposed by the AICTE during previous year. Therefore, the impugned orders are strictly in consonance with the AICTE Rules and regulations as well as the guidelines and therefore, the same need not be interfered with.



19. Similarly, in respect of W.P.(MD) No.14775 of 2019 also, almost there are similar set of facts, where also, almost the dates are same, where also, the AICTE has placed the institution in that writ petition, under 'no admission category' for the year 2019-20 for the very same reasons.

20. Similar arguments were advanced by the learned counsel for the petitioner as well as the learned standing counsel for the respondents in that writ petition also.

21. I have considered the rival submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

22. Insofar as the first writ petition is concerned, though a conditional extension of approval was given for the year 2018-19, by order, dated 04.04.2018, thereafter, the institution claimed to have complied with the deficiencies pointed out by the AICTE in their conditional approval order, dated 04.04.2018. In order to appreciate the same, the deficiencies mentioned in the said order is extracted hereunder:

Deficiencies noted based on self disclosure	
Particulars	Deficiency
Other Details Deficiency	
List of faculty and data uploaded on the Institute web portal	Yes
Other facilities deficiency	
Compliance of the National Academic Depository (NAD) as per MHRD Directives	Yes
Provision to watch MOOCS Courses through Swayam	Yes
Applied Membership National Digital Library	Yes
Online Grievance Redressal Mechanism	Yes
* please refer Deficiency Report for details	

23. Thereafter, it seems that, the scrutiny committee, having scrutinised the same, has recommended for placing the petitioner institution under 'no admission category'. The issue was placed before the standing appellate committee, where, an intimation through e-communication had been generated on 03.02.2019 requiring the petitioner to appear before the standing appellate committee on 05.02.2019. However, it is claimed by the petitioner that, the said communication, since has been sent by e-communication, the same could not be noticed immediately and only on 06.02.2019, it was noticed, immediately, they uploaded everything on 07.02.2019 in the web portal.



24. It is a fact that, on 07.02.2019, the petitioner Institution uploaded everything including the compliance report with regard to the deficiencies pointed out during last year and it is the claim of the petitioner Institution that, only uploading was undertaken on 07.02.2019, actually, the deficiencies had been complied with long back, ie., immediately after the conditional approval was given for the year 2018-19.

25. In the impugned order, the only reason cited by the respondent AICTE for placing the institution under 'no admission category' for the academic year 2019-20 is that, the compliance report for the deficiencies pointed out by the AICTE for the previous year had not been submitted, that means, the proof with regard to the compliance of the deficiencies had not been submitted.

26. The relevant portion of the order reads thus:

"No admission for A/Y 2019-20."

Whereas, the institute was given an opportunity to appear before standing appellate committee (SAC) on 05.02.2019. The representation of the Institute did not appear before the SAC. The SAC dated 05.02.2019 has observed the following:-

Sl.No	Deficiency	Observation and supporting proof verified by SAC
1	List of faculty and data uploaded on the institute web portal - not presented	Not submitted
2	Provision to watch MOOCS Courses through Swayam - not presented	
3	Applied membership - National Digital Library - Not presented	
4	Online Grievances Redressal Mechanism - not presented	
5	Observation of the committee:- Deficiency not complied. No relevant documents submitted. Faculty list and strength could not be verified and documents not submitted. VI pay salary details not provided.	

27. However, the uploading of the compliance report on 07.02.2019 or 08.02.2019, as claimed by the parties had been accepted by the web portal of the AICTE, insofar as the institution is concerned and in this context, on 21.02.2019, a nil deficiency report has been generated. The learned counsel for the respondent AICTE, on instructions from the respondent AICTE, submitted that, no doubt, it has been uploaded by the petitioner institute on



07.02.2019 and based on which, nil deficiency report has been generated, which means that, all the five deficiencies pointed out by the respondent AICTE for the academic year 2018-19 had been complied with and prima facie that has been accepted by the AICTE, that is the reason why, a nil deficiency report has been generated.

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28. The only issue, which triggered the present problem is that, the petitioner could not upload the same or presented the papers or submitted the compliance report before the standing appellate committee on 05.02.2019, but, within two or three days, the same had been complied with, ie., on 7th or 8th of February 2019, admittedly, it has been uploaded and the system has been accepted.

29. Even though on 05.02.2019, before the standing appellate committee, the petitioner could not appear, for which, the reason stated by the petitioner is that, the petitioner could not access to the e-communication, since it is only e-communication, one day belatedly, they could access it and accordingly, they immediately acted upon.

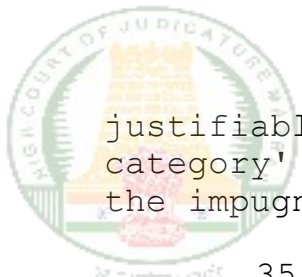
30. Moreover on 05.02.2019, ie., the date on which, the standing appellate committee had a hearing, certainly, the deficiencies had already been complied with and only submission of papers or uploading the same had been undertaken two days later, because of the communication gap.

31. The reason for such communication gap, neither attributable towards the AICTE and for the said reason, nor the petitioner be blamed.

32. Be that as it may, the fact remains that, the deficiencies, *prima facie*, had been complied with, that is the reason why, on 21.02.2019, nil deficiency report had been generated. When that being so, while passing order on 30.04.2019 and subsequent detailed order on 13.05.2019, the respondent AICTE should have taken into account the nil deficiency report dated 21.02.2019 and all other subsequent procedure ought to have been followed and in this regard, if the scrutiny committee once again wants to scrutinise those compliance, they could have done and accordingly, the final decision could have been taken otherwise.

33. However, the AICTE, without taking into account the nil deficiency report generated on 21.02.2019, has passed the impugned order placing the petitioner under 'no admission category' for the year 2019-20.

34. It is to be noted that, for the year 2018-19, there might have been some deficiencies, however, the AICTE allowed the institution to run and admitted students for 2018-19, whereas, for the year 2019-20, even according to their own web portal, nil deficiency report had been generated, which means, *prima facie*, the petitioner has complied with all deficiencies, hence it may not be



justifiable to place the petitioner institution under 'no admission category' for the year 2019-20. Therefore, this Court feels that, the impugned orders are liable to be interfered with.

35. Similarly, in respect of the second case also, the AICTE has passed the impugned order on 13.05.2019 placing the petitioner institution under 'no admission category' for the academic year 2019-20 for the following reason:

"No admission for A/Y 2019-20."

Whereas, the institute was given an opportunity to appear before standing appellate committee (SAC) on 06.02.2019. The representation of the Institute did not appear before the SAC. The SAC dated 06.02.2019 has observed the following:-

Sl.N o	Deficiency	Observation and supporting proof verified by SAC
1	Are all approved teaching faculty being paid as per VI pay commission - not presented any documents	Absent
2	Whether the payment of salaries are through RTGS/NEFT/Online - No	
3	Observation of the Committee : - Absent	

36. I have perused the said reasons given as deficiencies in the impugned order, where, it is stated that, the petitioner has not filed any supporting documents to substantiate that, the teaching faculties are paid as per 6th pay commission and the salaries for them are being paid through RTGS or NEFT.

37. In this regard, it is the strong case of the petitioner, as projected by the learned counsel for the petitioner that, the faculties are paid 6th pay commission pay scale and their payment or their salaries are being made through RTGS or NEFT or online through their account. Even though the petitioner has filed compliance report and also filed application for extension of approval for 2019-20 on 07.02.2019 and nil deficiency report also has been generated in this case, as in that of the other case, the present impugned order dated 13.05.2019 was passed.

38. The deficiencies, as pointed out in the said impugned order, are not related to the infrastructural and instructional facilities of the institution.

39. However, since the said two deficiencies also, according to the petitioner, have been complied with or fulfilled and a report to that effect had been filed or uploaded, based on which, a nil deficiency report has been generated in the month of February itself, it is not justifiable on the part of the AICTE to place the



petitioner institution under 'no admission category'. Therefore, this Court is of the view that, the said order, which is impugned in this writ petition, is also liable to be interfered with.

40. For all these reasons and the discussions made above, this Court is inclined to dispose of these writ petitions in the following terms:

(1) That the respective impugned orders in both the writ petitions are hereby quashed;

(2) the matter is remitted back to the respondent AICTE for reconsideration;

(3) on such reconsideration, based on the nil deficiency report generated in both the cases, the scrutiny committee/regional committee, if at all wants to verify the compliance submitted by the respective petitioners in the light of the nil deficiency report, they can do so, for which, a week's time is given, within which, the petitioners can be intimated to appear before the scrutiny committee to substantiate the compliance and thereafter, it is for the scrutiny committee to take a decision as to whether a physical verification of such compliance by way of inspection is necessary or not and if the scrutiny committee decides such inspection is not required, it can recommend to the AICTE to process the application for grant of extension of approval for the institutions for the academic year 2019-20;

(4) However, if the scrutiny committee decides to have a personal inspection for verification of such compliance, such inspection can be arranged by the AICTE, to be completed within a period of 10 days thereafter and based on such report, after giving an opportunity to the petitioners, final decision with regard to the grant of extension of approval to the institutions for the academic year 2019-20 can be taken.

No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar()

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Sub Assistant Registrar(CS)

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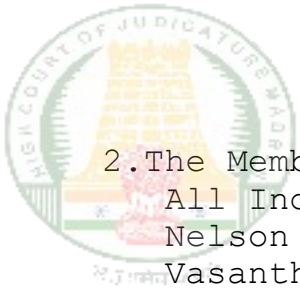
To

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+2CC TO MR.N.DILIP KUMAR, Advocate Sr. No.79574 & 79575
+2CC TO MR.N.K.PONRAJ, Advocate Sr. No.77093 & 77094

W.P. (MD) Nos.14774 and 14775 of 2019
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