THE HONOURABLE SRI JUSTICE SANJAY KUMAR
AND
THE HONOURABLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION NO.995 OF 2019

O R D E R
(*Per Sri Justice Sanjay Kumar)*

1. Vijaya Bank, Hyderabad, seeks a writ of mandamus to the All India Council for Technical Education, New Delhi (AICTE), the second respondent, to consider its representations dated 20.12.2017 and 21.12.2018. Thereby, the bank had sought permission to adjust three security deposits, aggregating to Rs.65,00,000/-, along with upto date interest, towards the loan liability of M/s.Gurukul Foundation, Secunderabad, the third respondent. This request was made as the said security deposits were held jointly in the names of the second and third respondents.

2. The third respondent, a society registered under the Societies Registration Act, 2001, had availed two loans from the petitioner bank to the tune of Rs.4.00 Crore. These two loans were secured by mortgage of properties. To obtain necessary permission from the second respondent, the third respondent society created security deposits of Rs.65,00,000/- with the petitioner bank in its name along with the name of the second respondent jointly. The college started by the third respondent society was however closed down during the academic year 2014-15 and in the meanwhile, as it failed to repay its loans, the petitioner bank initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The mortgaged properties, including the college buildings, were brought to sale but despite the same, the third respondent society still remained due and liable to pay a sum of Rs.13,61,47,341/- to the petitioner bank as on 31.12.2018. O.A.No.415 of 2014 filed by the petitioner bank before the Debts Recovery Tribunal-I, Hyderabad, for recovery of these

dues was allowed on 04.08.2018. While so, as the security deposits of the third respondent society were still available with it, the petitioner bank addressed correspondence to the second respondent seeking its clearance to appropriate the said amounts, as the security deposits were held jointly in the names of the second respondent and the third respondent society. As these communications failed to evoke any response, the petitioner bank approached this Court.

3. The Regional Officer, South Central Regional Office of the second respondent, filed a counter. Therein, he stated that the Executive Committee of the second respondent in its 118th meeting discussed the issue relating to defaulting AICTE approved institutions in repaying loans to public sector banks/financial institutions and resolved as under:

> 'The Executive Committee discussed on the issue of difficulty being faced by the public sector Banks that AICTE approved institutions are not promptly repaying the loan availed by them in connection with providing infrastructure and other facilities in the institutes as mentioned in the proposal.
>
> The EC decided that an appropriate clause may be incorporated in the APH for such defaulter institutions who are unable to make payment towards loan availed. The FDR(s) of such defaulter institutions will be released with mutual consent of AICTE and the Public Sector Bank / Financial Institutions.'

He further stated that as per the above decision of the Executive Committee, rules have to be made in due course. He concluded by stating that this Court may be pleased to pass appropriate orders.

4. The third respondent society filed a counter-affidavit through its Secretary. Therein, it stated that during the academic year 2014-15 the college run by it was placed in the 'No Admission Category' temporarily and renewal was not sought for the college from 2015-16 onwards. It however asserted that the permission granted to it was still valid and it could easily restart the institution by obtaining extension of approval following the due process. It pointed out that it had not applied for closure of the institution

and asserted that it was not open to the petitioner bank to appropriate the security deposits lying with it when it was yet to seek revocation of its existing permissions from the second respondent.

5. Heard Sri K.Ramakrishna, learned counsel representing Sri E.Madan Mohan Rao, learned counsel for the petitioner bank, Sri K.Ramakanth Reddy, learned counsel for the AICTE, and Sri V.Murali Manohar, learned counsel representing Smt. V.Dyumani, learned counsel for the third respondent society.

6. Sri Ramakanth Reddy, learned counsel, would state that in the light of the counter-affidavit averments and as rules are yet to be framed, the AICTE would take a decision on the representations dated 20.12.2017 and 21.12.2018 made by the petitioner bank with regard to appropriation of the security deposits towards the loan liability of the third respondent society.

7. Sri V.Murali Manohar, learned counsel, would however contend that it is not open to the petitioner bank to unilaterally appropriate the security deposits created jointly in the names of the AICTE and the third respondent society.

8. Sri K.Ramakrishna, learned counsel, would counter this contention by asserting that the bank would be entitled to exercise its power of general lien.

9. Notwithstanding these rival contentions, we do not propose to go into the merits of the claims and counter-claims. All that the petitioner bank is seeking presently is a direction to the AICTE to consider its representations dated 20.12.2017 and 21.12.2018. In terms of the resolution passed by the Executive Committee of the AICTE, it is for the competent authority in the AICTE to consider the said representations and take a decision thereon as to whether it has any objection to the request made by the petitioner bank. It

is not for the third respondent society to dictate to the AICTE as to how it should go about taking a decision in this matter. In any event, it is not open to the third respondent society to seek relief in the writ petition filed by the petitioner bank.

10. On the above analysis, the writ petition is allowed directing All India Council for Technical Education, New Delhi, the second respondent, to take an appropriate decision upon the petitioner bank's representations dated 20.12.2017 and 21.12.2018 expeditiously and in any event, not later than eight weeks from the date of receipt of a copy of this order, be it from whatever source. The decision taken upon the said representations shall be communicated to the petitioner bank by way of a reasoned order.

Pending miscellaneous petitions shall stand closed in the light of this order. No order as to costs.

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SANJAY KUMAR, J

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P.KESHAVA RAO, J

2nd AUGUST, 2019

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