

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.19159 OF 2019

ORDER:

This writ petition is filed challenging the action of the 1st respondent in not considering the request of the petitioner-institute for grant of affiliation for conducting MBA course for the academic year 2019-20 vide proceedings No.1187-MR/H/2019-20/Acad-IV-1, dated 28-08-2019.

It is the case of the petitioner that initially the All India Council of Technical Education (for short "the AICTE") has granted approval to the petitioner-institute for conducting MBA programme from the academic year 2001-02 in the name and style of MESCO Institute of Management & Computer Sciences and later issued extension of approval till academic year 2013-2014. Respondent-university vide its letter dated 10-10-2001 granted affiliation to the petitioner-institute to conduct MBA programme for the academic year 2001-02 and thereafter issued necessary affiliation letter to the petitioner-institute till the academic year 2013-14. Later the petitioner-institute did not apply to AICTE for extension of approval for the MBA programme for the academic year 2015-16. On 19-02-2019 the petitioner-institute made an application dated 19-02-2019 for extension of approval to the AICTE for the academic year 2019-20. On 28-03-2019 team of the AICTE conducted inspection and found 'No Deficiency' and accordingly forwarded the application of the petitioner-institute to the Regional Committee of AICTE for consideration for necessary

permission. On 25-04-2019 the AICTE granted extension of approval to the petitioner-institute for conducting MBA programme for the academic year 2019-20. That the petitioner-institute applied to the respondent-university on 26-04-2019 for grant of affiliation for the academic session 2019-20 to conduct MBA programme and also submitted extension of approval as issued by AICTE for the academic year 2019-20 for MBA programme. The respondent-university in order to grant affiliation to the petitioner-institute conducted inspection on 29-05-2019. After that since there was no response from the respondent-university, the petitioner-institute addressed letters on 11-06-2019 and 08-07-2019 to grant affiliation for conducting MBA programme from the academic year 2019-20. It is also the case of petitioner-institute that in view of ongoing process of counselling, the petitioner addressed a letter dated 06-08-2019 to the 2nd respondent-department for grant of affiliation to conduct MBA programme. Then the Department of Technical Education, Telangana vide its letter dated 08-08-2019 requested the Osmania University to examine the issue and pass orders on the request of petitioner-institute seeking revival and extension of affiliation for conducting MBA programme for the academic year 2019-20. The 1st respondent-university sought clarification from the petitioner-institute with regard to revival of MBA course vide letter dated 16-08-2019 and the petitioner submitted explanation along with documents on 17/20-08-2019 and on 23-08-2019. But no action has been taken by the

respondent-university. On that the petitioner-institute filed WP.No.18995 of 2019 on 29-08-2019 and after knowing about filing of writ petition, the 1st respondent-university issued impugned proceedings. Challenging the same, the petitioner filed the present writ petition.

Heard Sri G.Vidyasagar, learned Senior Counsel for the petitioner submits that once the AICTE has granted approval and the University cannot refuse to grant extension of affiliation. More so, when the Commissioner of Technical Education directed the University to consider the case of the petitioner for extension of affiliation by relying on the judgment of **Jaya Gokul Educational Trust v. Commissioner & Secretary to Government Higher Education Department, Thiruvananthapuram, Kerala State**¹ as confirmed by Supreme Court in **Rungta Engineering College, Bhilai v. Chhattisgarh Swami Vivekanand Technical University** (2015) 11 Supreme Court Cases 291. If the University is of the view that any violations are found, University can only refer the matter to AICTE but it cannot refuse the affiliation.

On the other hand, Sri Ch.Jagannadha Rao, learned Standing Counsel for respondent-university submits that since the petitioner has not submitted the building permission as approved by competent authority and the impugned order filed at page No.199 of material papers also shows that several colleges are being run in the same premises by the petitioner and after inspection, the same is found to be in violation of

¹ (2000)5 SCC 231

AICTE norms and as such, his request for provisional affiliation was not granted.

In this case, no doubt, the AICTE granted approval in favour of petitioner and the Commissioner of Technical Education only requested the respondent-University to examine the case of the petitioner for revival and grant of affiliation since the AICTE has granted approval. Learned Standing Counsel also says that already two phases of counselling is over. It is to be seen that after making inspection in May, 2019, the respondent-university should have passed the impugned order immediately on the application of the petitioner-institute to enable it to challenge the same. But the respondent-university waited till the petitioner filed WP.No.18995 of 2019 and then only rejected the application of the petitioner and now contending that two phases of counselling is over. Clause 16.1 of the AICTE norms also provides filing of certain documents at the time of the Scrutiny Committee, but in this case, the AICTE after making inspection granted approval. The judgment relied on by learned Standing Counsel in **The Jawaharlal Nehru Technological University Registrar v. Sangam Laxmi Bai Vidyapeet** of Supreme Court in Special Leave Petition (C) No.9718 of 2018, wherein there was interpretation of Section 20 of Education Act and observed that the University has power to reject the NOC in order to avoid mushroom growth of colleges but the fact remains that two phases of counselling is over and this Court is not inclined to grant any order at this stage. However, the

respondent-University cannot prolong the consideration of similar applications atleast for future years and respondent-University shall take steps for considering the applications in time and intimating their decision to the colleges, so that the concerned colleges will be able to challenge the same.

In view of the facts and circumstances of the case, I do not see any reason to entertain the writ petition and accordingly, the same is dismissed. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

12-09-2019
Nvl



