

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-6082-2019 (O&M)
Date of Decision:27.03.2019**

L.R. Institute of Technology & Management

...Petitioner

Vs.

Chairman, All India Council of Technical Education & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Girish Agnihotri, Senior Advocate with
Mr. Sakal Sikri, Advocate and
Mr. Nihit Lomis, Advocate for the petitioner.

Mr. Harkesh Manuja, Advocate for AICTE.

Mr. Rajesh K. Sheoran, Advocate for respondent No.6.

Mr. Siddharth Sanwaria, DAG, Haryana.

....

TEJINDER SINGH DHINDSA, J.

The petitioner/Institute is seeking a mandamus to direct the All India Council of Technical Education, New Delhi (herein after to be referred to as 'the Council') to permit the submission of online application as also uploading of necessary/supporting documents to facilitate the Extension of Approval pertaining to the three year diploma course(s) for the academic session 2019-20.

It has been averred that the Institute had initially applied for grant of approval to run the Polytechnic College in the year 2008 and was granted such approval by AICTE in terms of letter dated 26.11.2008

(Annexure P-2). Thereafter, the Institute was granted affiliation by the Haryana State Board of Technical Education for the academic session 2008-09 vide Annexure P-3. Subsequently, extension of approval from AICTE and affiliation from the Haryana State Board of Technical Education were duly applied for and granted up to academic session 2018-19. In the academic session 2019-20, AICTE issued a Public Notice laying down a time schedule for applying online for Extension of Approval for the session in question. However, the petitioner/Institute did not apply within the stipulated time frame. Subsequently, on 20.02.2019, an email is stated to have been sent at the help desk of AICTE requesting for the Web Portal to be opened so that the application as also supporting documents for Extension of Approval may be uploaded. Having evoked no response, the instant writ petition has been filed.

Learned senior counsel would contend that the Extension of Approval is based purely upon a self disclosure to be made by the Institution concerned. As per schedule laid down by the Apex Court in **Parshavanath Charitable Trust & others Vs. All India Council for Technical Education & others, (2013) 3 SCC 385**, the last date for granting or refusing approval by the AICTE is 10th of April and as such, there should be no impediment for the prayer made in the instant petition to be accepted. It is urged that the petitioner/Institute is running the Diploma Level Courses in different streams since the year 2008-09 and it would cause no prejudice to any party including AICTE, if relaxation in the dates for submission of application and uploading of documents for Extension of Approval is accorded. Reliance has also been placed upon an

order dated 09.04.2013 passed by this Court in **CWP-9844-2012** and whereby prayer made by the petitioner therein i.e. Jind Institute of Engineering and Technology for consideration of an application for Extension of Approval for the year 2013-14 was accepted and directions had been issued for the petitioner/Institute therein to submit application afresh online as well as hard copy by 10.04.2013 and the same to be processed by the Council and a final order as regards approval for the session 2013-14 to be passed within a period of 15 days thereafter. Further contended that even a review application i.e. RA-175-2013 by the Council seeking recalling of the order dated 09.04.2013 on the ground that the directions were not in consonance with the dictum laid down by the Apex Court in the case of **Parshavanath Charitable Trust (supra)** had been dismissed on 27.05.2013. Learned senior counsel would submit that the prayer in the instant petition be considered as a mercy appeal and directions in the same terms as passed in the case of **Jind Institute of Engineering and Technology (CWP-9844-2012)** be passed in favour of the petitioner/Institute.

Mr. Harkesh Manuja, Advocate has entered appearance on behalf of the contesting respondent/Council. He vehemently opposes the prayer and takes a stand that the Council had laid down a Pan India Time schedule vide a Public Notice and in which 14.01.2019 was fixed as the opening date for the Portal and for submission of online application forms. The closing date was 03.02.2019 and which was extended upto 08.02.2019. Still further, online applications could have been submitted upto 13.02.2019 along with late fee. Thereafter, 21.02.2019 was fixed for

uploading the supporting/necessary documents. Mr. Manuja, Advocate would vehemently contend that in such time schedule, there would be no scope of relaxation inasmuch as the applications have to be duly processed and the last date for grant/refusal of approval i.e. 10.04.2019 laid down by the Apex Court has to be adhered to. A categorical stand has been taken on behalf of the Council that no relaxation in the dates has been granted to any Institute across India.

Counsel for the parties have been heard at length.

It would be apposite to take note that in the petition, there was an additional prayer for issuance of a writ of certiorari to quash/read down Clause 2.2(a) of the Approval Process Handbook 2019-20 issued by the Council as also to quash Clause 3 of the Public Notice at Annexure P-8 issued by the Council but such prayers were not pressed during the course of arguments and no submissions in such regard were advanced.

In **Parshavanath Charitable Trust's case (supra)**, the Supreme Court had laid down a schedule for all AICTE approved Technical Diploma Level Courses and the same was in the following terms:

<i>Event</i>	<i>Schedule</i>
<i>Conduct of Entrance Examination (AIEEE/State CET/Mgt. Quota exams etc.)</i>	<i>In the month of May</i>
<i>Declaration of Result of Qualifying Examination (12th Exam or similar) and Entrance Examination</i>	<i>On or before 5th June</i>
<i>1st round of counselling/admission for allotment of seats</i>	<i>To be completed on or before 30th June</i>
<i>2nd round counselling for allotment of seats</i>	<i>To be completed on or before 10th July</i>
<i>Last round of counselling for allotment of seats</i>	<i>To be completed on or before 20th July</i>
<i>Last date of admitting candidates in seats other than allotted above 30th July</i>	<i>However, any numbers of rounds for counselling could be</i>

	<i>conducted depending on local requirements, but all the rounds shall be completed before 30th July</i>
<i>Commencement of academic session</i>	<i>1st August</i>
<i>Last date upto which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota)</i>	<i>15th August</i>
<i>Last date of granting or refusing approved by AICTE</i>	10th April
<i>Last date of granting or refusing approval by University/State Govt.</i>	<i>15th May</i>

In the concluding part of the judgment, following directions were issued:

“46.1

Both grant/refusal of approval and admission schedule, as aforesaid, shall be strictly adhered to by all the authorities concerned including AICTE, the University, the State Government and any other authority directly or indirectly connected with the grant of approval and admission.

46.2

No person or authority shall have the power or jurisdiction to vary the schedule prescribed hereinabove.”

The Council published the Approval Process Handbook for the session 2019-20 and Chapter II contained therein dealt with the aspect of Extension of Approval. Clause 2.1, 2.2, relevant extract of Clause 2.3.3, 2.3.4, 2.3.5, 2.3.6, 2.3.7 and 2.3.8 would be relevant to the controversy in hand and are reproduced hereunder:

Clause 2.1 - Introduction

a. Institution offering Technical Education shall not continue Technical Programme(s)/Course(s) beyond the specified period of approval given by the Council.

b. Each Institution offering Technical Programme at

Diploma/Post Diploma Certificate/Under Graduate Degree/Post Graduate Diploma/Post Graduate Degree Level shall submit an application to the Council every year for Extension of Approval of Course(s).

Clause 2.2 – Time Schedule for processing of applications.

a. AICTE shall notify through a Public Notice in the leading newspapers and through AICTE We-Portal from time to time inviting applications with cut-off dates for various purposes and processing thereof. The time schedule mentioned in the Public Notice shall be final and binding. To process any request from the Institutions regarding approval, online, application is mandatory. Applications submitted offline are not valid.

b. The submission of an application on AICTE Web-Portal and payment shall not be later than the last date as notified in the Public Notice.

Clause 2.3 – Submission of application

xxx

xxx

xxx

Clause 2.3.3- Payment

b. In an extraordinary circumstance if an additional Scrutiny Committee has to be conducted inclusive of the Court directions to any type of Universities, the Applicant has to remit Rs.1.0 lakh through online.

c. In an extraordinary circumstance, if an additional Expert Visit Committee has to be conducted inclusive of the Court directions to any type of Universities, the Applicant has to remit Rs.2.0 Lakh through online.

d. Above TER Charges are applicable irrespective of number of Divisions/ Courses applied for increase in Intake/Closure.

e. The TER Charges shall be paid through AICTE payment gateway on AICTE Web-Portal within the deadline failing which, the application shall not be considered.

f. Only those applications submitted within the cut-off date shall be considered for processing, subject to realization of the

Payment.

2.3.4 All Applicants shall ensure that the data entered/edited are correct. Facility to edit the data is available until the submission of the application by pressing the “submit’ tab.

2.3.5 AICTE Web-Portal permits the generation of Deficiency Report for the applications.

2.3.6 After pressing the “submit” tab, the data shall not be allowed for any further editing, till the processing of application is completed. Hence, Applicants shall exercise utmost caution before pressing the “submit” tab.

2.3.7 Application should be submitted on AICTE Web-Portal on or before the last date as notified in the Public Notice.

2.3.8 If an applicant/Institution has wrongly submitted an application, the same shall be represented to AICTE, Head Quarter along with the Resolution of the Trust/Society/Company, duly signed by the Chairman/Secretary to that effect in the Formal, atleast 7 days before the last date as notified in the Public Notice. With the approval of the Competent Authorities, the application shall be reopened ONE-TIME to enable the applicant/Institution to rectify the same and resubmit with necessary TER Charges along with the Late Fee as applicable.

After the submission of the application, if an Applicant intends to revoke the application for a specific purpose (other than Extension of Approval), the same shall be represented by the Institution to AICTE, Head Quarter along with the Resolution of the Trust/Society/Company, duly signed by the Chairman/Secretary to that effect in the Format, atleast 7 days from the last date as notified in the Public Notice. Such requests shall be processed and placed before the Executive Committee for approval. The decision of the Executive Committee shall be communicated to the Institution through the Web-Portal. If approved, the TER Charges after a deduction of Rs.25000/- (Rupees Twenty Five Thousand only) shall be

refunded to the Applicant and if the Closure of the Course/Programme/Institution is revoked as per the approval of the Council, the necessary TER Charges for Extension of Approval along with the Late Fee as applicable shall be paid.”

It is in terms of the aforesaid Clauses contained in the Approval Process Handbook, 2019-20 that a Public Notice at Annexure P-8 was issued by the Council and in which the following schedule was mentioned:

“Submission of online applications for the session 2019-20 in respect of all approvals as above shall begin on 14th January, 2019 and end on 3rd February, 2019. The last date for submission of online application with penalty (as per the provisions of APH 2019-20) for Extension of Approval based on self disclosure for existing institutions is permitted upto 8th February, 2019. it may be noted that there shall be no further extension of date.”

A conjoint reading of the relevant Clauses under the Approval Process Handbook 2019-20 as also the schedule contained in the Public Notice at Annexure P-8 issued by the Council would reveal that the dates stipulated for submission of online applications and for uploading of the necessary documents are with the objective to ensure that the time schedule laid down by the Apex Court in **Parshavanath Charitable Trust's case (supra)** is strictly adhered to. Learned senior counsel concedes that the last date i.e. 10.04.2013 laid down by the Supreme Court for grant or refusing approval by the Council would cover even the grant or refusal of Extension of Approval. Under such circumstances, a prayer seeking deviation from the dates given out in the Public Notice at Annexure P-8 issued by the Council would not normally find favour with this Court.

Petitioner/Institute has not cited any extraordinary circumstance so as to justify its prayer. Appended as Annexure P-9 is an email sent on

27.02.2019 to the help desk of AICTE seeking a sympathetic consideration on the ground that the Institute is situated in a remote area and hence faces regular internet connectivity problems. However, in para 9 of the writ petition, it is averred that the date of submitting online application for grant of Extension of Approval for the session 2019-20 was skipped due to the mismanagement of the officials of the petitioner/Institute. In para 8 of the writ petition, a 3rd version is set up by stating that the date for submission of online application was skipped as there is no fixed schedule adhered to by AICTE for purposes of issuing the Public Notice for grant of Extension of Approval.

It may be taken note that the petitioner/Institute was granted Extension of Approval to run the Diploma Level Courses initially in the year 2008. Thereafter, Extension of Approval had been applied for and granted for subsequent academic sessions and upto 2018-19. In other words, the procedure and process for submitting the online applications for seeking Extension of Approval was not alien to the petitioner/Institute. Being located in the National Capital Region i.e. Palwal, citing connectivity issues can only be viewed as a lame excuse. Even if version of the Institute as regards having skipped the relevant date for submission of online applications on account of mismanagement of its officials is taken to be correct at its face value, yet the same can never be accepted to be a valid ground for grant of relaxation in the time schedule. This Court would have no hesitation in observing that conduct of the petitioner/Institute insofar as seeking Extension of Approval for the academic session 2019-20 is concerned has been extremely casual and

irresponsible. No fault can be attributed to the Council in this regard.

The reliance placed by learned senior counsel on the order dated 09.04.2013 passed by this Court in the case of **Jind Institute of Engineering and Technology (supra)** is wholly misplaced. In such matter, directions had been issued to consider the application of the Institute concerned for Extension of Approval for the year 2013-14 against a factual backdrop wherein the Council was solely to blame. This would be discernible from the following observations made in the order dated 27.05.2013 while rejecting a review application preferred by the Council seeking recalling of the order dated 09.04.2013:

“The facts of the present case are rather glaring. An order was passed on 5.10.2011 by the Council withdrawing the approval granted to the petitioner-Institute. This Court on 3.9.2012 while disposing of Civil Writ Petition No.19509 of 2011 had issued directions to the Council to reconsider the matter and to pass fresh orders after considering the reply submitted by the petitioner- institute to a show cause notice dated 27.7.2011. No such re- consideration has taken place till date. On 12.12.2012, an order was passed by this Court in the present writ petition i.e. Civil Writ Petition No.9844 of 2012 permitting the petitioner –Institute to submit application for approval in relation to the Academic Session 2013-14. Such application was submitted within the stipulated time frame. However, the Council did not process the application of the petitioner – Institute seeking approval for Academic Session 2013- 4 ostensibly for the reason that the approval to the Institute stood withdrawn on 5.10.2011 and, accordingly, the application seeking approval was required to be filed under Chapter I of the approval process handbook which related to Institutes where a fresh approval is being sought. Council was

clearly proceeding on a fallacious premise inasmuch as the order dated 5.10.2011 whereby approval had been withdrawn, had ceased to operate in the light of judgment dated 3.9.2012 passed by this Court in Civil Writ Petition No.19509 of 2011 whereby the Council had been directed to re-consider the issue and pass fresh orders. Even in the present writ petition, the written statement was not forthcoming inspite of repeated opportunities having been availed by the Council. Further, this Court on 2.4.2013 took specific notice of the statement of the learned Senior Counsel appearing for AICTE that in compliance of the order dated 3.9.2012 passed in Civil Writ Petition No.19509 of 2011, an appropriate order already stands passed by the competent authority. Accordingly, this Court had granted a week's time to the learned counsel to place on record a copy of such order that had been stated to have been passed in compliance of the order dated 3.9.2012. However, such order has not seen the light of the day.

It was under such peculiar circumstances that the order dated 9.4.2013 was passed wherein directions were issued to process the application submitted by the Institute seeking approval for the Academic Session 2013-14 and for a final order to be passed within a period of 15 days.”

The facts in the case of **Jind Institute of Engineering and Technology (supra)**, as such, are clearly distinguishable.

On behalf of the Council, a categorical stand has been taken by Mr. Harkesh Manuja, Advocate that no relaxation in the time schedule and dates given out in the Public Notice at Annexure P-8 has been granted to any Institute across the country. Such stand has not met with any rebuttal at the hands of the petitioner/Institute. As such, it is not a case where the Institute has been discriminated against. Even otherwise, in the considered view of this Court, acceptance of the prayer raised in the

petition would set up a wrong precedent inasmuch as it would open up the flood gates for similar requests to be raised at the hands of other errant institutes.

In view of the reasons recorded above, the prayer of the petitioner/Institute seeking relaxation of the time schedule/dates in the Public Notice at Annexure P-8 issued by the Council cannot be accepted.

No merit.

Dismissed.

27.03.2019

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |