

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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C.W.P No. 13702 of 2018 (O&M)
Date of decision: 06.05.2019

Universal Educational Society & Anr.Petitioners
Vs.

The All India Council for Technical Education & Ors. ...Respondents

CORAM: HON’BLE MR. JUSTICE MAHESH GROVER
HON’BLE MR. JUSTICE LALIT BATRA

Present:- Mr. Amit Jhanji, Advocate, for the petitioners.
Mr. Tribhuvan Singla, Advocate, for respondent No.2.
Mr. Rajiv Kawatra, Advocate, for respondent No.3.
Mr. R.D. Anand, Advocate, for respondent No.4.

MAHESH GROVER, J. (Oral)

C.M No. 6848-CWP of 2019

Allowed as prayed for.

C.W.P No. 13702 of 2018 (O&M)

The petitioner has approached this Court by way of present writ petition and the order passed by us on 08.06.2018 succinctly brings out the grievance and, therefore, it needs to be extracted here-below:-

“ *Petitioners-Institute is challenging the order dated 10.04.2018 (Annexure P-6) passed by the Standing Hearing Committee (SHC) whereby for the Diploma Course in Pharmacy, the SHC, on 28.03.2018, had made the following recommendations, which were adverse to the Institute:*

Sr.No.	Deficiencies noted by EVC on 17.03.2018	Observation of SHC dated 28.03.2018
1.	Land Conversion Certificate date	No relevant document in original was shown.
2.	A1 Size Color Printers-Applied	Not Applicable

3.	Barrier free Environment-Not Accepted/Not Available	Barrier Free environment is not available. No relevant document presented.
4.	Group Insurance Not Accepted/Not Available	No document presented.
5.	Insurance for Students- Not Accepted/Not Available	No document presented.
6.	Implementation of Unnat Bharat Abhiyan- Not Accepted/Not Available	No document presented.
7.	Whether hostel facilities are available for accommodating students of FN/PIO/OCI category	Not applicable.
8.	Details of the hostel (number of rooms, pax per room, mess facility, Internet and other facilities)-No.	Not applicable.

As per Clause 10 of the said order, the petitioners could file an appeal for consideration before the Standing Appellate Committee (SAC).

Counsel for the petitioners has pointed out that qua the objections, as such, order was passed on 30.04.2018 and the only issue remained was that the barrier free environment was not available as the option of purchase of lift was given but the Architect's certificate had not been given. Resultantly, the SAC did not recommend the request for starting the Diploma course in the Institute, for the academic year 2018-19.

In the reply filed today by respondents No.1 & 2, stand has been taken that as per Approval Process Handbook for the Academic Year 2018-19, in Appendix 6(13) Barrier Free Built Environment for Disabled & Elderly Persons (As per Chapter 5 of the Approval Process Handbook for 2018-19 is essential. Condition No.5.6(b) of the Approval Process Handbook was, accordingly, relied upon.

It has been brought to the notice of this Court that the petitioners-Institute has been given permission for intake of 45 students, for the Course of Pharmacy, which was reduced from 60 seats applied for, on account of the Institute not fulfilling certain criteria. Mr. Singla could not justify as to on what account the petitioners- Institute had fulfilled the criteria for one course but the SAC had declined permission for the other course, as

necessarily the Handbook would apply for both the courses. If on one hand, the Institute had been permitted to intake students, though on a reduced strength, this Court, prima facie, is of the opinion that recourse to such objections by respondents No.1 & 2, was not justified.

Faced with this situation, Mr.Singla says that reconsideration shall be done at the earliest, within a week from today and necessary orders shall be placed on record, on or before the next date of hearing.

Counsel for the petitioners, has accordingly, stressed for interim relief as on-line registration for students has already started from 10.05.2018 to 11.06.2018 for the said course of Diploma and has referred to Annexure P-23 in this regard. He has also stressed on the fact that the lift has already been delivered in the premises of the Institute and the petitioners will make all efforts to install it at the earliest, to comply with the disability of the barrier free issue.

The first counselling is said to be slated between 13.06.2018 to 18.06.2018 and the result is to be declared on 20.06.2018. Similarly, the second counselling is slated from 27.06.2018 to 02.07.2018 and the result is to be declared on 04.07.2018.

Accordingly, subject to further orders, respondent No.3 shall incorporate the name of the petitioners-Institute for the said course on the website. However, pendency of the present writ petition, shall also be incorporated in the same, to put the students at guard against the admission they may propose to take.”

Reply has been filed by respondents No. 1 and 2 wherein they seek refuge as a justification for their orders in the condition contained in Appendix 6 sub-clause 13 of the Approval Process Handbook for the Academic Year 2018-19 warranting a Barrier Free Built Environment for disabled and elderly persons. The relevant portion relied upon by the respondents can be set out here-below:-

“Condition A: for Building up to 3 or 4 floors (for Building

of height <15m)”

. Lift can be provided but not essential.

Condition B: If the Building is a multi-storeyed Building i.e.

More than 4 floors.

. Lift must be provided with the provisions as per the National Building Code.”

We had given sufficient opportunities to the respondents to look into their own decision which on the face of it seems to be completely arbitrary and unjust. If the condition of lift is a pre-requisite for a building to be disabled friendly then it necessarily has to mean that institution cannot run any course at all but that is not the case and the impact of decision of respondents No. 1 and 2 only affects the running of diploma courses. Respondents No.1 and 2 have not denied the petitioner's permission to run the degree courses for the current session as well. This to our minds is completely irrational and does not suggest a reasoned approach. Even on facts the respondents are totally in the wrong and are unable to justify the decision. If condition as it exists is to be seen even then for a building upto three or four floors it is 'desirable' to have a lift but not essential which would mean that the respondents cannot insist on denying the petitioner permission by falling back on the aforesaid condition.

The petitioner in turn has filed a rejoinder to assert that his building is only upto four floors and consequently condition – A relied upon by the respondents would merely indicate the desirability of having a lift but not an essentiality. That apart the petitioner has asserted in his counter-affidavit that he has by now installed a lift and even during the arguments it was stated so and put to the respondents who have neither contradicted it nor cared to reconsider their decision particularly when the lift is in order.

We, therefore, do not find any justification in the approach of the respondents to deny the petitioner permission to run the diploma courses on the grounds stated above. We may also emphasise that the respondents have not pointed out to any other deficiency to deprive the petitioner of permission to run a diploma course even though at the same time the institution is being permitted to run degree courses. Finding the approach of the respondents to be totally arbitrary, we set aside their action and direct that necessary permission to run the diploma courses be granted. Under the orders of the Court, we had permitted admission to the students for diploma courses and now they are on the verge of taking their examination. Consequently, We direct all the respondents to take necessary steps to grant registration to the students admitted to the college for the afore-said course and permit them to take examination. The petitioner shall apply for the permission for the Session 2019-2020 regarding which decision shall be taken within two weeks from the date of receipt of such an application.

Writ petition is disposed of as above with costs of Rs.50,000/- to be paid in the account of Poor Patient Welfare Fund of PGI – Chandigarh within a period of one month from today by respondents No.1 and 2.

All the pending applications are also disposed of.

(MAHESH GROVER)
JUDGE

May 06, 2019
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(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No