

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9441 of 2020

and

WMP.Nos.11536 & 11537 of 2020

Minor Shivani Arun,  
Rep. by her father Dr.Arun Marimuthu.

... Petitioner

Vs.

- 1.The Secretary to Government,  
Higher Education Department,  
Fort St. George, Chennai-9.
- 2.The Registrar,  
Anna University,  
Sardar Patel Road,  
Guindy, Chennai-600 025.
- 3.The Director,  
Centre for International Relations,  
Anna University,  
Sardar Patel Road,  
Guindy, Chennai-600 025.
- 4.The Secretary,  
Tamilnadu Engineering Admission (TNEA),  
Anna University,  
Sardar Patel Road,  
Guindy, Chennai-600 025.
- 5.Council of Architecture,  
Rep. by its Registrar,  
Core 6A 1<sup>st</sup> Floor, India Habitat Centre,  
Lodhi Road, New Delhi-3.
- 6.The Dean,  
School of Architecture & Planning,  
Sardar Patel Road,  
Guindy, Chennai-600 025.

... Respondents.

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, to call for the records relating to the impugned Communication letter dated 20.05.2020 issued by the 3<sup>rd</sup> respondent and quash the

same, consequently direct the respondents herein to intake the petitioner for the B.Arch course under Foreign Nation Category for the academic year 2020-2021, under the 6<sup>th</sup> respondent School of Architecture and Planning and pass orders.

For Petitioner : Mr.A.Ramalingam

For Respondents : Mr.S.Karthikei Balan, for RR1 and 4  
Government Advocate.  
Mr.Vijay Kumar, for RR 2, 3 and 6  
Standing Counsel.

Mr.A.Sheik Peer for R5

### ORDER

This writ petition has been filed challenging the impugned communication dated 20.05.2020 and for a consequential direction to the respondents to create a quota for intake of NRI and Foreign National category candidates in the B.Arch., course for the academic year 2020-21.

2. The petitioner is a Singapore citizen and she wants to pursue her studies in Architecture in the 5<sup>th</sup> respondent institution. The petitioner wanted to apply under the Foreign National category. However, this quota was not provided by the 5<sup>th</sup> respondent and the petitioner was not able to submit the on-line application by bringing herself under the said category. Therefore, she made a representation to the 3<sup>rd</sup> respondent seeking for clarification and the 3<sup>rd</sup> respondent by communication dated 20.05.2020, informed the petitioner that there is no quota for admission in B.Arch., course under NRI and Foreign National category in Anna University. Aggrieved by the same, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that this Court has already passed an order in W.P.No.15930 of 2012 dated 30.04.2013, wherein, certain directions were issued to the Council of Architecture, [COA], which is the 5<sup>th</sup> respondent in the present writ petition. The relevant portions in the judgment is extracted hereunder:

"40. In the light of the above, the writ petition is disposed of, to the following effect:

(i) Within 2 weeks of receipt of a copy of this order, the petitioner shall inform the Council of Architecture, as to whether the deficiencies pointed out by the Council of Architecture, relating to the construction of building and the appointment of faculty members have been rectified or not.

(ii) Within 2 weeks of the receipt of the said communication from the University, the respondent

shall send a Committee of Experts to conduct an inspection and find out whether the deficiencies are rectified or not. If the Committee finds anything more to be done by the Petitioner-University, they shall inform the University of those requirements and the petitioner shall comply with the same.

(iii) Within 2 weeks of the receipt of the Report of the Committee, the Council shall pass orders about the annual permitted intake. While passing orders, the Council of Architecture shall keep in mind public interest and the interest of students, that would be best sub-served by keeping age-old institutions like the petitioner intact. The Universities run by the State which have established institutions of repute, cannot be painted with the same brush as Private Self-Financing Institutions and deemed Universities of recent origin. The Council shall keep this in mind while passing orders.

(iv) In so far as the admission of students under various quotas are concerned, the order of the Division Bench in Goodluck Rajendran, has attained finality at least as of now and hence there cannot be a quota for the Government or for the donors/founders. The Division Bench in its decision in Goodluck Rajendran has permitted 15% of the seats to be filled up, partly by children of NRIs and partly by those sponsored by Consortium of Industries. Since the Supreme Court has dismissed the Special Leave Petitions, this quota approved by the Division Bench has come to stay.

(v) On the question whether this 15% is to be within the permitted intake or to be supernumerary seats over and above the annual permitted intake, the Council of Architecture shall take a decision and inform the petitioner-University. But if any institution or University or School of Architecture anywhere in India, has been permitted by the Council of Architecture to admit students under the quota for NRIs over and above the permitted intake, the petitioner cannot be denied the same benefit. If the Council of Architecture has uniformly applied the rule that this 15% quota for NRIs should be within the permitted intake, the petitioner-University shall also follow the same. But the Council of Architecture shall make a commitment in writing communicated to the petitioner that this rule is not only followed in letter, but also followed in spirit throughout India in all institutions controlled by the Council of Architecture.

(vi) In so far as the procedure for admission of students under this quota is concerned, the University shall ensure that the main prospectus and notification for admission themselves contain a

stipulation about the availability of the quota. The notification inviting applications and the prospectus, shall also contain guidelines as to the eligibility of candidates to apply under this quota and about the procedure that would be followed for filling up the seats under this quota.

(vii) The admission of students under the quota for NRIs, shall also be on the basis of a separate merit list maintained by the University and shall be admissible only to those students both of whose parents are NRIs or at least either one of them as a Non-Resident Indian.

(viii) In so far as the admission of students under the quota for Consortium of Industries is concerned, the University shall first determine the nature of the assistance required for the development of infrastructure and determine the cost of development of such infrastructure. The University may then invite offers from Industrial Houses (a) for providing in-house training for the students and (b) for underwriting the cost of provision of such infrastructure. Based upon the offers so received, the University may select one or two Industrial House for sponsoring candidates to be filled up under this quota. In order to ensure transparency, the University shall host in their website, all the information such as the names of the Industrial Houses and the nature of the offers made by them and those selected by the University. The University shall also indicate the parameters on which the sponsoring industry was selected. If there is no substantial benefit for the petitioner-University, in filling up this quota, it would be open to the University not to allot any seats for the Consortium of Industries. Though this quota is approved by the Division Bench, nothing prevents the University from taking a decision not to fill up seats under this quota, but to fill up the entire 15% quota by NRIs.

41. This writ petition is disposed of on the above lines. There shall be no order as to costs."

4. The learned counsel by pointing to the above judgment, submitted that this Court had specifically directed the 5<sup>th</sup> respondent to take a decision and inform the University with regard to the 15% quota for NRI and make it clear as to whether the 15% will be within the permitted intake or over and above the annual permitted intake. On 5<sup>th</sup> respondent taking a decision, the University was directed to follow the same. The grievance of the petitioner is that the COA has not taken a decision and therefore, the University is not providing for this quota.

5. The Anna University has filed a counter affidavit. The relevant portions in the counter affidavit is extracted hereunder:

"7. It is humbly submitted that in the year 2013 Anna University preferred a WP.No.15930 of 2012 against COA for reducing the annual intake from 80 to 40. COA submitted that the University admitted over and above the sanctioned intake and the Hon'ble High Court of Madras had opined that

"The COA shall take a decision and inform the petitioner University on the question whether 15% seats is to be within the permitted intake or to be supernumerary seats. But if any institution or University or School of Architecture has been permitted by the Council of Architecture to admit students under the quota for NRIs over and above the permitted intake, the petitioner cannot be denied the same benefit. If the Council of Architecture has uniformly applied the rule that 15% quota for NRIs should be within the permitted intake, the Petitioner University shall also follow the same. But the Council of Architecture shall make a commitment in writing communicated to the petitioner that this rule is not only followed in letter, but also followed in spirit throughout India in all Institutions controlled by Council of Architecture.

However, the COA has not given any directions to Anna University in this regard. Anna University has addressed a letter dated 06/07/2020 to the COA requesting to approve the allotment of 15% of seats over and above the sanctioned intake for the B.Arch degree programme offered at the School of Architecture and planning strating from the year 2020-21.

8) It is humbly submitted that, there has been a limited number of seats permitted by COA for admission to B.Arch. Degree programme laid by the Council of Architecture. Hence, all the seats sanctioned by the COA are surrendered by Anna University to the Single Window Counselling of Admissions where the candidate are allotted seats based on merit."

6. Mr. Vijaya Kumar, learned Standing Counsel appearing on behalf of Anna University submitted that the 5<sup>th</sup> respondent had not given any directions to the Anna University with regard to the 15% quota and a letter has also been addressed to the 5<sup>th</sup> respondent on 06.07.2020, requesting for the approval and clarification as to whether the 15% quota will be within the sanctioned intake or over and above the permitted intake.

7. Mr. Sheik Peer, learned Standing Counsel appearing on behalf of the 5<sup>th</sup> respondent submitted that the Council of Architecture has already issued a note as early as on

18.06.2013, to all the institutions imparting five years B.Arch., degree, stating that the quota for NRI, Foreign National, PIO etc., shall be within the sanctioned intake. The learned counsel also submitted a copy of the note from the Registrar of the Council of Architecture and the same is extracted hereunder for better appreciation.

"The council of Architecture had issued a notice dated 18.06.2013 to all institutions imparting 5-year B.Arch. Degree course in the country that all institutions are required to admit students into B.Arch course only within the intake sanctioned by the Council for the academic session 2013-2014. Further, all admissions made by institutions under various quotas/categories must be strictly within the intake sanctioned by the Council and students belonging to Supernumerary quota (i.e., NRI, Foreign National, PIO etc.) are also required to be admitted within the sanctioned intake. The notice was uploaded on the website of the Council.

The above decision has been made applicable by the Council to all architectural institutions from the academic session 2013-2014 and onwards. The students belonging to NRI, Foreign National, PIO etc., are also required to be admitted within the sanctioned intake, subject to fulfilment of eligibility criteria for admission to B.Arch., course and passing an aptitude test in Architecture.

In view of the above, all institutions are required to admit students admitted within the sanctioned intake including students belonging to NRI, Foreign National, PIO and any admissions made by the institution over and above the intake sanctioned by the Council is not valid.

It is further informed that as far as reservation of seats in B.Arch, course is concerned, the Reservation of seats as well as relaxation in percentage of marks obtained in the qualifying examination for admission shall be as per the reservation policy of Central Government or the respective State Governments."

8. The learned counsel appearing on behalf of the Anna University submitted that in view of this clarification given by the Council of Architecture, the Anna University will follow it up and provide for the necessary quota within the permitted intake. The learned counsel further submitted that it will be followed up and necessary notification will be issued by the Anna University shortly.

4<sup>th</sup> respondents submitted that whatever decision is taken by the Anna University, will be implemented at the time of the selection process for the B.Arch., Course.

10. In view of the above discussion, there shall be a direction to the second respondent to immediately follow up with the clarification issued by the 5<sup>th</sup> respondent viz., Council of Architecture and issue a notification within a period of two weeks from the date of receipt of copy of this order. The quota shall be specifically indicated in the application to enable the candidates to apply under the quota at the time of submitting the application.

11. This writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rm

To

- 1.The Secretary to Government,  
Higher Education Department,  
Fort St. George, Chennai-9.
- 2.The Registrar,  
Anna University,  
Sardar Patel Road,  
Guindy, Chennai-600 025.
- 3.The Director,  
Centre for International Relations,  
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Core 6A 1<sup>st</sup> Floor, India Habitat Centre,  
Lodhi Road, New Delhi-3.

6.The Dean,  
School of Architecture & Planning,  
Sardar Patel Road,  
Guindy, Chennai-600 025.

+1cc to Mr.M.Vijaya Kumar, Advocate, S.R.No. 25821

W.P.No.9441 of 2020

and

WMP.Nos.11536 & 11537 of 2020

MR (CO)  
GN (07/08/2020)



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