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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 08.08.2020

DELIVERED ON 12.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.9889/2020 & WMP.Nos.12018, 12019 & 12021/2020

Scott Christian College
rep.by its Correspondent
S.Byju Nizeth Paaul
K.P.Road, Nagercoil 629003
Kanyakumari District.

..Petitioner

Versus

1.The Member Secretary

All India Council for Technical Education
No.1, Nelson Mandela Marg, Pocket 10
Sector B, Vasant Kunj, New Delhi 110 070.

2.The Regional Officer

All India Council for Technical Education
Shastri Bhavan, 26, Haddows Road
Chennai 600 006.

..Respondent

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned Final Letter of Rejection issued by the 1st respondent in F.No.Southern/2020/1-7324244651_LOR dated 30.06.2020 and to quash the same and consequently directing the respondents to consider the compliance report submitted by the petitioner College on 24.06.2020 and to grant approval for starting Master of Business Administration [MBA] and Master of Computer Applications [MCA] Post Graduation courses in the petitioner College from the academic year 2020-21 forthwith.

For Petitioner : Mr.G.Sankaran
For Respondents : Mrs.A.L.Ganthimathi



ORDER

This writ petition has been filed by the petitioner - College challenging the Rejection Letter issued by the 1st respondent dated 30.06.2020 and for a consequential direction, to direct the respondents to consider the Compliance Report submitted by the petitioner - College on 24.06.2020 and to grant approval for the courses that was proposed to be commenced from the academic year 2020-21.

2 The petitioner - College is a 128 year old Institution. It was already offering various courses. The petitioner - College wanted to start Post Graduate [PG] Programmes, viz., M.B.A. [Master of Business Administration] and M.C.A [Master of Computer Applications]. The petitioner - College made an application in January 2019 to the All India Council for Technical Education [AICTE]. It was returned due to technical errors and thereafter, it was not processed during the academic year 2019-2020. The petitioner - College, once again submitted necessary application for grant of approval for the PG Programmes for the academic year 2020-21 in the month of February 2020. On receipt of the application, a communication was sent to the petitioner - College to attend the Scrutiny Committee on 12.03.2020 with all relevant records. The representatives of the petitioner - College also attended the said Meeting and submitted the documents.

3 The 2nd respondent was prima facie satisfied with the application submitted by the petitioner - College and hence, forwarded the same for proposal to the 1st respondent who is the competent authority for grant of approval. The Southern Regional Headquarters at New Delhi, issued proceedings dated 03.06.2020 calling upon the petitioner - College and directing the petitioner - College to comply with certain deficiencies and report the same. The petitioner - College submitted the Compliance Report and it was verified by the Standing Appellate Committee [SAC] during the Meeting held on 11.06.2020. Thereafter, the 2nd respondent issued a communication dated 13.06.2020 for online verification by the Expert Visiting Committee [EVC] on 14.06.2020.

4 The 1st respondent, thereafter granted the Letter of Intent [LOI] on 15.06.2020 to the petitioner - College. The EVC submitted a Report, pointing out five deficiencies. It is the case of the petitioner - College that those deficiencies were rectified and represented to the SAC on 19.06.2020. The SAC by its communication dated 19.06.2020, pointed out three deficiencies. The deficiencies were [I]Copy of the advertisement in at least one National Daily, for recruitment of Principal/Director and Faculty Members not presented ; [II]



to whether the deficiencies have been rectified and if so, necessary directions must be given to the AICTE to grant LOA for starting the PG Programmes.

10 A counter-affidavit has been filed on behalf of the respondents. The relevant portions in the counter-affidavit is extracted hereunder:-

'4 Subsequent thereto, since the institution intend to be started during the current academic year, an Expert Committee visit was conducted on 14.06.2020 and the Expert Visiting Committee filed a report noting deficiencies. Later on, in order to verify the compliance of deficiencies, the SAC was conducted on 19.06.2020. On that date, when the scrutiny by SAC was done since the committee was not satisfied with the reply given by the Institute and since they have not complied with the deficiencies, the Committee recommended for issue of Letter of Rejection.

5 With regard to the compliance submitted by the petitioner on 24.06.2020 and later on 27.06.2020, it is respectfully submitted that any compliance can be verified only by SAC and as per the provisions of Approval Process Hand Book. SAC was conducted on 19.06.2020 and since on the date of SAC, there are deficiencies in the Institution and hence LOR was issued.

6 I respectfully submit as far as the NIL deficiency mentioned in the Deficiencies Report, it is based on what the parent organization has filled in the application report and it is an online generated report on the basis of the documents which are required to be submitted online and the same has no consequence since after verification of the documents and inspection, deficiencies were found in the Institution and as such the letter of rejection was issued.'

11 Mrs.Al.Ganthimathi, learned Standing counsel appearing on behalf of the respondents 1 and 2 brought to the notice of this Court, the Hand Book that provided for Approval Process for the year 2020-21. The learned Standing counsel, specifically placed reliance upon Clause 1.8 and submitted that applications which are found to have Nil deficiencies in the Expert Visit Committee only will be recommended for the issue of LOA and the rest will be recommended for the issue of LOR only. The learned Standing counsel submitted that the Committee constituted is an



Expert Committee and the Report given by the Committee will be acted upon by the AICTE. If according to the petitioner - College, the deficiencies have been rectified, the AICTE should again place it before the Expert Committee and the Expert Committee will conduct necessary inspection and submit a Report. The learned counsel further submitted that even if it is found that the deficiencies have been rectified, the application submitted by the petitioner - College cannot be processed for the current academic year 2020-21 since the last date was over on 30.06.2020.

12 In reply to the submission, the learned counsel appearing for the petitioner - College submitted that the Process Flowchart found in Annexure-V of the Hand Book provides for steps for grant of approval of courses by issuing LOI/LOR. The learned counsel submitted that as per the Flowchart, after SAC on 19.06.2020, there is a chance for EVC and another SAC before taking any decision. Even though the petitioner - College had submitted the Compliance Report on 24.06.2020, no steps were taken to scrutinise the same and to conduct an inspection. The learned counsel submitted that the SAC has even rejected what is accepted by the EVC and therefore, the same is arbitrary and illegal. The learned counsel, by placing reliance upon the Reply Affidavit dated 05.08.2020 filed by the petitioner - College, explained the manner in which the deficiencies were rectified by the petitioner - College and how the petitioner - College had fulfilled all the norms.

13 This Court has carefully considered the submissions made on either side and the materials available on record.

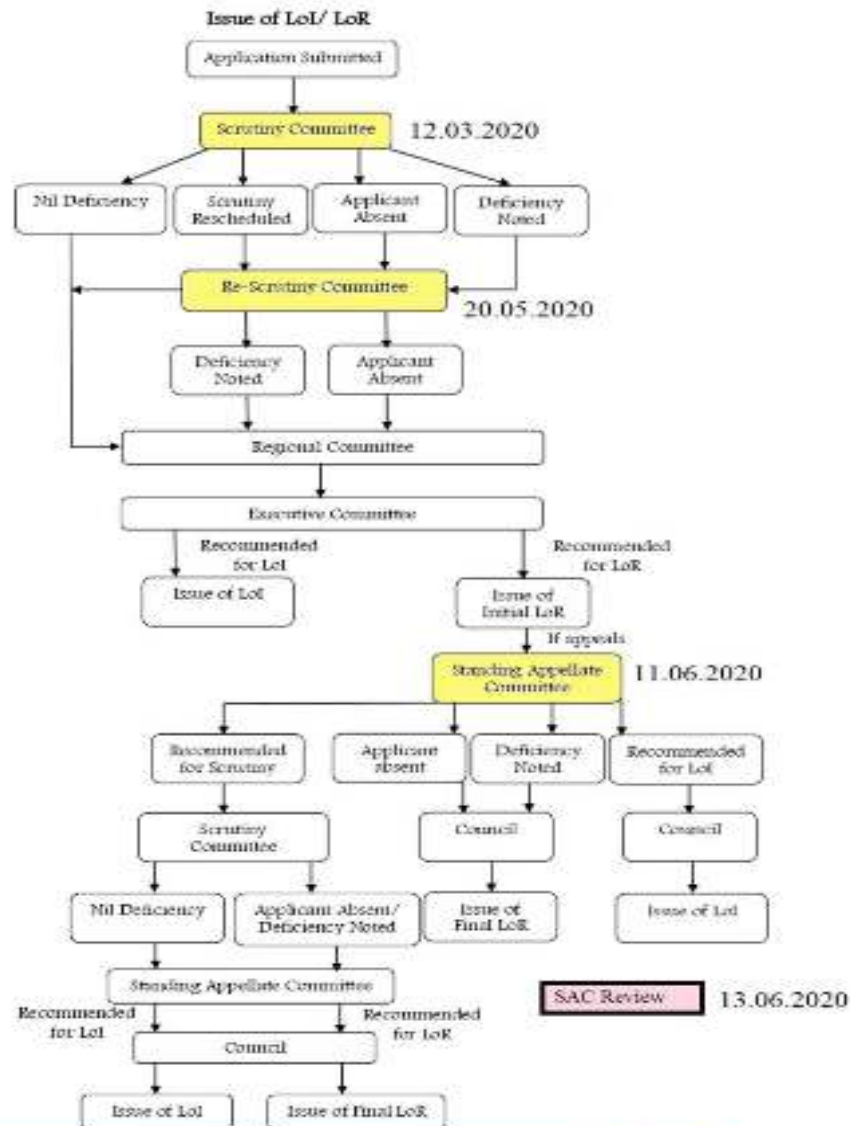
14 There is no major controversy on the material facts in the present case. On a careful reading of the various documents, it is seen that three deficiencies [cited supra] were pointed out against the petitioner - College. The deficiencies pointed out are not major and it is found to be minor deficiencies which are capable of being cured. The manner in which the process is undertaken for grant of approval can be explained with the following Flowchart:-



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Annexure B

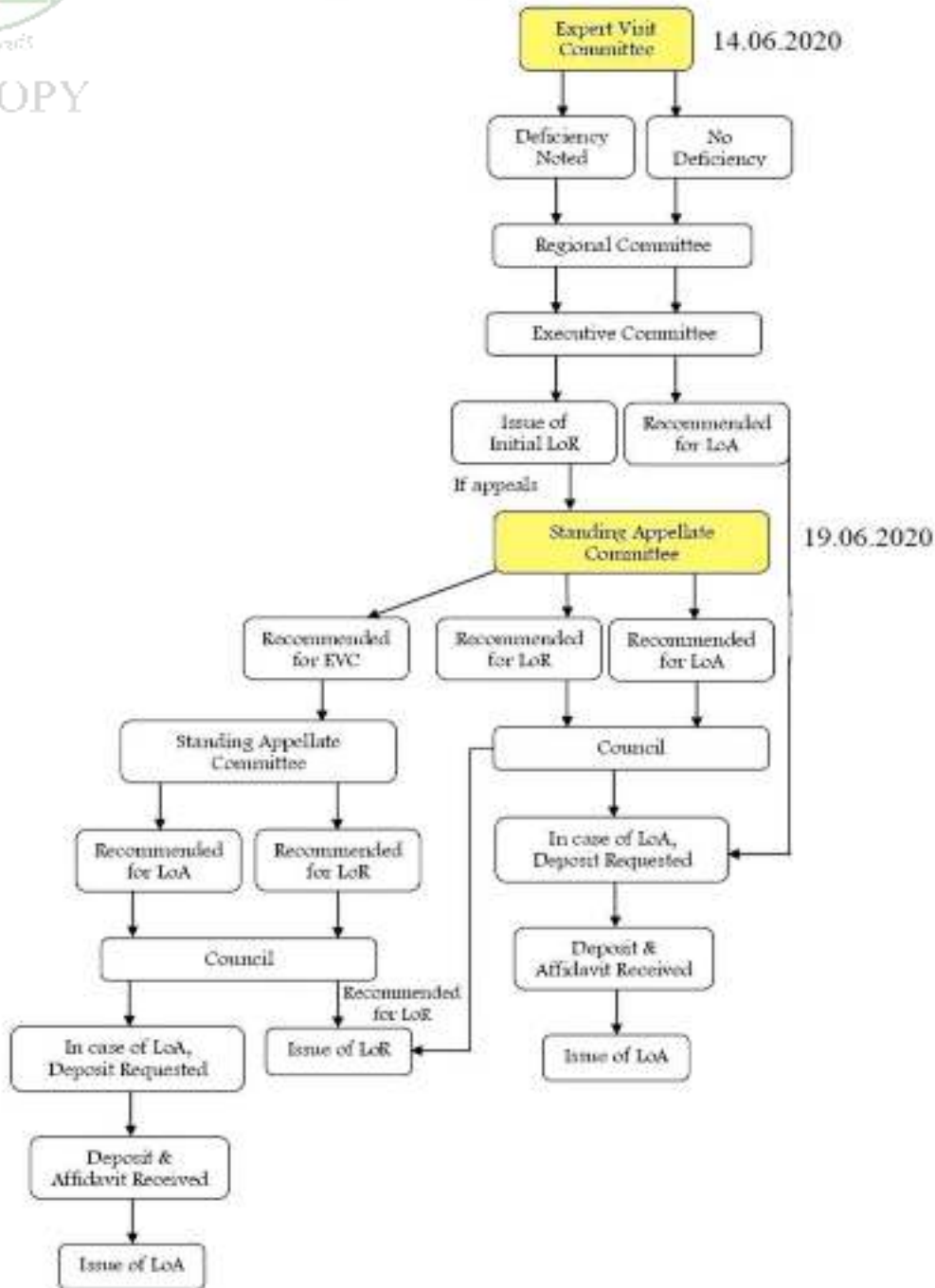
Process Flow Chart for the establishment of a new Technical Institution





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Issue of LoA/ LoR



15 The above Flowchart shows that the SAC submitted its Report on 19.06.2020. The three deficiencies that were pointed out were rectified according to the petitioner - College and a covering letter along with all particulars was submitted on 24.06.2020. This could have been verified by the EVC who had earlier issued the LOI on 15.06.2020. If the petitioner - College had rectified the defects, it could have been reported



to SAC and SAC could have made an inspection and submitted a report. The reason why it is possible to do it within a short time is that the deficiencies are very minor in nature. If on re-inspection, if it is found that the deficiencies have not been rectified, automatically the LOR has to follow. However, the LOR came to be issued to the petitioner - College only based on the Report of the SAC on 19.06.2020. There was no consideration on the Compliance Report submitted by the petitioner - College on 24.06.2020.

16 In the considered view of this Court, taking into consideration the fact that the petitioner - College is a very old Institution and is already providing various courses upto Doctorate level and the deficiencies are minor in nature, this Court deems it fit to give an opportunity to the petitioner - College to establish that the deficiencies have been rectified. It must be borne in mind that the deficiencies were rectified and informed on 24.06.2020 itself, much before the last date of processing the application.

17 In view of the above discussion, this Court is inclined to interfere with the impugned Letter of Rejection dated 30.06.2020 issued by the 1st respondent and accordingly, the same is quashed. The 1st respondent is directed to immediately act upon the Compliance Report dated 24.06.2020 and place it before the SAC and the SAC shall submit its Report within a period of one week to the 1st respondent. If in case the Report finds that the deficiencies have been rectified, the 1st respondent shall proceed to issue the LOA to the petitioner - College for the academic year 2020-21 for starting PG Programmes, viz., M.B.A., and M.C.A. This process shall be completed within a period of two weeks from the date of receipt of a copy of this order. It is made clear that this order cannot be taken as a precedent in any other case where the LOR has been issued and has not been challenged. This relief is granted on the peculiar facts of the present case and after noting a very vital fact that the petitioner - College had submitted the Compliance Report on 24.06.2020 itself and the same was not even considered when the LOR was issued on 30.06.2020 by the 1st respondent. That apart, it is found from the revised academic Calendar issued by the AICTE that the commencement of the courses has been postponed to a future date due to the prevailing pandemic situation and therefore, the directions issued by this Court will not unduly affect the commencement of the courses, if in case LOA is issued to the petitioner - College.



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costs.
closed.

The writ petition stands allowed accordingly. No
Consequently, the connected miscellaneous petitions are

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Sd/-
Assistant Registrar (MD)

//True Copy//

Sub Assistant Registrar

AP

To

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2.The Regional Officer

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Pre-Delivery Order in
WP.No.9889/2020

VSN II (CO)
KKV/20/08/2020