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IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 17.08.2021

PRONOUNCING ORDERS ON : 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16347 of 2021

Imayam Trust

Rep. by its Chairman

P.PeriannanKannanur

Thuraiyur Taluk,Trichy District

Tiruchirappalli 621 206.

...Petitioner

.Vs.

1. All India Council for Technical Education

Rep. by its Member Secretary,

Nelson Mandela Marg,

Vasant Kunj, New Delhi --110 070.

2. The Chairman

All India Council for Technical Education,

Nelson Mandela Marg,

Vasant Kunj, New Delhi-110 070.

3. Southern Regional Office

All India Council for Technical Education

Rep. by the Southern Regional Officer,

ShastiBhavan, 26, Haddows Road,

Nungambakkam, Chennai - 600 006.

4. Adviser I (Approval Board)

All India Council for Technical Education,

Nelson Mandela Marg Vasant Kunj,

New Delhi - 110 070.

..Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in Proceedings No.F.No.AICTE /AB/SR/PID 1-7270423 dated 11.08.2021 and quash the same as illegal, incompetent, unconstitutional and without jurisdiction and direct the respondents to permit the petitioner to admit students for the year 2021-2022.(Prayer amended vide order of the Court dated 17/08/2021 Made in WMP 18338/2021 in WP 16347/2021 by NAVJ.)

For Petitioner : Mr.V.Raghavachari
for M/s.Ashwin Shanbhag

For Respondents : Mr.B.Rabu Manohar
CGSC
for R 1 to R 4

ORDER

The subject matter of challenge in the present writ petition pertains to the proceedings of the 1strespondent dated 11.08.2021, wherein the 1strespondent has reiterated the earlier order passed on 15.07.2021, and the petitioner has been placed under the "no admission" category for the academic year 2021-2022.

2.The case of the petitioner is that the Trust, which was formed for the purpose of establishing Educational Institutions, had set up various institutions, with one such Institution being Iyamam College of Engineering which offers various undergraduate courses. It is stated that the petitioner got the approval from AICTE in the year 2009, and the approval is extended every year, and such extension was granted until the academic year 2020-2021. The Institution is also affiliated with Anna University, and such affiliation was granted by Anna University until the academic year 2020-2021.

3.A complaint seems to have been given by one of the erstwhile Trustees and Treasurer of the Trust in the year 2020 to the 1strespondentby alleging that the College had violated the conditions of the AICTE Approval Process Handbook. There are ongoing disputes among the Trustees, and a Scheme Suit is already pending in O.S.No.170 of 2013, before the District Court, Tiruchirappalli.

4.Based on the complaint, the 3rdrespondent issued a notice to the petitioner and a Scrutiny Committee was appointed to verify the allegations made in the complaint. In the



meantime, the AICTE opened its portal, and the petitioner applied for extension of approval for the academic year 2021-2022.

5. The petitioner received a communication from the 3rd respondent through an e-mail dated 22.07.2021, informing the petitioner that the matter has been placed before the Standing Appellate Committee. On enquiry, the 1st respondent, through an order dated 15.07.2021, placed the College under the "no admission" category for the academic year 2021-2022. An appeal was made before the 1st respondent to reconsider the decision. Since the same was pending, the petitioner initially filed the writ petition, seeking a direction to the 1st respondent to dispose of the appeal after affording an opportunity of personal hearing to the petitioner.

6. When the matter came up for hearing on 06.08.2021, this Court passed the following order:

"When the matter was taken up for admission on 05.08.2021, the learned counsel for the petitioner brought to the notice of this Court that the appeal filed before the concerned authority on 20.07.2021 is yet to be heard and a direction can be issued for conducting an enquiry and to take a decision after considering the materials placed before the authority.

2. This Court directed Mr. Rabu Manohar, learned Standing Counsel appearing on behalf of the A.I.C.T.E., to take instructions and report before this Court.

3. When the matter was taken up for hearing today, the learned Standing Counsel circulated the written instructions received from the Regional Officer, A.I.C.T.E. It is seen from the instructions circulated to this Court that the appeal that was made by the petitioner was rejected by proceedings dated 23.07.2021 and as a result of the same, 'No Admission Status' for the academic year 2021-22 was directed to be continued.

4. The learned counsel for the petitioner submitted that the concerned authority has not considered any of the materials that were presented along with the appeal and if one opportunity is given to the petitioner, the petitioner is willing to go over to Delhi and place all the materials and satisfy the concerned authority that all the deficiencies have been properly rectified and complied with. The learned counsel submitted that



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after the materials are placed before the authority and an enquiry is conducted, a decision can be taken by the authority.

5. The learned counsel appearing on behalf of the A.I.C.T.E., submitted that, some serious deficiencies were pointed out by the Scrutiny Committee and the same were taken into consideration by the appellate authority and the appeal was rejected on 23.07.2021. The learned counsel therefore submitted that there is no ground to once again entertain the plea made by the petitioner and the petitioner has to necessarily rectify all the defects and make an application for the next academic year viz., 2022-23.

6. In the considered view of this Court, there is a serious dispute that is going on between the Trustees and the complaint seems to have emanated from the erstwhile Trustee and the Treasurer, and it has led to the enquiry and a decision was taken by the competent authority to place the Institution under "No Admission Status".

7. The learned counsel for the petitioner submitted that the petitioner has rectified and complied with all the deficiencies that were pointed out and what is required is only to give an opportunity to the petitioner to place those materials before the authority and the authority, based on the same, can take a decision. In short, an opportunity is sought for to substantiate the claim / assertion made by the petitioner.

8. In view of the above, the petitioner Trust represented by its Vice Chairman shall be present in the office of the first respondent on 09.08.2021 at 11.30 A.M. The first respondent shall conduct the enquiry, scrutinise all the materials and shall take a decision and report before this Court.

9. Post this case under the caption "For Reporting Compliance" on 13.08.2021".

7. Thereafter, when the matter was taken up for hearing on 13.08.2021, this Court passed the following order:

"Learned counsel appearing on behalf of the AICTE submitted that, pursuant to the orders passed by this Court on 06.08.2021, personal hearing was given to the petitioner and an order has been passed on 11.08.2021 confirming the earlier order and thereby, the 'No Admission Status' for the academic year 2021-22 was directed to be continued.



2. Learned counsel for AICTE is directed to file a copy of the proceedings after serving the same to the learned counsel for the petitioner.

3. Post this case under the same caption on 17.08.2021".

8. Pursuant to the above orders, the petitioner filed a petition in WMP No.18338 of 2021, seeking for amendment of the relief by challenging the proceedings of the 1st respondent dated 11.08.2021. The amendment petition was allowed, and thus the proceedings of the 1st respondent dated 11.08.2021 have been put to challenge.

9. The learned counsel for the petitioner submitted that the College in question got the approval in the year 2009, and thereafter, it was extended up to the academic year 2020-2021 and all of a sudden, by virtue of a complaint given by a disgruntled Trustee, the respondents have taken an extreme action of placing the College under the "no admission" category for the academic year 2021-2022. The learned counsel submitted that the main allegation made against the Institution was that the initial approval was granted by permitting the College to function from a particular property and whereas the College is functioning on a different property without getting the permission of AICTE. The learned counsel submitted that the Trustees have various institutions, and considering the fact that the Engineering College required a larger space, the place which was initially chosen to construct the Engineering College was replaced by the Arts College, and the place that was chosen for the Arts College was replaced with the Engineering College. The learned counsel submitted that right from the beginning, this is how the Institution has been functioning, and approval was granted, and all of a sudden, it was found to be a deficiency, and the College has been put under the "no admission" category. The learned counsel further submitted that the penalty imposed by AICTE is disproportionate and very harsh, and if the petitioner is given sometime, they will rectify the deficiency and get the necessary building approvals and report before the AICTE. The learned counsel brought to the notice of this Court the judgment of the Hon'ble Supreme Court in AI-Karim Educational Trust and Another v. State of Bihar and Ors reported in (1996) 8 SCC 330, Mahatma Education Society v. AICTE and Others reported in (2014) SCC Online Bom 1369 and Sri Muthukumaran Medical College v. The Registrar and 2 Others in W.P.No.23726 of 2019, dated 19.08.2019, to impress upon this Court that such a harsh decision need not have been taken by the AICTE and that opportunity should have been given to the petitioner to get the necessary approval and to rectify the defects. The learned counsel further submitted that the approval could be extended for the current academic year, i.e. 2021-2022,



the seriousness of the discrepancy found in the very allegation against the College, the 1st respondent thought it fit to place the Institution under the "no admission" category for the academic year 2021-2022.

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15. Even while the 1st respondent considered the appeal made by the petitioner, the 1st respondent individually obtained a report from the Scrutiny Committee. The report of the scrutiny committee clearly demonstrates the fact that the approval was given to the College to be run in a particular property and whereas the College was functioning with its campus in a completely different property. Even this change of location of the College was not informed to the AICTE, which is a mandatory requirement under Clause 2.7 of the Approval Process Handbook 2021-2022. In view of this serious discrepancy, the AICTE wanted to scrutinise all the documents and had directed the petitioner to apply during the next academic year by informing the change of site, and that the same will be considered during the academic year 2022-2023. The Scrutiny Committee also found that the petitioner has not obtained any building plan approval till date, and it has not been presented to AICTE. This finding is also not refuted by the petitioner, and admittedly the building plan approval is pending, and it has not been granted by the concerned authority. In spite of the same, the petitioner has managed to run the Institution from the year 2009 onwards without any approval.

16. Insofar as the judicial precedents cited by the learned counsel for the petitioner, those decisions were rendered on the basis of the facts that formed the basis of those decisions. In a case of this nature, the Court can reach a conclusion only based on the facts placed before it, and there cannot be a uniform standard while deciding the nature of deficiency that differs on a case to case basis.

17. In the considered view of this Court, the allegations that the Institution is functioning from a different location than the one for which the approval was granted by the AICTE and that no building approval has been obtained from the year 2009 onwards, are serious in nature and cannot be taken lightly. This Court does not find any ground to interfere with the decision taken by the 1st respondent to keep the Institution in the "no admission" category for the academic year 2021-2022. This Court cannot sit over the judgment taken by an academic body given the seriousness of the allegations, and only if such serious action is taken, the institutions will realise that they cannot get away easily after committing serious defaults which touches upon the very basis on which the approval was granted by AICTE. The 1st respondent is absolutely right in placing the Institution in the "no admission" category for the academic year 2021-2022. Even while coming to such a



decision, the 1st respondent has informed the petitioner that if the Institution applies for change of site in the next academic year, the same will be considered as per due procedure/norms. This opportunity given to the petitioner will enable the petitioner to rectify the defects and apply for the approval during the next academic year.

18. In the result, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

KP

To

1. All India Council for Technical Education

Rep. by its Member Secretary,

Nelson Mandela Marg,

Vasant Kunj

New Delhi --110 070.

2. The Chairman

All India Council for Technical Education,

Nelson Mandela Marg,

Vasant Kunj,

New Delhi-110 070.

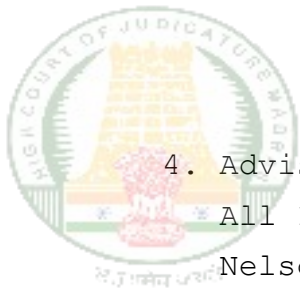
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4. Adviser I (Approval Board)

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Nelson Mandela Marg Vasant Kunj,

New Delhi - 110 070.

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+1cc to Mr.B.Rabu Manohar, Advocate, S.R.No.41554

+1cc to M/s.Ashwin Shanbhag, Advocate, S.R.No.41656

W.P.No.16347 of 2021

BP (CO)

CT 13/12/2021