

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 27.09.2021

PRONOUNCING ORDERS ON : 28.09.2021

CORAM**THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH**

W.P.No.20798 of 2021
and
WMP No.22067 of 2021

Sri Nandhanam College of Engineering &
Technology,
Rep.by its Chairman,
P.M.N.Mohan Krishnaa
Nandhanam Nagar,
Molagarampatti,
Tirupattur 635 002.

... Petitioner

The seal of the High Court of Judicature at Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the lion capital is a red wheel (Chakras) and a red lotus. The entire emblem is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the emblem. Below the emblem, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.
-Vs-

- 1.The Registrar
Anna University
Chennai-600 025.
2. The Director
Centre for Affiliation of Institutions
Anna University
Chennai-600 025
3. The Commissioner
Directorate of Technical Education
Chennai- 600 025
4. The Secretary
TamilNadu Engineering Admission
Directorate of Technical Education
Chennai- 600 025.

सत्यमेव जयते
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5.The Chairman
AICTE
Nelson mandela Marg
Vasanth Kunj
New Delhi.

6.The Regional Officer
Southern Regional Office
AICTE, Shastri Bhavan
26 Haddows Road
Nungambakkam
Chennai-6.

... Respondents

**[This Court suo motu added as 5th and 6th respondents
in W.P.No.20798 of 2021 by an order dated 24.209.2021
by NAVJ]**

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the 1st and 2nd respondent to pass orders for granting affiliation in favour of the petitioner college in respect of Degree courses as per the affiliation demand statement (2021-2022) issued by the 1st respondent Anna University uploaded on 27.8.2021 and include the name of the petitioner college in the Online counseling conducted by the 3rd and 4th respondents for the academic year 2021- 2022 based on the representation already submitted by the petitioner college dated 18.8.2021 and 27.8.2021.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.Govardhanan
for M/s.Row & Reddy
for R 1 and R 2

Mr.A.Selvendran
Government Advocate
for R 3 and R 4

Mr.Rabu Manohar
Standing Counsel
for R 5 and R 6

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the Anna University to pass appropriate orders and grant affiliation to the petitioner College with respect to Degree Courses for the academic year 2021-2022 and for a consequential direction to include the name of the petitioner College in the counseling conducted by the third and fourth respondents.

2.The case of the petitioner is that they have the approval from All India Council for Technical Education [AICTE] for nine courses and the Anna University had also granted provisional affiliation during the academic year 2020-2021. The petitioner submitted online application for affiliation for all the courses and also remitted the necessary affiliation fees as per the demand made by the Anna University on 09.02.2021.

3.The further case of the petitioner is that the application was also processed and there was a delay in issuing the demand note. It is stated that the demand note was issued by the Anna University only on 27.08.2021 and the petitioner was directed to pay the balance amount of Rs.3,20,000/- towards affiliation fees. The petitioner was not able to pay this amount immediately and the demand note also did not specify any outer limit.

4.The petitioner Institution made a representation on 06.09.2021, to the Anna University seeking for eight days time to pay the affiliation fees. Ultimately, the affiliation fees of Rs.3,20,000/- demanded by the Anna University was paid by way of a demand draft only on 13.09.2021. Even thereafter, the affiliation was not granted by the Anna University

and hence a representation was made on 22.09.2021, in this regard. The third and fourth respondents also started the preparation for counseling. Therefore, the petitioner Institution left with no other option, has filed the present writ petition before this Court seeking for appropriate directions.

5.The learned Standing Counsel appearing on behalf of the impleaded fifth and sixth respondents viz., AICTE, submitted that as per the academic calender for 2021-2022, the last date for grant of affiliation by the concerned University was fixed as 10.08.2021. This was further extended to 31.08.2021, considering the pandemic situation. Thereafter, an application was moved before the Hon'ble Supreme Court in I.A.No.95432 of 2021, seeking for extension of time for granting affiliation and the Hon'ble Supreme Court by an order dated 01.09.2021, granted an extension for three days. The relevant portions that were relied upon by the learned Standing Counsel is extracted hereunder:

"We have heard Mr.K.M.Natraj, learned Additional solicitor General for AICTE, Mr.Zoheb Hossain, learned counsel appearing for Pharmacy Council of India and Ms.Hetu Arora Sethi, learned counsel appearing for Council of Architecture. It was submitted by the learned counsel appearing for the Regulatory Bodies that the affiliation being granted on the basis of final approvals given by the Regulatory Bodies can be done without disturbing the schedule that was given in the revised calendars for admission for the Academic Session 2021-2022. As long as no new application is filed which requires to be considered by the Regulatory Bodies, they do not have any objection for an extension of the cut off date for grant of affiliation to the Technical Institutes which are affiliated to the University.

As we are informed that orders for grant of affiliation to the Institutions are ready, we grant three days time from today for the orders to be passed by the University. We make it clear that the orders for affiliation are passed on the basis of final approval granted by the Regulatory Bodies.

The AICTE, Pharmacy Council of India and Council of Architecture shall inform all the technical Universities about this order through their websites and that any pending applications for affiliation on the basis of final approval granted by them can be disposed of within a period of three days from today."

6.The learned Standing Counsel submitted that pursuant to the above order, AICTE issued a notice/announcement informing the concerned Universities regarding the orders passed by the Hon'ble Supreme Court extending the time for grant of affiliation up to 03.09.2021 [12.00 p.m]. The learned Standing Counsel concluded his arguments by submitting that no affiliation can be granted beyond 03.09.2021 and in the present case the affiliation fee was paid by the petitioner only on 13.09.2021, which is well beyond the time fixed by the Hon'ble Supreme Court and therefore, the petitioner Institution cannot be granted affiliation for the academic year 2021-2022.

7.The learned Standing Counsel appearing on behalf of the Anna University submitted that pursuant to the notice received from AICTE, the Anna University informed all the affiliated Institutions including the petitioner through e-mail dated 02.09.2021, regarding the orders passed by the Hon'ble Supreme Court and specifically informed the

on or before 03.09.2021, by 12.00 pm to the University, failing which, affiliation will not be granted and the name of the relevant Institution will not be send to the third and fourth respondents for counseling. The learned Standing Counsel further submitted that the affiliation fees was paid only on 13.09.2021, by the petitioner and since it was well beyond the time stipulated by the AICTE, the request made by the petitioner was rejected through letter dated 20.09.2021 and the petitioner Institution was informed that the University is not in a position to grant the provisional affiliation for the courses applied for the academic year 2021-2022. The learned Standing Counsel submitted that the demand draft that was sent by the petitioner was also returned. The learned Standing Counsel concluded his arguments by submitting that the relief sought for by the petitioner cannot be granted by this Court.

8.The learned Government Counsel appearing on behalf of the third and fourth respondents submitted that unless the University forwards the name of the Institution for counseling, the petitioner Institution cannot be allowed to admit the students through counseling. The learned Government Counsel further submitted that since the Anna University did not grant affiliation for the academic year 2021-2022, the petitioner Institution will not be permitted to participate in the counseling.

9.The learned counsel for the petitioner submitted that the AICTE has already granted extension of approval for the courses through proceedings dated 25.06.2021, for the academic year 2021-2022. The learned counsel further submitted that the delay cannot be attributed on the petitioner Institution and the Anna University had issued demand

notice as late as on 27.08.2021, without stipulating the outer limit. It was further submitted that the Institutions were directed to pay the affiliation fees by 03.09.2021 and this communication was sent only on 02.09.2021 at about 3.00 p.m. The learned counsel submitted that the petitioner Institution will be put to irreparable hardship if the provisional affiliation is not given by the Anna University for the academic year 2021-2022. It was further submitted that the order of the Hon'ble Supreme Court was passed by taking into consideration the facts as projected by the relevant University and insofar as Anna University is concerned, the factual position is different and the order of the Hon'ble Supreme Court cannot be put against the petitioner and the request made by the petitioner must be considered independently and considering the fact that AICTE had already granted approval and that the petitioner has also paid the affiliation fees. The learned counsel pleaded that this Court must direct the Anna University to grant affiliation to the petitioner Institution.

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

11.It is an admitted fact that the AICTE had granted extension of approval to the petitioner Institution for all the courses through proceedings dated 25.06.2021. As per the original academic calender, the last date for grant of affiliation by the University was fixed as 10.08.2021. This time was further extended on 13.08.2021 and the last date was fixed as 31.08.2021. This extension was granted considering the pandemic situation. In

the present case, the Anna University had raised the demand note seeking for affiliation

fees on 27.08.2021 and the petitioner Institution was directed to pay a sum of Rs.3,20,000/-. The petitioner Institution ought to have paid this amount before the last date for grant of affiliation i.e., on 31.08.2021. However, the petitioner made a representation on 06.09.2021, to the Anna University to grant extension of time for eight days to pay the affiliation amount. The reason assigned in the representation was that the Chairman has gone out of station. Surprisingly, this stand has been given a twist at paragraph 10 of the affidavit filed in support of the writ petition, wherein it is stated that the Chairman was afflicted with Covid and he was on home quarantine. Even though, two different reasons have been assigned for non-payment of the affiliation fee on time, the fact remains that the petitioner Institution did not pay the affiliation fee within time.

12. Thereafter, an application came to be moved before the Hon'ble Supreme Court by Dr. A.P.J. Abdul Kalam Technical University, seeking for extension of time for grant of affiliation till 15.09.2021. The Hon'ble Supreme Court after considering the facts and circumstances of the case was inclined to grant an extension of only three days from 01.09.2021. The relevant portions in the order have also been extracted supra. By virtue of this order, the last date for grant of affiliation was extended up to 03.09.2021. This was informed by AICTE to all the concerned Universities and in turn the Anna University also informed all the affiliated Institutions to pay the affiliation fee along with all the relevant documents on or before 03.09.2021 [12.00 noon]. This communication was also sent to the Chairman of the petitioner Institution.

13.It is clear from the above that the University could have granted affiliation only up to 03.09.2021 and thereafter, it did not have the power to grant affiliation. The AICTE also does not have the power to direct the University to grant affiliation beyond the time limit since the time limit has been fixed by the Hon'ble Supreme Court.

14.The petitioner Institution had paid the affiliation fee of Rs.3,20,000/- only on 13.09.2021, which is well beyond the time granted by the Anna University. Therefore, the request made by the petitioner seeking for provisional affiliation for the academic year 2021-2022, has been rejected by the Anna University.

15.In the considered view of this Court, neither the Anna University nor AICTE can grant any extension of time for getting affiliation beyond 03.09.2021. If any such leverage had been shown, it would have amounted to violating the orders passed by the Hon'ble Supreme Court. If any orders are passed by this Court granting extension of time for affiliation by the Anna University, that will run contrary to the orders passed by the Hon'ble Supreme Court, wherein the time was extended only up to 03.09.2021. If at all any extension of time is sought for, it can only be by way of moving an application before the Hon'ble Supreme Court. There is no other option to extend the time for granting affiliation to the Institutions affiliated to Anna University. This mandate applies to all the Institutions and whichever Institution did not get the provisional affiliation on or before 03.09.2021, cannot be permitted to move writ petitions before this Court, seeking for a direction to the University to grant affiliation. Judicial discipline requires that this Court

does not issue any such directions under any circumstances since it will have wider ramifications and it will also violate the directions issued by the Hon'ble Supreme Court.

16.In the result, the relief as sought for by the petitioner Institution cannot be granted by this Court and this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.09.2021.

Internet : Yes
Index : Yes
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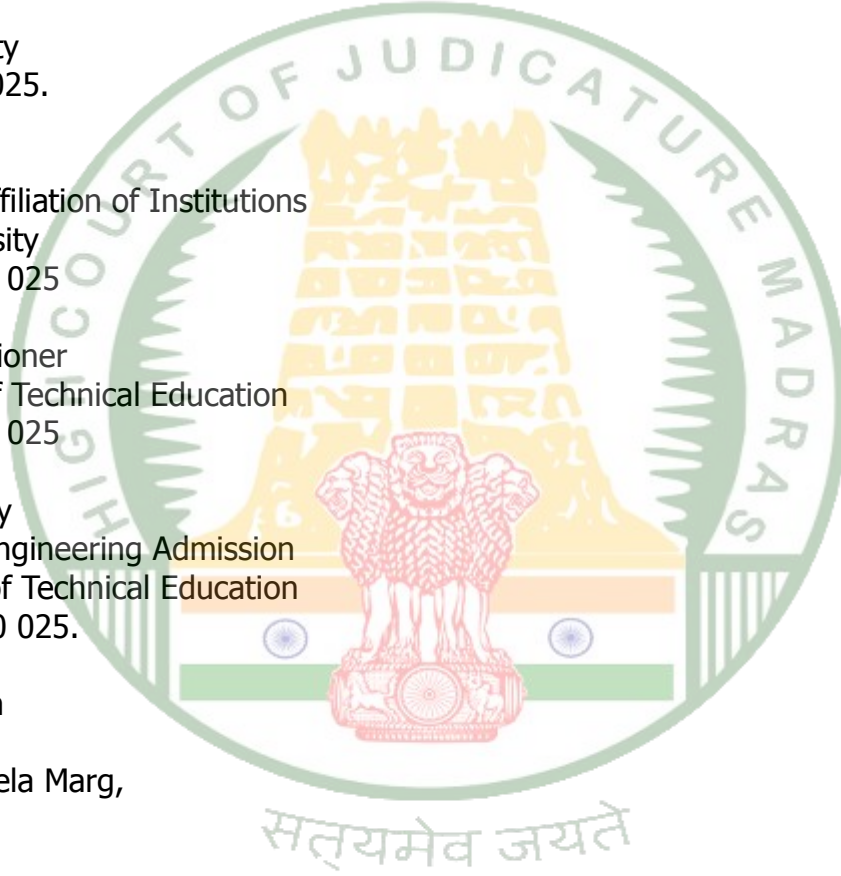
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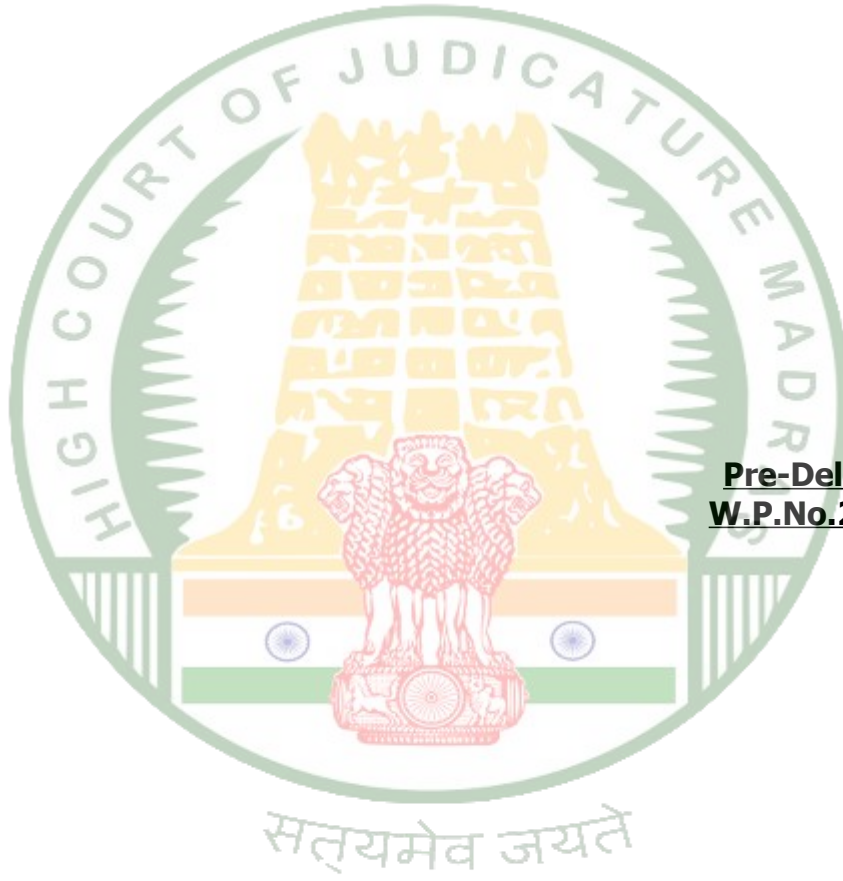
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N.ANAND VENKATESH, J.

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**Pre-Delivery Order in
W.P.No.20798 of 2021****WEB COPY****28.09.2021**