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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2021

CORAM :

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.A.Nos.1165, 1166, 1183, 1187 and 1177 of 2020
and W.P.Nos. 16681 and 16683 of 2020

W.A.Nos.1165, 1166 and 1183 of 2020

The Anna University,
Rep. by its Registrar,
Guindy,
Chennai - 600 025.

..Appellant in all WAs

Vs

1.Park College of Technology,
Rep. by its Chairman, Dr.P.V.Ravi,
Prema Ravi Nagar,
Karamathampatti,
Coimbatore - 641 659.

R1 in WA.1165 of 2020, 1183 of 2020

1.Park College of Technology,
Rep. by its Chairman, Dr.P.V.Ravi,
Avinashi Road,
Kaniyur,
Coimbatore - 641 659.

R1 in WA.1166 of 2020

2.All India Council for Technical Education,
Rep. by its Chairman,
Nelson Mandela Marg,
Vasanth Kunj,
New Delhi - 110 070.

... 2nd Respondents in WA.1165, 1166, 1183 of 2020

W.A.No.1177 of 2020

The Anna University,
Rep. by its Registrar,
Guindy, Chennai - 600 025.

..Appellant

Vs

Park College of Engineering and Technology,
Avinashi Road, Kaniyur,
Coimbatore - 641 659



Rep. by its
Chairman, Dr.P.V.Ravi.

.. Respondent

W.A.No.1187 of 2020

The Anna University,
Rep. by its Registrar,
Guindy,
Chennai - 600 025.

..Appellant

Vs

Park College of Technology,
Prema Ravi Nagar,
Karamathampatti,
Coimbatore,
Rep. by its Chairman,
Dr.P.V.Ravi

.. Respondent

W.P.Nos.16681 and 16683 of 2020

Park College of Technology,
Rep. by its Chairman Dr.P.V.Ravi,
Prema Ravi Nagar,
Karamathampatti,
Coimbatore - 641 659.

.. Petitioner

Vs

1. Anna University,
Rep. by its Registrar,
Guindy, Chennai - 600 025.

2. All India Council for Technical Education,
Rep by its Director,
Nelson Mandela Marg,
Vasanth Kanj, New Delhi - 110 070. .. Respondents

Prayer in W.A.No.1165 of 2020: Appeal filed under Clause 15 of the Letters Patent Act to set aside the order dated 20.11.2020 in W.M.P.No.20673 of 2020 in W.P.No. 16681 of 2020.

WP.16681 and 16683 of 2020 and WMP.20673 of 2020:
Writ Petitions under Articles 226 of the Constitutions of India praying that in these circumstances stated therein and in the respective affidavits filed their with the High Court will pleased to

i) Issue a Writ of mandamus or any other Writ or order or direction in the nature of Writ of mandamus directing the first respondent to forthwith extend the affiliation to the petitioner college for the courses namely B.E. Aeronautical Engineering



Civil Engineering Computer Science and Engineering Electronics and Communication Engineering Mechanical Engineering and Environmental Engineering for the academic year 2020- 21.

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(II) Issue a Writ of mandamus or any order directing the first respondent to forthwith extend the affiliation to the petitioner college for the courses B.E.(Robotics and Automation) and MBA for the academic year 2020-21 in WP No.s16683 of 2020 and;

Prayer in W.A.No.1166 of 2020: Appeal filed under Clause 15 of the Letters Patent Act to set aside the order dated 20.11.2020 in W.P.No.16683 of 2020.

Prayer in W.A.No.1177 of 2020: Appeal filed under Clause 15 of the Letters Patent Act to set aside the order dated 21.09.2020 in W.P.No.10935 of 2020.

Prayer in WP.No. 10935 of 2020:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari Calling for the record relating to LR.No.254/CAI/AU/2020 dated 20.03.2020 issued by the respondent and quash the same.

Prayer in W.A.No.1183 of 2020: Appeal filed under Clause 15 of the Letters Patent Act to set aside the order dated 21.09.2020 in W.P.No.10353 of 2020.

Prayer in WP.No. 10353 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records relating to F.No.AICTE/AB/SR/PID 1-2073181 dated 30.06.2020 issued by the 1st respondent and quash the same.

Prayer in W.A.No.1187 of 2020: Appeal filed under Clause 15 of the Letters Patent Act to set aside the order dated 21.09.2020 in W.P.No.10280 of 2020.

WP.No.10280 of 2020:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling of the records relating to LR.No.511/CA1/Au/2019 dated 09.11.2019 issued by the respondent and quash the same.

Prayer in W.P.No.16681 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus



directing the first respondent to forthwith extend the affiliation to the petitioner college for the courses namely, B.E.Aeronautical Engineering, Civil Engineering, Computer Science & Engineering, Electronics & Communication Engineering, Mechanical Engineering and Environmental Engineering for the academic year 2020-21.

Prayer in W.P.No.16683 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to forthwith extend the affiliation to the petitioner college for the courses B.E. (Robotics and Automation) and MBA for the academic year 2020-21.

For Appellant

(in all Writ Appeals): Ms.Narmatha Sampath,
Additional Advocate General
assisted by
Mr.L.P.Shanmugasundaram

For Respondents

(in all Writ Appeals): Mr.R.Parthasarathy R1
for Institution
Mr.B.Rabu Manohar R2
for AICTE

COMMON JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

In view of the commonality of the issue involved in both the batch of writ appeals and the writ appeals filed in W.A.Nos.1165 and 1166 of 2020 being consequent to W.A.Nos.1183,1187 and 1177 of 2020, they are disposed of by a common judgment.

2. The subject matter of W.A.No.1177 of 2020 is with respect to the suspension of affiliation passed by the appellant followed by the consequential directions sought for against the respondent/AICTE.

3. The learned Single Judge allowed the writ petitions inter alia holding that the appellant did not have the power to go into the alleged deficiencies of the respondent/Institution and in any case, the orders passed are vitiated by want of notice having civil consequences. The following are the findings of the learned Single Judge with respect to the lack of jurisdiction on the action of the appellant and the civil consequences:-

"14. In the present case, the Anna University has proceeded to issue the Impugned Letters withdrawing Affiliation only on the ground that



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the petitioner - Institutions/Colleges were found deficient in Faculty strength. Insofar as the Faculty strength is concerned, it is exclusively within the domain of the AICTE and at the best, the Anna University should have forwarded the Report to the AICTE in order enable the AICTE to conduct an independent inspection and satisfy themselves with regard to the Faculty strength available in the petitioner - Institutions/Colleges. Instead, the Anna University has proceeded to withdraw the Affiliation on the ground of deficiency in Faculty members. It is clear from the above order that the Anna University cannot take any decision in areas which falls within the exclusive domain of the AICTE and the Regulation relied upon by the Anna University is subservient to the authority of the AICTE.

15. A careful reading of the impugned Letters issued by the Anna University withdrawing the Affiliation, clearly reveals the fact that these Letters have been issued without putting the petitioner - Institutions/Colleges on notice and calling for their explanation. The impugned Letters had serious civil consequences and the Anna University ought not to have straight away proceeded to issue the impugned Letters without affording an opportunity to the petitioner - Institutions/Colleges. Apart from the lack of authority for Anna University to tinker upon the area which is exclusively within the jurisdiction of the AICTE, the impugned Letters of Anna University is also bad since it violates principles of natural justice."

4. Consequently, liberty was given to the appellant and the AICTE to proceed further, which paragraphs are reproduced hereunder:-

"19. The Anna University and the AICTE are directed to issue a fresh Show Cause Notice to the petitioner - Institutions/Colleges, by pointing out the deficiencies and if necessary, after conducting personal inspection and the petitioner - Institutions/Colleges shall be given an opportunity to give their explanation and thereafter, a decision can be taken strictly in accordance with law.

20. The AICTE is directed to extend the approval for the petitioner - Institution/College in



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W.P.Nos.10280 & 10353 of 2020 for the Academic Year 2020-21 and the Anna University is also directed to continue the affiliation for both the petitioner - Institutions/Colleges for the Academic year 2020-21. This approval will be subject to the liberty granted to the Anna University and the AICTE at paragraph No.19 of this order. No costs. Consequently, the connected miscellaneous petitions are closed."

5. After the order passed by the learned Single Judge, in a similar matter taken up by the Division Bench of this Court in the case of The Anna University Vs. ARS College of Engineering and others in W.A.No. 940 of 2020 etc dated 19.10.2020, it has been held as under:-

"47. In the light of the law as indicated in the case of Infant Jesus College of Engineering (supra), and in the given circumstances that the University has already carried out an inspection in 2019 and passed an order on 9.11.2019 pointing out the deficiencies, and that the AICTE has not conducted any physical inspection, and since we are of the considered opinion that the ultimate decision of the AICTE would have an impact on the issue of affiliation, we do not find it necessary for the University now to give any opportunity to the Colleges/Institutions, to face the University after a second round of inspection. In our opinion, the material is already there and this material has reached the AICTE. It would, therefore, suffice that the University and the authorities of the Colleges/Institutions will have the opportunity to rebut the material on the basis whereof the University has taken its decision on 09.11.2019. The said decision dated 09.11.2019, therefore, shall not be given effect to till the AICTE passes a final order after giving an opportunity of hearing to the University and the authorities of the Colleges/Institutions in order to assess the nature of the deficiencies. The AICTE shall conduct a physical inspection of both the Colleges/Institutions itself preferably within fifteen days from today, and then give an opportunity to the Colleges/Institutions and the University within fifteen days thereafter, and then pass final orders accordingly.

48. We, therefore, in the light of the discussion herein above and the reasons given in



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support thereof, partly allow the appeals and set aside the order passed by the learned Single Judge quashing the orders of the University dated 9.11.2019, but we direct, as observed above, that they shall not be given effect to and shall be subject to any final orders to be passed by the AICTE in the light of the directions herein above. We uphold the judgment of the learned Single Judge in quashing the orders passed by the AICTE dated 30.06.2020.

49. In fine, W.A.Nos. 941 and 942 of 2020 challenging the judgment of the learned Single Judge arising out of the orders dated 9.11.2019 passed by the Anna University are, therefore, partly allowed, and W.A.Nos. 940 and 945 of 2020 arising out of the orders dated 30.06.2020 of the AICTE are disposed of in the light of the observations made herein above for carrying out the directions of inspection, hearing and passing of orders in the time period referred to by us.

In the result, all these appeals stand disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed."

6. Accordingly, the Division Bench in the judgment referred supra was pleased to hold that it would suffice if an inspection is caused by the AICTE alone instead of the appellant.

7. Writ petitions have been filed in W.P.Nos.16681 and 16683 of 2020 by which the respondent sought for a writ of mandamus directing the appellant to extend affiliation to the respondent for the courses sought for. The learned Single Judge passed the following order:-

"3.This Court had passed a common order on 21.09.2020 for the very same petitioner institution and this Court allowed the Writ Petition and directed the Anna University and AICTE to continue the affiliation for the academic year 2020-2021.

4.The learned Additional Advocate General appearing on behalf of the first respondent University submitted that the order passed by this Court in a connected Writ Petition involving very same facts was taken on appeal before the Hon'ble Division Bench in W.A.Nos. 940,941,942 and 945 of 2020 and the Hon'ble Division Bench had partly allowed the Writ



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Appeal and had sustained the order of the University, but however directed the AICTE to carry out inspection. The learned Additional Advocate General submitted that Writ Appeal has already been filed against the orders passed by this Court with regard to the petitioner institution in the earlier Writ Petitions.

5. It is seen from records that the AICTE through letters dated 10.07.2020 and 04.11.2020 has granted extension of approval to the petitioner institution for the academic year 2020-21. The earlier order passed by this Court is in force even as on today. This coupled with the fact that the AICTE has already granted extension of approval for the academic year 2020-21, enables the petitioner institution to admit the students in various courses for the academic year 2020-21, during the supplementary counselling. Till the earlier orders passed by this Court is interfered or set aside, the same has to be given effect and the petitioner cannot be prevented from admitting the students during the supplementary counselling.

6. In view of the above, there shall be an interim direction permitting the petitioner to admit students under various courses for the academic year 2020-21 in the supplementary counselling. It is made clear that the same will be subject to the final orders passed by this Court in these Writ Petitions. The students who are admitted shall also be informed about the pendency of these Writ Petitions.

7. Post this case on 11.12.2020."

8. Challenging the same, W.A.Nos. 1165 and 1166 of 2020 have been filed.

9. Learned Additional Advocate General raised the following contentions: The order of the learned Single Judge in paragraphs 14 and 15 requires interference. Law is quite settled with respect to the additional conditions that can be imposed by the appellant. Applying the same logic, when the appellant accepted the conditions and the requirement of the AICTE, it is well open to it to satisfy the compliance. If it is not reported, it can very well withdraw/put on hold the affiliation. In such view of the matter, there is no need for putting the Institution on notice when the Institution has agreed that in the event of any deficiency not being complied even after the inspection is made, it is well open to the appellant to take



action. Reliance has been made on the judgment of the Apex Court in APJ Abdul Kalam Technological University and Another v Jai Bharath College of Management and Engineering Technology and others reported in 2020 SCC Online SC 1015 and the order passed by Division Bench referred supra. One more submission has also been made to the effect that there must be a physical inspection by AICTE as mandated by the Division Bench.

10. Mr.R.Parthasarathy, learned counsel appearing for the respondent/Institution submitted that there is no need for any physical inspection as there are certain disputes involved in the Institution dealt with by the Division Bench and while granting approval, this was taken note of by the Committee concerned. On the question of law raised, learned counsel for the respondent/Institution fairly submitted that it cannot be stated that wherever there is deficiency in existence including the one mandated to be complied with on the norms prescribed by the AICTE the appellant does not have jurisdiction to deal with it by taking action to withdraw/put on hold the affiliation.

11. Mr.B.Rabu Manohar, learned counsel appearing for the AICTE also submitted that the need for having physical inspection does not arise since the materials were available and there is no disputed fact involved. The Committee considered the relevant materials and satisfy the compliance though it was not complied earlier.

12. On the first issue qua the power of the appellant to take action for withdrawing/put on hold the affiliation, we are in respectable agreement with the submission made by the learned Additional Advocate General. As held by the Hon'ble Apex Court in APJ Abdul Kalam Technological University and Another (supra), it is axiomatic that the appellant can make the additional requirement to be complied with, other than the one mandated by the AICTE. Resultantly, the appellant can accept the compliance as sought for by AICTE. Once the norms of the AICTE is accepted by the appellant, it becomes the norms of the appellant. Therefore, the power to take action for deficiency or non-compliance of such norms certainly lies with the appellant. In such view of the matter, we are of the view that paragraph 14 of the order passed by the learned Single Judge which indicates the reasoning of the learned Single Judge requires interference. Accordingly, the same stands set aside.

13. In paragraph 15 of the order, the learned Single Judge has stated that the order impugned has got civil consequences. This reasoning merits acceptance. Certainly, it has got civil consequence. Merely because, the respondent has given an undertaking, it cannot be presumed that there is



deficiency in existence. Therefore, the respondent/writ petitioners ought to have been put on notice. In such view of the matter, we are upholding the order of the learned Single Judge.

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14. The Division Bench in judgment referred supra considered the similar issue. After considering it, directed the AICTE to undertake the said exercise as norms being similar and there is no need for two instrumentalities to undertake the very same exercise. After all, the appellant merely adopted the norms of the AICTE. In the case on hand, the AICTE undertakes the said exercise and found the compliance. Therefore, the order of the learned Single Judge giving liberty to the appellant to proceed further does not arise for consideration as, as on today, there is approval in favour of the writ petitioners, which approval has not been put to challenge. Since we are upholding the power of the appellant to cause inspection to satisfy itself on the compliance of the norms, including the deficiency which we are dealing with in the case on hand, sought to be complied with subsequently, liberty is given to the appellant to proceed further by making a fresh inspection, if so required and satisfy itself. We are also of the view that inasmuch as the AICTE itself has given approval, there is no need for fresh inspection by it, since it is a subsequent development upon satisfying the Report materials including the accepting the recommendation of the Appellate Standing Committee constituted.

15. In view of the order passed, the writ appeals stand disposed of accordingly. No costs. Consequently, there is no need for any further orders to be passed in W.P.Nos.16681 and 16683 of 2020 as there is no impediment as on today for the students to continue their studies and the same stand closed. Connected C.M.P.Nos.14573,14424,14563,14423,14569 of 2020 and W.M.P.Nos. 20673 and 20679 are closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

Ssm

To:

1.The Registrar,
The Anna University,Guindy,
Chennai - 600 025.



2.The Chairman,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasanth Kunj,
New Delhi - 110 070.

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+2cc to Mr.R.Parthasarathy, Advocate, S.R.No. 22070
+1cc to Mr.B.Rabu Manohar, Advocate, S.R.No.21858
+1cc to the Government Pleader, S.R.No. 22212

W.A.Nos.1165, 1166, 1183,
1187, 1177 of 2020
and W.P.Nos.16681 & 16683 of 2020

JP (CO)
GN(07/06/2021)