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W.P.(MD) No.14031 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.02.2021

Pronounced on : 15.03.2021

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.14031 of 2020

and

W.M.P.(MD) Nos.11692, 11689 and 11694 of 2020

Thiagarajar College of Engineering,
Rep. by Registrar (Academics),
Madurai - 625 015.

... Petitioner

-vs-

1. The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai - 600 009.

2. The Registrar,
Council of Architecture,
India Habitat Centre,
Core 6A 1st Floor,
Lodhi Road,
New Delhi - 110 003.

3. The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records comprised in Ref: CA/5/Academic-TN11-PG dated 14.08.2020 on file of the second respondent and quash the same as arbitrary and illegal and consequently direct the second respondent to consider the petitioner's representations via email dated 17.08.2020, 19.09.2020 and 26.09.2020 and refix the intake for the petitioner college for its M.Arch. Course for 2020-2021 at 20 students.

For Petitioner : Mr.Raghuvaran Gopalan

For Respondent 1 : Mr.R.Murugan
Additional Government Pleader



For Respondent 2 : Mr.A.Sheik Peer

For Respondent 3 : Mr.K.Govindarajan
Standing Counsel

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ORDER

The facts and circumstances necessitating the filing of this Writ Petition are briefly stated hereunder:

1.1.The petitioner is one of the oldest private engineering colleges in the State of Tamil Nadu and was established in 1957. It was originally founded by a philanthropist and industrialist Late Shri. Karumuttu Thiagarajan Chettiar. The college has been funded by both the Central and State Government and also by the management of the college. In 1987, the college was granted autonomous status and is affiliated with the third respondent university. According to the petitioner, it offers 9 under-graduate programmes, 10 post-graduate programmes and besides doctoral programmes in Engineering, Science and Architecture. The college is a reputed institution in the field of higher education and known for its excellence particularly providing quality education in the field of engineering and science academic courses at both under-graduate and post-graduate levels.

1.2.In the Academic Year 2018-2019, the petitioner college started Master of Architecture course. The second respondent, namely, Council of Architecture, is a Central body akin to enjoying the position as that of All India Council of Technical Education (AICTE) in respect of regulating Architecture courses in the country. The course of Architecture being a highly specialized programme, the second respondent is the approving authority, functioning under the legislative guidance of the Architects Act, 1972. The Act 1972 provides various regulations for professional practice of Architecture and also conduct of Architectural Education.

1.3.The second respondent Council, being the regulatory body, has granted approval for commencing M.Arch. course in the petitioner college with a sanctioned intake of 20 students from the academic year 2018-2019. The application of the petitioner college seeking recognition and approval was scrutinized and verified with reference to Council of Architecture (Minimum Standards of Architectural Education for Post-graduate Programme) Guidelines, 2006 (hereinafter referred to as 2006 Guidelines). According to the guidelines that the faculty strength has been defined and prescribed in regard to the conduct of the post-graduate courses in Architecture. As the college fulfilled the criteria of availability of the faculty strength, the approval was granted for conduct of the Post-graduate Courses in Architecture for the Academic Year 2018-2019.

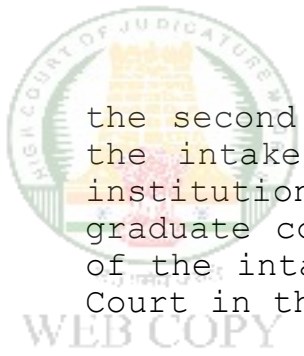


1.4. In terms of the approval by the second respondent, the college commenced the post-graduate programme in Architecture and successfully conducted the courses in its last two Academic Year namely 2018-2019 and 2019-2020. As far as the Academic Year 2020-2021, the petitioner college submitted its application to the second respondent for approval with details of the teaching faculty available on the strength of the department of Architecture consisting of 11 Professor/Associate Professor/Assistant Professor, etc. both full-time and visiting members. The break-up of the Teaching Faculty had also been submitted to the second respondent. The application was submitted before the second respondent on 24.01.2020 along with relevant documents and scrutiny fees. According to the petitioner college, the faculty and the cadre strength shown for this year was higher than it was in the previous years and the teacher-student ratio was also higher than the norms prescribed by the second respondent Council.

1.5. While so, the second respondent issued a show-cause notice dated 03.08.2020 calling upon the college to explain as to why the intake of the post-graduate students should not be reduced from 20 to 10 on the ground that "there is major cadre wise core faculty deficit (1 professor and 1 associate professor). According to the petitioner, the sudden prescription of a different norms which was not prescribed in the earlier years had taken them by surprise and the college was at a loss to understand how the Council could specify any additional norms in exercise of the power vested in it under Section 45 of the Architect Act, 1972. According to the petitioner college, the norms prescribed for faculty strength i.e., one Professor, 2 Associate Professor and 2 Assistant Professor (1:2:2) is a deviation from the 2006 guidelines which prescribed only 1:2:2, namely, one Professor, 2 Assistant professor and two Research scholars. The case of the petitioner college was that though the college had fulfilled the requirements of the norms in terms of the guidelines 2006, there was no legitimate reason for issuing the present impugned show cause notice by the second respondent on 03.08.2020.

1.6. On receipt of the show cause notice, the college has submitted a detailed reply on 06.08.2020. In the reply, the college however has clarified to the Council that the college has been maintaining the proper cadre strength of faculty as per the latest norms having two Professors, two Associate Professor and two Research scholars a total of 11 member of the faculty and a proof in support of the statement has also been enclosed along with the reply. After submitting the reply, the college has requested for grant of necessary approval for the academic year 2020-2021 with the intake of 20 students.

1.7. In response to the reply of the college dated 06.08.2020 <https://hcservices.rajasthan.gov.in/hcservices> the college has sought the forbearance of the show-cause notice dated 03.08.2020,



the second respondent passed the proceedings on 14.08.2020 reducing the intake of the college from 20 to 10 on the ground that "the institution must appoint and maintain cadre wise faculty for post-graduate courses as per Council's norms. Challenging the reduction of the intake of post-graduate students, the college is before this Court in this Writ Petition.

2.Mr.Raghuvaran Gopalan, learned Counsel appearing for the petitioner at the outset submitted that the impugned action of the second respondent cannot be countenanced both in law and on facts for more than one reason. He would draw the attention of this Court to the guidelines issued under the Architects Act, 1972 in 2006, namely, Minimum Standards of the Architectural Education Guidelines for Post-Graduate Programme. According to the guideline No.8, that the institution offering post-graduate programmes shall have a minimum core faculty consisting of 1 Professor, 1 Assistant Professor and 2 Lecturers or Research Associates and the post-graduate programme shall have a faculty student ratio of 1:5 and the institution can also have 50% of its teachers from visiting faculty. According to the learned Counsel that these norms have been fully complied with and fulfilled. Therefore, the college is at a loss to understand as to how the second respondent could change their norms suddenly for the present academic year 2020-2021 when the fact of the matter was that for the earlier two academic years 2018-2019 and 2019-2020 with the very same faculty strength, approval was granted by the second respondent.

3.The learned Counsel further submitted that notwithstanding the legal lacunae in the change of norms against the statutory provision of Architects Act, 1972 even the present norms prescribed by the second respondent has been fulfilled, as the petitioner college has clearly explained in the reply dated 06.08.2020 showing the faculty details by enclosing a statement of availability of faculty members along with each faculty's position and connected details. The learned Counsel drawn the attention of this Court to the impugned order of the second respondent dated 14.08.2020 wherein the second respondent has not at all referred to the detailed reply with supportive materials submitted by the petitioner college. According to the Counsel, the order dated 14.08.2020 *per se* does not disclose any proper application of mind on the part of the second respondent in regard to the reply submitted by the petitioner college, but strangely the Council had withdrawn the intake of 10 students from the total strength of 20 students for the present academic year, without assigning any reason. The order does not disclose semblance of reason for the impugned reduction of student strength and therefore, he submitted that the order is *ex facie* illegal and liable to be interfered with.

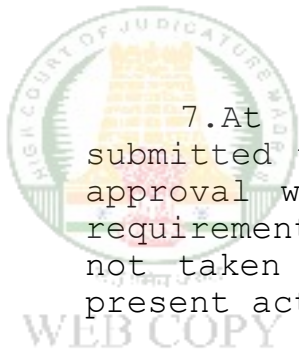
4.Notice was ordered in the Writ Petition and Mr.R.Murugan, learned Additional Government Pleader appeared for the first respondent. Mrs.A.Sheik Peer, learned Counsel for the second



respondent and Mr.K.Govindarajan, learned Standing Counsel for the third respondent.

5.In response to the Writ Petition, the contesting respondent, namely, the second respondent has filed a detailed counter affidavit. The matter was taken up for hearing on a couple of occasions and during the course of the arguments, it was submitted on behalf of the second respondent that the college suffered from lack of one core faculty, namely, 1 Professor and that was the reason for the withdrawal of intake of 10 students for the present academic year 2020-2021. According to the learned Counsel Mr.Sheik Peer appearing for the second respondent, the second respondent being a regulatory body is under an obligation to maintain proper standards and merit in respect of Architectural education and in that context, in the absence of a separate full-time Professor, proper Teacher-student ratio cannot be maintained by the college with full intake of 20 students. Therefore, the second respondent decided to withdraw 10 students from total intake of 20 students for the present academic year. According to the learned Counsel in the counter affidavit filed on behalf of the Council the objections of the second respondent has been detailed. The substance of the objection for withdrawal of the intake of 10 students for this Academic Year 2020-2021 is the absence of one full time Professor as part of the teaching faculty in Architecture in the petitioner college.

6.At this, the learned Counsel Mr.Raghuvaran Gopalan, appearing for the petitioner submitted that the Head of the Architectural Department herself is a full time Professor of the college and for some unknown reason, the second respondent Council has described her as a Principal of the College and was not willing to accept her as a Professor with reference to the ratio norms prescribed in the Guidelines 2006. The learned Counsel would emphasise the fact that the Department of Architecture is a part of the Thiagarajar College of Engineering which has so many other disciplines. Therefore, considering the Head of Department as a Principal or as any Head of the Department (HoD) is palpably incorrect and unsustainable. In the Architectural Department, one Ms.Dr.Jinu Louishidha Kitchley has been a full time Professor of the college as HoD and in fact, in the earlier years, she was shown to be the full time professor of the faculty and the Council indeed had given approval for last two academic years 2018-2019 and 2019-2020. Therefore, the college is unable to understand as to why there is a change of stance in respect of present academic year alone on this aspect. He also submitted that in a small department having 20 students on its roll, there cannot be any administrative burden on the Head of the Department for her to relinquish her teaching obligation completely. Therefore, the learned Counsel submitted that there appears to be no strong, valid or acceptable reason for withdrawal of intake of 10 students by the second respondent under the impugned order.



7.At this, the learned Counsel for the second respondent submitted that in respect of the earlier two years only conditional approval was granted directing the institution to comply with the requirement of full core faculty in future, since the college has not taken any steps to comply with the conditional approval, the present action became necessary.

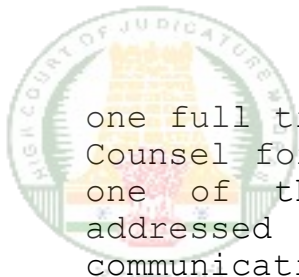
8.Mr.Raghuvaran Gopalan, learned Counsel for the petitioner finally submitted that notwithstanding the impugned order dated 14.08.2020, the college has appointed one more Professor in addition to the existing Professor and thereafter, representations were submitted on 17.08.2020, 19.09.2020 and 26.09.2020 seeking approval for the academic year 2020-2021 but none of the representation has evoked any response till the date of filing of the Writ Petition. According to the learned Counsel as on date the college has fulfilled more than the norms prescribed by the second respondent and therefore, the college ought to be permitted to have an intake of full sanctioned strength of 20 students by setting aside the impugned action of the second respondent.

9.The learned Counsels for the first and third respondents have made their respective submissions, as being formal parties.

10.Heard the learned Counsel for the petitioner Mr.Raghuvaran Gopalan and Mr.A.Sheik Peer for the contesting second respondent and also the other Counsels for the respective parties.

11.This Court in consideration of the submissions of the contesting parties, finds the scope of dispute in this Writ Petition is on a thin line as the bone of contention between the petitioner and the second respondent is whether the department suffered from lack of core faculty, namely, one full time Professor, disentitling the college from continuing the post-graduate Architecture programme for the present academic year 2020-2021 with full intake of 20 students or whether the second respondent is right in withdrawing the intake of 10 students in the face of full compliance of the college with reference to the norms prescribed in 2006 Guidelines or with reference to the present norms prescribed by the second respondent or not?

12.From the elaborate submissions made by the contesting parties, the kernel of the issue that seeks critical attention of this court is whether the petitioner college can be said to have a one full time professor in terms of the present prescription of the second respondent Council. It is not in dispute that the Head of the Department, namely, Ms.Dr.Jinu Louishidha Kitchley is a full time Professor but has been designated as a Head of the Department. The architectural department is one of the disciplines of the petitioner college and therefore, if there is any mistake in a description of the HoD as Principal, such incorrect designation of a faculty may not divest the college of



one full time Professor on its roll factually. In fact, the learned Counsel for the petitioner has drawn the attention of this Court to one of the official communications of the petitioner college addressed to the second respondent wherein she has signed the communication as the Head of the Architectural Department. Nonetheless she being the Head of the Department cannot qualify to be counted as a full time Professor is what the objection of the second respondent in terms of the 2006 Guidelines. In fact, the learned Counsel for the second respondent would rely on Appendix B2 of the Guidelines the relevant portions of it read as under:

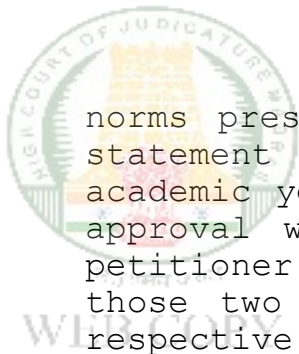
"The post graduate department/institution of Architecture shall take necessary steps to have full time faculty (subject specific) comprising of 1 professor, 2 assistant Professor and 2 lecturers or research associates for an intake of 20 students for introduction of a 2 year full time post graduate course (for each course).

Principal/HOD and Professor, Assistant Professor/Readers and Lecturers and/or Research Associates shall be in the ratio of 1:2:2.

The post graduate department/institution shall have visiting faculty (subject specific) not covered by the full time faculty. It is as advisable that a minimum of 25% and a maximum of 50% of teaching load should be allocated to the visiting faculty."

13. According to the second respondent, the Principal/Head of the Department is not to be included in the ratio 1:2:2 and therefore, the claim of the institution that their Head of the Department being a qualified Professor and hence, fulfilled the norms of entitling the college to have a full intake of 20 students is unacceptable. The second respondent in the circumstances has rightly taken the impugned action for withdrawing the intake of 10 students from the present academic year. Although the submission of the second respondent may appear to be having some substance if the relevant clause is strictly and rigidly interpreted on a pedantic context. However, the fact of the matter is that when an Head of the Department happened to be a Professor herself and has been engaged in teaching the students and that she has been shown as a Professor all along even in the earlier applications seeking approval for the last two academic years viz., 2018-2019, 2019-2020 and the approval being granted without demur, this Court is unable to comprehend or appreciate as to why this year alone the second respondent has adopted a preposterous stand in not accepting the Head of the Department as a full time Professor for the purpose of allowing the college to continue with their post-graduate course, with full sanctioned strength of 20 students?

14. In regard to the above, arguments have been placed that for the earlier two academic years only conditional approval was granted by referring to the earlier approval granted wherein a general



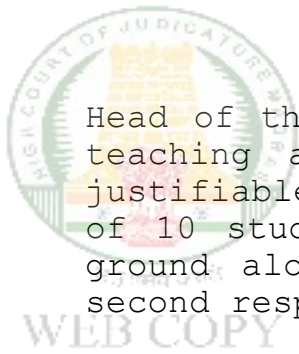
norms prescribed by the Council at all times. That such general statement as contained in the letters of approval granted for the academic year 2018-2019, 2019-2020 cannot be taken to mean that the approval was conditional. In fact, the learned Counsel for the petitioner referred to two communications granting approval for those two academic years dated 27.06.2018 and 29.05.2019 for the respective years, wherein the approval order had been issued providing general conditions, and not related to this institution specifically. Therefore, this Court finds substance in the submission of the learned Counsel for the petitioner in this regard.

15. In the said circumstances, the objections that the earlier approval for the two academic years was granted on a conditional basis is not borne out by any specific materials, as this Court finds that the general conditions which have been incorporated in such orders have been part of such official communications to be issued by the second respondent as a matter of routine. In any event, notwithstanding the said submission, this Court is of the view, today the institution has more number of faculty members both full time and visiting Professors than the norms prescribed by the second respondent which has been factually demonstrated by the petitioner college before this Court. This factual position has not been specifically disputed by the second respondent in its counter affidavit on in the course of verbal submissions.

16. This Court in fact would refer to a specific averment contained in the counter affidavit filed on behalf of the second respondent which read as under:

"It is further submitted that Professor is required for teaching even a student strength of 10 but the Council in its wisdom decided to reduce intake by 10 (instead of not granting approval) in order to ensure that the institution appoints the requisite faculty to impart the course. The objective of the Council is to encourage institutions to impart post-graduate courses in the country and not to close."

17. No doubt, the second respondent Council has expressed its positive intention of encouraging institution imparting post-graduate courses in Architecture in the county and in that consideration, instead of withdrawing the approval, the Council has only reduced intake by 10 students, nevertheless what held to be good for 10 students may also to be held good for 20 students, as well. Reverting to the deficit faculty issue, this Court is also unable to countenance the objection of the second respondent in the face of a Head of the Department being the Professor of the faculty. The interpretation of the particular clause as extracted supra in a fastidious fashion by the second respondent is completely bereft of pragmatic consideration and in the opinion of this Court, such rigid construction and interpretation of the clause does not really advance the object for which the clause is intended to serve. On

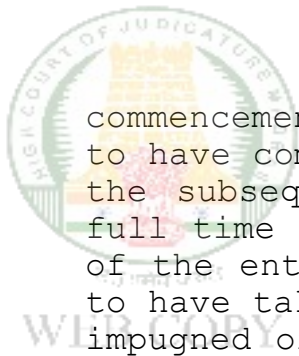


Head of the Department is a Professor herself and being engaged in teaching as part of the faculty, this Court does not see any justifiable reason for the second respondent to withdraw the intake of 10 students rather brusquely for this academic year. On this ground alone, this Court is of the view that the action of the second respondent is liable to be interfered with.

18. That apart, the manner in which the impugned order was passed on 14.08.2020 raises more questions than answers. From the contents of the order, as rightly contended by the learned Counsel for the petitioner, do not reflect any application of mind on the part of the second respondent. The reply of the college dated 06.08.2020 to the show-cause notice dated 03.08.2020 appeared to have been completely ignored and overlooked by the second respondent. In complete absence of any reference to the reply and the supportive materials submitted by the petitioner college the impugned order has rendered itself incapable of legally sustaining itself.

19. It is needless to emphasize that when a decision adverse to the interest of the petitioner institution has been taken, notwithstanding the detailed reply by the college to the show-cause notice, the rudimentary principle of fairness is expected to be complied with by the regulatory authority in addressing the explanation of the college on its merits before a final order is passed. Unfortunately, the impugned order of the second respondent dated 14.08.2020 not only suffer from non-application of mind but also suffer from colourable exercise of power. The order is laconic both in form and substance which cannot be countenanced both in law and on facts.

20. Be that as it may, as it subsequently transpired the petitioner college has been making representations in August and September, 2020 contending that the institution has now appointed one additional Professor one Ms. I. Chandramathy in Architecture and therefore, sought approval for the full intake of students for the Academic Year 2020-2021, as due to COVID-19 situation, the academic calendar commenced belatedly only in January, 2021. Unfortunately, none of the representations has evoked any response from the second respondent. According to the counter affidavit, the representations could not be considered for the simple reason that the petitioner college was expected to conform to the minimum standards of architectural education prescribed by the Council at all times and at the time of seeking approval, minimum standard/norm had not been adhered to, therefore, the subsequent development if any would not give the college a right of re-consideration in its favour. Such callous and inflexible stand of the Council is uncalled for in the facts and circumstances of the case. More particularly, this Court is unable to appreciate the needless perfunctory disposition of the second respondent during the crisis period, when the academic calendar had to be shifted to long after the usual



commencement of the academic year and by then the college appeared to have complied with the requirement in full. In the circumstances, the subsequent action of the college in appointing an independent full time Professor can be a legitimate reason for re-consideration of the entire issue, as the appointment of the Professor is stated to have taken place in August, 2020 itself close on the heels of the impugned order dated 14.08.2020. In any event, when an institution has been continuing with full intake of students and rectified the so-called deficiencies pointed out by the second respondent, this Court is unable to see any justifiable reason for the second respondent to refuse to re-consider the issue and such unreasonable stand of the second respondent is not in tune with the statement made by the second respondent itself in its counter affidavit which statement is extracted supra.

21.This Court is however conscious of the fact that in academic matters, the decisions of the competent authority, like the second respondent, cannot be a subject matter of interference as a matter of course. Such matters normally fall outside the pale of a judicial review of this Court for the simple reason that this Court is not endowed or equipped with any superior knowledge for making foray into the academic administration. Nonetheless, when this Court finds that the action of the competent authority is afflicted with explicit arbitrariness, irrationality coupled with unreasonableness, this Court certainly cannot divest itself of its constitutional responsibility holding that its jurisdictional reach is limited concerning the affairs of the educational institutions and the regulatory bodies which control the institutions. In that view of the matter, this Court is fully convinced that the petitioner college in terms of the 2006 Guidelines, has been maintaining the faculty strength, and besides the impugned objection of the second respondent Council as to the so-called deficiency pointed out has also since been rectified, the impugned action necessarily call for intervention of this Court.

22.Although this Court may not set aside an impugned order normally on the basis of the subsequent development but this Court has referred to the same only with a view to emphasise a legitimate requirement of re-consideration of the entire issue by the second respondent Council on the basis of the request of the college made through their representations which are part of the typed set of documents filed in support of the Writ Petition. Such requirement becomes justifiably imperative in today's turbulent context, forcing the commencement of the academic calender 2020-2021 from last year to this January, 2021.

23.In the conspectus of the above judicial discourse, this Court has to conclude that the subsequent development of rectifying the deficiencies by the college would be a relevant factor for the second respondent to consider the extension of approval for the



2020-2021 is concerned, the withdrawal of 10 students from the petitioner institution cannot be either countenanced in law or on facts and the objections for withdrawal of intake appears to be on a shallow and peripheral consideration of the 2006 Guidelines by emphasizing too much on the letter of the Guideline than on the spirit of the object behind such requirement. Even otherwise, this Court is persuaded to hold that the petitioner college has in effect fulfilled the norms that have been prescribed by the second respondent as on date from the materials made available by the college. The conclusion of this Court on this factual aspect is fortified and strengthened in the absence of any serious dispute from the second respondent Council. In the cumulative consideration, this Court ultimately is of the view that there was no compelling and justifiable reason for the second respondent Council to withdraw the intake of 10 students for this academic year alone from the petitioner college thereby causing dislocation in the conduct of post-graduate programme in the Department of Architecture.

24. For all the above stated reasons, this Writ Petition is allowed and the impugned order of the second respondent passed in Ref: CA/5/Academic-TN11-PG dated 14.08.2020 is hereby set aside and consequently the second respondent is directed to grant approval for full intake of 20 students for the academic year 2020-2021 in respect of the post-graduate Architectural course in the petitioner college and such order to be passed within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To
1. The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai - 600 009.

2. The Registrar,
Council of Architecture,
India Habitat Centre,
Core 6A 1st Floor,
Lodhi Road,
New Delhi - 110 003.

3. The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

+1 CC to M/s.A.SHEIKPEER, Advocate (SR-11034[F] dated 15/03/2021)

+1 CC to M/s.K.PRABHAKAR, Advocate (SR-11147[F] dated 15/03/2021)

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-11418[F] dated 16/03/2021)

+1 CC to M/s.SPL GP (SR-11514[F] dated 16/03/2021)

**Order made in
W.P. (MD) No.14031 of 2020
15.03.2021**

GS(20.04.2021) 12P 9C