



W.P(MD)Nos.16948 & 20451 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 31.07.2024

Pronounced on : 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.16948 & 20451 of 2023

and

W.M.P.(MD)Nos.14170, 14171, 14172 , 16887 & 16889 of 2023

The American College (Autonomous)
Rep. by its Principal (in charge) & Secretary
Alagar Koil Road, Tallakulam,
Madurai.

... Petitioner in both W.Ps.

Vs.

1. Director (Regulation Bureau)
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj,
New Delhi-110070.

2. The Commissioner,
Directorate of Technical Education,
53, Sardar Patel Road, Guindy,
Chennai.

3. The Madurai Kamarajar University,
Rep. by its Registrar,
Palkalai Nagar,
Madurai.

... Respondents in both W.Ps.

Prayer in W.P.(MD)No.16948 of 2023 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified



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Mandamus, to call for records relating to the impugned order by the 1st respondent vide his proceedings in F. No.AICTE/AB/SR/PID 1-522890691 dated 28.06.2023 and quash the same as illegal and consequently, to direct the 1st respondent to allow the petitioner to admit students with the strength of 60 in MBA course within the period that may be stipulated by this Court.

Prayer in W.P.(MD)No.20451 of 2023 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records relating to the impugned order by the 1st respondent vide his proceedings in F.No.AICTE/AB/SR/PID 1-522890691 dated 17.08.2023 and quash the same as illegal and consequently, to direct the 1st respondent to allow the petitioner to admit students with the strength of 60 in MBA course within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.N.Dilipkumar
Standing Counsel for R1

: Mr.M.Sarangan
Additional Government Pleader for R2

(in both W.Ps) : Mr.T.Sakthikumaran for R3

COMMON ORDER

The petitioner is an autonomous minority educational institution. It was founded in the year 1881. The petitioner is offering graduate, post graduate and



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research courses under aided and self financing streams. The petitioner started MBA (post graduate degree course) in the year 1985. It is a two years integrated course. Madurai Kamaraj University recognized the same. AICTE also granted their approval vide proceedings dated 05.06.1995 with permitted students intake of 60. Extension of approval was also periodically given. Certain deficiencies were noted by AICTE during the academic year 2007-08 and the intake was reduced from 60 to 30 vide order dated 26.04.2007. Questioning the same, the petitioner filed W.P.(MD)No.3854 of 2007. Though interim order was initially granted, the writ petition came to be dismissed on 25.08.2010. It is submitted by AICTE that this order has become final. In the meanwhile, the petitioner filed W.P.(MD)No.5403 of 2008 for forbearing AICTE from reducing the intake from 60 to 30. The writ petition was also dismissed on 03.04.2013 and it is submitted that this order has also become final. But the petitioner college projected to the students' community that their intake for MBA course is 60. Hence, on 29.05.2013, AICTE issued show cause notice. Challenging the same, the petitioner filed W.P.(MD)No.15548 of 2013. Though interim stay was granted on 19.09.2013, the writ petition was dismissed on 15.09.2022. Challenging the same, the petitioner filed W.A. (MD)No.1436 of 2022. It is submitted by AICTE and not disputed by the petitioner that no interim stay has been granted in the writ appeal by the



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Hon'ble Division Bench. The petitioner proceeded on the premise that they are entitled to admit 60 students for the academic year 2023-24. On 02.06.2023, AICTE conducted an inspection through the Expert Visit Committee and pointed out certain deficiencies. The petitioner was called upon to appear before the Standing Hearing Committee on 10.06.2023. On 20.06.2023, the Standing Appellate Committee conducted an online hearing and it did not recommend for admission for the academic year 2023-24. To this effect, order was passed on 28.06.2023. Challenging the same, the petitioner filed W.P. (MD)No.16948 of 2023. On 24.07.2023, the following interim direction was passed.

“The petitioner college is running an MBA course from the year 1998 and has applied for extension of approval on 28.03.2023. However, the same was rejected by the first respondent stating that there are so many deficiencies in the college and thereafter, the petitioner college was categorized as non-admission category. Aggrieved over the same, the present writ petition has been filed.

2. During the course of hearing, the learned counsel appearing for the petitioner submits that the petitioner college has complied with all the deficiencies as pointed out by the first respondent and submitted a detailed report to the first respondent. The first respondent has to conduct a physical Expert Visit and to decide as to whether the deficiencies pointed out by them have been complied with or not?

3. Considering the stand taken by the learned counsel appearing for the petitioner college that the petitioner college has complied with all the deficiencies pointed out by the first respondent and has also submitted a detailed report to that effect, the first respondent is directed to ensure the



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physical Expert Visit Committee and visit the petitioner college within a period of two weeks from the date of payment of Rs.2,20,000/- as required under the Approval Process Handbook 2023-2024 and to file report on the compliance of the petitioner College on the deficiencies pointed out earlier.

4. On completion of inspection by the Expert Committee, the learned counsels are at liberty to mention before this Court for listing the present writ petition.”

As per the said direction, the Expert Visiting Committee conducted physical inspection on 07.08.2023. On 17.08.2023, the Standing Appellate Committee examined the matter and order dated 17.08.2023 was passed imposing the following penalties:-

- “a. suspension of approval of NRI and supernumerary seats, if any, for one Academic Year-clause 8.7(a)
- b. Five times the total fee collected per student shall be levied against each excess admission as fine-clause 8.8(a)”

This order is questioned in W.P.(MD)No.20451 of 2023.

2. The learned senior counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He contended that the petitioner was neither put on notice nor afforded an opportunity of being heard before issuing the impugned order. According to him, there is a grave violation of the principles of natural justice. It is also submitted that the report of the Expert Visiting Committee was not furnished



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despite specific request to that effect. He argued that the college is an ancient institution and catering to the needs of the students. The new campus that has been set up should be construed only as extension of the main building. Though certain deficiencies were pointed out by the scrutiny committee of AICTE on 03.03.2012, the petitioner duly rectified the same and submitted compliance report. The compliance report has not been rejected till date. Therefore, approval for change of site should be deemed to have been granted. In any event, it is only a technical issue which does not go to the root of the matter. The learned counsel relied on the decision reported in **2022 SCC Online Mad 4595 (Chairman Rajaas Engineering College Vs. All India Council for Technical Education represented by its Advisor)** in support of his contention. He called upon this Court to set aside the impugned order and grant relief as prayed for.

3. The respondents have filed a common counter affidavit and the learned standing counsel took me through its contents. He relied on the decision reported in **(2019) 7 SCC 168 (Foundation For Organizational Research and Educational (FORE) School of Management through its Director Vs. All India Council for Technical Education through the Member Secretary)** and **(2019) 14SCC 761 (Sarvepalli Radha Krishnan University Vs. Union of**



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India) in support of his contention that in matters relating to breach of the procedure laid down by AICTE, courts ought to adopt a strict approach. He called upon this Court to dismiss these writ petitions.

4. I carefully considered the rival contentions and went through the materials on record.

5. One aspect is too obvious. The petitioner college was originally permitted to admit 60 students. But this was reduced to 30 vide proceedings dated 26.04.2007. Challenging the order for reducing the students intake, the petitioner filed these two writ petitions namely W.P.(MD)No.3854 of 2007 and W.P.(MD)No.5403 of 2008. Both the writ petitions were dismissed. The college did not file any writ appeals challenging the same. One can safely conclude that the orders had become final. Yet, the college had been admitting the students in excess of 30 even till 22.08.2023. This was clearly without the approval of AICTE. It is true that in W.P.(MD)No.3854 of 2007, an interim order was originally granted. But the writ petition eventually suffered dismissal. No amount of explanation on the part of the petitioner can whitewash this fundamental breach of AICTE regulation. Secondly, the college had not obtained change of site approval.



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6. The learned standing counsel for AICTE asserted that the planning approval has not been obtained till date for the new site. As per the Approval Process Handbook 2023-24, such approval is required. As per clause 8.9 of the Approval Process Handbook 2023-24, for Non- Fulfilment of location / Built-up Area / as specified in the Approval Process Handbook at the time of year of establishment or the current Academic Year, penalty is suspension of approval for NRI and supernumerary seats, if any, for one Academic Year. Clause 8.10 reads that excess admission over the “Approved Intake” shall not be allowed under any circumstances. In case of any excess admission, penal action shall be taken. The Institution shall be liable to suffer penalties such as five times the total fee collected per student as fine, suspension of approval for NRI and supernumerary seats, if any, for one Academic Year & no admission in one / more courses for one Academic Year etc. Such penalties will have to follow as a matter of consequence. The petitioner cannot deny that even though the intake was reduced from 60 to 30, they had continued to admit students beyond the permitted intake for several years. The deficiencies pointed out have not been rectified. Approval for change of site has not been obtained. As rightly pointed out by the learned standing counsel for AICTE, the impugned order is strictly in consonance with what has been laid down in AICTE, Approval



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Process Handbook 20023-24. I do not find any ground to interfere. Both the

Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

15.10.2024

Index : Yes / No
Internet : Yes/ No
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To

The Commissioner,
Directorate of Technical Education,
53, Sardar Patel Road, Guindy,
Chennai.



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G.R.SWAMINATHAN, J.

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