

(2016) 01 DEL CK 0400

In the Delhi High Court

Case No : Letters Patent Appeal No. 540 Of 2015

ACN College Of Pharmacy

APPELLANT

Vs

All India Council For Technical Education

RESPONDENT

Date of Decision : 07-01-2016

Acts Referred:

Citation : (2016) 01 DEL CK 0400

Hon'ble Judges : G. Rohini, CJ; Jayant Nath, J

Bench : Division Bench

Advocate : Kirti Uppal, Chandrashekhar, Siddharth Chopra, Anil Soni, Naginder Benipal

Final Decision : Dismissed

Judgement

G. Rohini, CJ

1. The unsuccessful petitioner in W.P.(C) No.6138 of 2015 is the appellant before us.
2. The said writ petition which was filed assailing the order of All India Council for Technical Education (AICTE) dated 29.05.2015 rejecting the application of the writ petitioner/appellant herein for grant of Letter of Approval for establishing an Institute of Pharmacy for the Academic Year 2015-16 was dismissed by the learned Single Judge by order dated 17.07.2015 along with W.P.(C) No.5943/2015 filed by Institute of International Excellence against an identical rejection order passed by AICTE.
3. We have heard the learned counsel for both the parties.
4. The application of the writ petitioner/appellant herein for grant of Letter of Approval for establishing the Institute of Pharmacy was initially rejected by AICTE by order dated 30.04.2015. Being aggrieved by the same, the appellant here filed W.P.(C) No.4884/2015 and the same was disposed of by this Court by order dated 18.5.2015 remanding the matter to the Standing Appellate

Committee (SAC) of AICTE. There was a direction that the SAC, on being satisfied with the explanation offered by the appellant regarding the deficiencies pointed out by AICTE, its application for establishing the institute would be accepted and in case the SAC is not satisfied with the plan, it shall pass a speaking order providing the reasons for rejection of application. Pursuant to the directions of this Court in WP No 4884/2015 the SAC considered the matter in its meeting held on 21.05.2015 and accepted the documents submitted by the appellant regarding the requirement of two acres of land for establishment of the proposed college. However, SAC did not recommend for grant of Letter of Approval for the Academic Year 2015-16 since the last date for grant of approval as per the time schedule fixed by the Supreme Court of India had expired on 30.04.2015. Based on the said recommendation, AICTE by order dated 29.05.2015 rejected the appellant's request for grant of approval. Aggrieved by the said order dated 29.05.2015, the appellant filed W.P.(C) No.6138/2015. The learned Single Judge dismissed the writ petition by the order under appeal holding that though it was found by SAC of AICTE that there is no deficiencies in the petitioner's application, directing the AICTE to grant approval would upset the entire admission process already underway. The learned Single Judge had also taken into consideration the fact that the appellant did not possess the affiliation by the University. The said order is assailed before us in the present appeal.

5. In *Parshvanath Charitable Trust vs. AICTE*, (2013) 3 SCC 385 the Supreme Court prescribed the time schedule and directed that the same shall be strictly adhered to by all concerned and none of the authorities shall have the power or jurisdiction to vary the dates of admission. Admittedly, the last date for grant of approval by AICTE has expired long back on 30.04.2015 and, therefore, the learned Single Judge has rightly declined to interfere despite the finding of SAC that there was no deficiency in the application of Appellant. We, therefore, do not find any justifiable reason to hold that the order under appeal suffered from any error warranting interference in an intra Court appeal.

6. However, it is submitted by Sh. Kirti Uppal, the learned Senior Counsel appearing for the appellant that having regard to the fact that the appellant has fulfilled the criteria for grant of Letter of Approval, AICTE should have granted Letter of Approval for the next Academic Year 2016-17. The learned Senior Counsel would submit that though the last date for grant of approval for the Academic Year 2015-16 had expired, having found that there was no deficiency in the application of the petitioner/appellant, AICTE could have granted approval at least for the next Academic Year.

7. Evidently, the Supreme Court in *Parshvanath Charitable Trust* (supra) has not only prescribed the time schedule for approval and admissions but has also reiterated the settled principle of law that the right to establish an educational institution does not carry with it the right to recognition or the right to affiliation.

8. The law is also well settled that grant of recognition is neither a matter of

course nor is it a formality. The conditions of recognition and duly notified directions controlling the admission process are to be construed and applied *stricto sensu*. Therefore, though it is open to the appellant to place reliance upon the findings of SAC of AICTE while making a fresh application for the Academic Year 2016-17, in our considered opinion, no *Mandamus* can be issued by this Court for grant of approval for the Academic Year 2016-17 on the basis of the application made by appellant for the Academic Year 2015-16.

9. The reliance placed by the learned counsel for the appellant upon the concluding paragraph of the judgment in *Parshvanath Charitable Trust (supra)* is misplaced and according to us, the directions therein in no manner support the contention of the learned counsel for the appellant that AICTE ought to have granted the permission for the next Academic Year.

10. It may also be added that the Institute of International Excellence, i.e. the petitioner in W.P.(C) No.5943/2015, which was also dismissed by the order under appeal, carried the matter to the Supreme Court by preferring Special Leave Petition No.20970/2015 and the same was dismissed by order dated 28.07.2015 observing that the same will not debar the petitioner therein from seeking approval or affiliation for the next academic session.

11. Viewed from any angle, this appeal is devoid of any merit and the same is accordingly dismissed.