
(2005) 08 DEL CK 0011

In the Delhi High Court

Case No : Writ Petition (C) 4600 of 2005 and CM 3299 of 2005

Aditya Institute of Technology

APPELLANT

Vs

All India Council for Technical Education and Another

RESPONDENT

Date of Decision : 24-08-2005

Acts Referred:

Citation : (2005) 84 DRJ 319

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Aseem Mehrotra, for the Appellant; S.P. Arora and V.K. Tandon, for the Respondent

Judgement

Vikramajit Sen, J.—In this writ petition, it is prayed that an appropriate writ, direction or order may issue quashing the letter dated 18.2.2005 issued by the All India Council for Technical Education (AICTE in short) and further that an appropriate writ, direction or order be issued directing the Respondents not to refuse the extension of approval to the Petitioner-College for the academic Session 2005-06 on the ground of non-shifting of the College to its own building. In 1995, on the recommendation of the Department of Training and Technical Education (DTTE in short), the Petitioner was allowed to enroll 60 students in Computer Engineering (C.E.), Electronics and Communication Engineering (E.C.E.) and Medical Lab Technology (M.L.T.) for the academic year 1995-96. In the following year 60 students were permitted to be enrolled additionally in the course of Pharmacy. This position continued till 2000-01. In the academic year 2001-02, only 30 students were permitted to be enrolled in C.E., E.C.E. and Pharmacy to the exclusion of M.L.T. Thereafter with some minor fluctuations this position continued from year to year, despite the issuance of warnings to the Petitioner from the Respondents. The following chart will clarify the position:-

CHART SHOWING INTAKE CAPACITY OF PETITIONER

SINCE INCEPTION

Year C.E. E.C.E. M.L.T. Pharmacy 1995-96 60 60 60 - 1996-97 60 60 60 60
 1997-98 60 60 60 60 1998-99 60 60 60 60 1999-2000 60 60 60 60 2000-01 60
 60 60 60 2001-02 30 30 - 30 2002-03 40 40 30 40 2003-04 - 40 30 40 2004-05
 40 40 40 40 2005-06 40 40 40 40 * C.E.-Computer Engineering

E.C.E.-Electronics and Communication Engineering

M.L.T.-Medical Lab Technology

****Courses in Computer Engineering ; Electronics & Communication Engineering and Medical Lab Technology are three year courses whereas Pharmacy is a two year course.**

2. The impugned letter dated 18.2.2005 issued by the A.I.C.T.E. to the Respondent notifies that all technical institutions which are functioning in temporary location/site will have to either shift to its approved permanent site with proper building(s) and other facilities as per requirement before March 31st, 2005, or be closed down from the academic year 2005-06. The students admitted to such institutions may then have to be shifted to other approved Technical Institutions in consultation with the concerned State Government/UT Administration and Affiliating Body. It is this Order that has been challenged in these proceedings. The operation of this letter has been stayed by interim orders passed on 23.3.2005.

3. A perusal of the Counter Affidavit filed by A.I.C.T.E. makes it Incontrovertibly clear that the permission granted to the Petitioner in April, 1995 was accompanied with the following caveat and the condition:

"In the event of infringement/contravention or non-compliance of any of the conditions, guidelines, norms and regulations prescribed by the A.I.C.T.E. from time to time, the A.I.C.T.E. or a body or a person(s) authorised by it shall be free to take measures for withdrawal of the approval or recognition without consideration of any related issues and that liabilities arising out of such withdrawal would be solely that of the Management/Trust/Society and/or Institutions. A.I.C.T.E. may inspect the institution at any time it may deem fit to note the progress.

4. At the time of the initial approval and allocation of students the Petitioner was fully aware that if it was desirous of running Engineering & Technological Degree or Diploma Courses within the metropolis of Delhi, it mandatorily needed to acquire 5 acres of land in its own direct ownership. It was also aware that infrastructure and other facilities in terms of building, workshops, laboratories, libraries etc., would have to be constructed on the permanent site after acquiring the necessary land within a period of three years from that date. The Petitioner further had advance knowledge that the infrastructural and other facilities in terms of class rooms, tutorial rooms, drawing halls, laboratories, workshops etc. should be in a position at least for the conduct of 1st year class at the temporary location prior to the admission of the students. This system cannot be found fault

with. Any person desirous of starting a degree or diploma College cannot reasonably be expected from the very start to own 5 acres of land with a complete infrastructure already in existence since this entails a very large capital investment. A person desirous of entry into the field of education may also conceivably change its mind after its initial enthusiasm is over. For all these myriad reasons it would be unreasonable to expect such persons to own land and building at the very threshold of its application for permission to establish and administer such educational institutions but equally, these requirements should be achieved on or before the expiry of three years.

5. The fluctuation in the number of students who are permitted to be enrolled by the Petitioner, as well as the correspondence that has been exchanged between the parties, makes it amply clear that the norms for land, faculty and funds have not been complied with by the Petitioner not just on the expiry of the 3 years but regrettably till date. This position remained uncontested by the Petitioner. Yet it expects that it should be permitted to continue its teaching shop and business from year to year.

6. Learned counsel for the Petitioner, however, relies on two arguments. Firstly, that a different yardstick had been employed so far as Father Agnel's Polytechnic, Delhi and Guru Teg Bahadur Polytechnic, Delhi are concerned since these institutions are running on land which is not 5 acres in dimension. Secondly, it is contended that since 40 students have been permitted in each course it logically follows that infrastructure commensurate with the norms established by the AICTE exists for this number of students. In respect of the first argument, it is now firmly entrenched in our jurisprudence that if an error, willful or otherwise, is committed in favor of one party, such an error will not be claimable as a right by another. Learned counsel for the Petitioner relies on the decision of *Vishundas Hundumal and Others Vs. State of Madhya Pradesh and Others*, . In that case, it was found that there was a glaring discrimination committed by the State and, Therefore, the plea that it was done by inadvertently was rejected. I cannot accept Therefore that the alleged inaction against the two institutions mentioned above discloses a policy of the Government which is not being adhered to in a manner hostile to the Petitioner. Learned counsel for the Respondent states that action is underway in respect of both these institutions. There is an abundance of precedents, however, to the effect that unequal treatment given to one person will not bring a right into existence for other persons. Nothing further is required to be stated except that if the circumstances warrant, the Respondents are expected to take necessary action in respect of two institutions within a period of six months from today.

7. So far as the second argument is concerned, the Court and any other responsible Administrator cannot easily lose sight of the fact that interests of students should not be lightly jeopardized. From the Table reproduced earlier, one thing will palpably be evident. It is that the Petitioners were constantly made aware by the Respondents of the fact that the infrastructure as well as land and

building had not been arranged for in conformity with the notified criteria even after the expiry of the period of three years. If this were not so, there would have been no justification for decreasing the intake of students from year to year and in some cases removing a course altogether. The most important aspect of this case is that when permission was granted to the Petitioner in 1995 to commence its Diploma Courses and students were allocated to Petitioner, it was fully aware that it needed to acquire land ad measuring at least 5 acres and immediately construct building, workshops, laboratories etc. thereon. Even after the passage of one full decade no land has been purchased and Therefore construction of the buildings have not even started. This is perhaps one of the reasons which distinguishes the case of the Petitioner from that of Father Agnel's Polytechnic and Guru Teg Bahadur Polytechnic Institution. In this regard, learned counsel for the Petitioner has submitted that the Petitioner had applied to the DDA for allotment of 5 acres of land. The DTTE had even sponsored the request of the Petitioner albeit only to the extent of 3 acres of land. The DDA has allotted only 2 acres of land. The Petitioner has, Therefore, been running from pillar to post to have another 3 acres of land additionally allotted to it by the DDA. However, this assumes that there is an enforceable right vested in the Petitioner and any other like Associations to claim allotment to it of land acquired by the Delhi Development Authority or any other Government agency. There is no such right or corresponding obligation. The erstwhile policy of the DDA was to grant land to educational institutions at preferential and subsidized rates. This was for the reason that in bygone years, education was treated as a philanthropic activity and was pursued as a service to society. It was mainly in the hands of Trust and other Associations whose only motive and objective in following this avocation was to selflessly develop education in society and disseminate knowledge to anyone desirous of gaining it. These philanthropic bodies are fast vanishing species. Today the reality is that education provides very high returns and dividends and, Therefore, people from all walks of life have found a profitable venture. The decision of the DDA to do away with their policy of granting land on preferential rates is, Therefore, a salutary and welcome change. The question that still remains is whether there is any obligation cast upon the DDA or even the State for that matter, to provide land even at market price to Associations desirous of entering into education. I am unable to locate such a right in the Constitution or in any other statute.

8. All that was required of the Petitioner was to purchase 5 acres of land from any person/s and thereafter to construct its building etc. Thereupon it would possess the right to insist on clearance for admittance of the maximum number of students so long as it complied with the norms established by the AICTE. Woefully, nothing has been done in this direction. Even so far as 2 acres of land which has been allotted by the DDA to the Petitioner is concerned, it appears that the land has not even been purchased by the Petitioner. The reason attributed to this failure is that 2 acres is found to be insufficient to run the 4 Diploma courses presently being conducted by it. This is a clear violation of the norms for land

building and infrastructure which were within the specific knowledge of the Petitioner since the very inception, i.e., April 1995. The Petitioner is running its courses not only on rented premises which imparts a transient and makeshift character to its activities, but the area available to it presently is woefully short of prescribed standards. The interests of the student community has been repeatedly thrown to the winds and jeopardized for profit purposes. Therefore, there is no justifiable reason to perpetuate the infraction of the norms which has been carrying on from year to year for the last ten years.

9. Learned counsel for the Petitioner has attempted in vain to draw support from several letters written by it to the A.I.C.T.E. as well as letters addressed by Respondent No.2 to Respondent No.1. It is stated that these letters have not elicited the response expected of that. Learned counsel for the Respondent No.1, however, justifiably contends that the norms that had been laid down at the very commencement have not changed and, Therefore, the Petitioner was well aware of the short-comings. In my view, it is not necessary to carry on protracted and futile correspondence between the parties if there is nothing to be clarified at all. This argument on behalf of the Petitioner also does not hold any water.

10. In 2002, an undertaking has been given by the Petitioner that it will move all its operations and activities to its own land and building. That undertaking has repeatedly been violated; and contrary to the criteria to which the Petitioner owes its very existence, the Petitioner is continuing to function far below the norms set down for all teaching institutions. It has also been contended on behalf of the Petitioner that for the current academic year, 40 students have been permitted to be enrolled in each of the 4 courses. This fact cannot be held against the Respondents. During the pendency of the interim orders had it refused to permit any fresh admission, it would have been seen to have committed contempt of the spirit of the orders of this Court passed on 23.3.2005.

11. After a period of 10 years, what are the orders to be passed in cases such as these. The Diploma courses are for a period of 3 years. 120 students have already been enrolled for the academic year 2004-05. To cancel the admission already made in the current year would not be in the interest of anyone. Learned counsel for the Petitioner has contended that if the Petitioner's institution were compulsorily to shift a two 2 acre plot, the student intake may not be financially sufficient to make it a viable project. As has already been reflected, even the two acre plot allotted by the DDA has still not been purchased on the unacceptable ground that five acres should have been allocated. This cannot be ignored. By 2006, one-third of the students strength would have passed out. It would, Therefore, not be economically viable for students who were present in second year to continue for the third year in the Petitioner's institution. Continuance of the student force presently in the first year and the second year would, Therefore, become an onerous obligation on the Petitioner. Hence, these writ petitions are disposed of with a direction to the Petitioner henceforward not to admit any more students in any of its courses. Furthermore for the academic

year 2006-07, the Respondents shall take appropriate steps to ensure the admittance of the students presently enrolled by the Petitioner to any other institution.

12. If, however, the Petitioner meets the norms and requirements set down by the A.I.C.T.E. well before the commencement of the next academic year, not later than May, 2006, the Respondents should review the situation and pass necessary orders.

13. The petition is without merit and is disposed of in the above terms. Parties shall bear their respective costs.