

(2014) 08 P&H CK 0230

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12261 of 2014 (O&M)

Advanced Institute of Pharmacy

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 05-08-2014

Acts Referred:

Citation : (2014) 08 P&H CK 0230

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Jagmohan S. Ghuman and Abhimanyu Tiwari, Advocate for the Appellant; Ashok Kumar Sharma and Ramesh Hooda, Advocate for the Respondent

Final Decision : Allowed

Judgement

K. Kannan, J.—The petitioner is an institute that runs pharmaceutical college which seeks for quashing the order passed by the third respondent-Pandit Bhagwat Dayal Sharma University of Health Sciences. The two grounds set forth are: one, that the application for approval for increase in intake should have come through before 31st March of the year, while the application has come beyond that period. The second objection is that UGC had decided to have an one year moratorium for fresh colleges providing for technical education for courses and approval for increase by a circular dated 4th April 2014. The implication was that any prayer for approval during the moratorium period cannot be entertained.

2. The petitioner would point out that from the time when UGC had a control to provide for approvals for increase in intake, the power has since been found to reside with AICTE (All India Council for Technical Education) in terms of the judgment of the Supreme Court in Orissa Technical Colleges Association Versus AICTE and another rendered on 09.05.2014. This order seeks to clarify an order passed earlier on 17.04.2014. The first order states that AICTE will proceed with the approval process for the academic year 2014-15 in so far as the members of

the petitioner-Association and all colleges and institutions situated similarly to the members of the petitioner-Association (emphasis supplied) and that necessary orders will be issued by AICTE. In the clarificatory order, it has directed that prior approval of AICTE is compulsory and mandatory for conduct of technical course including the MBA/Management course by an existing affiliated Technical College and also new technical college which will require affiliation by University for the conduct of its technical courses/programmes for the academic year 2014-15. The Supreme Court had extended the time given already to 10.06.2014. These orders literally shifted primacy of approval for technical education to be wrested from the UGC to AICTE and rewrote what the Supreme Court had earlier laid down in Association of Management of Private Colleges Vs. All India Council for Technical Education and Others,

3. The petitioner's contention would be that during the relevant time in the year 2013, it was not possible to apply for approval with the UGC, in view of the professed stand taken by the UGC imposing moratorium for starting any technical course. The fact that UGC had imposed a moratorium finds reflected in the letter of UGC dated 27.05.2013 that no further affiliations shall be granted to any more affiliated colleges offering courses or programmes of professional and technical nature till UGC gave any further directions. If the petitioner could not have applied for affiliation earlier and that the power is seen as available only through an approval from AICTE in terms of the order passed by the Supreme Court in the case referred to above in Orissa Technical Colleges Association, it must only be seen whether AICTE has granted such approval for additional intake in the manner claimed by the petitioner now.

4. The petitioner would rely on the letter of communication from AICTE, dated 04.06.2014 granting approval for the academic year 2014-15 for Advanced Institute of Pharmacy at Palwal and additional intake of 60 students that is from 60 for 2013-14 to 120 for 2014-15. It is on the basis of this approval granted that the petitioner has applied for affiliation with the third respondent-University. The counsel for the University would point out that the petitioner had actually secured a NOC only from MD University as the letter of AICTE indicates and, therefore the said communication cannot be the basis for securing the affiliation with the third respondent-University.

5. I would reject this contention of the University, for, it is an obvious error of what it states. Admittedly, the petitioner-Institute is affiliated only with the third respondent-University and MD University itself is defunct. If the petitioner-Institute was seeking for its affiliation, it was doing so on the basis of the power recognized with AICTE as competent to grant approval and if there was a justification for entertaining the application even beyond 31st December 2013, it should be seen in the context of the stated position that UGC had imposed a moratorium and the petitioner's approval has come through the changed position of the AICTE as the only competent body to grant such approval. If there was a delay, it was not a delay in violation of the Supreme Court's order but it

was a delay approved in a sense by the Supreme Court judgment's order itself granting extension of time for seeking for approval with the AICTE upto June 2014. The two objections taken for denial of the increase in intake for petitioner-College are not tenable in the light of the orders of the Supreme Court and the approval granted by the AICTE.

6. The impugned order is quashed and there shall be a direction to the University to grant approval and for Pharmacy Council to follow suit, and secure to the petitioner its right to obtain an increase in intake from 60 to 120 students in the petitioner-College.

7. The writ petition is allowed and the direction are issued as sought for.

8. I am informed that the admission to technical institutes shall begin not later than 15th August 2014. The necessary approvals shall be issued before the date to enable the petitioner to carry with the programme of admissions.