
(2014) 07 KL CK 0155
In the High Court Of Kerala
Case No : Writ Appeal No. 915 of 2014

All India Council for Tech Education	Vs	APPELLANT
The Chairman, Mala Education Trust		RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:

Citation : (2014) 07 KL CK 0155

Hon'ble Judges : Dr. Manjula Chellur, C.J;P.R. Ramachandra Menon, J

Bench : Division Bench

Advocate : S. Krishnamurthy, Advocate SC, AICTE, Advocate for the Appellant;
Tony George Kannanthanam, Advocate for the Respondent

Judgement

Dr. Dr. Manjula Chellur, C.J.—Heard learned counsel for appellants as well as learned Senior Counsel representing respondent institution.

2. Respondent herein approached learned Single Judge seeking the following reliefs:-

I. Issue a writ of mandamus or other appropriate order or direction to direct the AICTE to consider petitioner's application as one for Extension of approval and not as one for fresh approval.

II. To declare that petitioner is not liable to get fresh approval for the college and that the petitioner is entitled to get extension of approval for the college, if petitioner satisfies the conditions for the same.

3. It is contended that, after obtaining affiliation from the Calicut University for the academic year 2013-14, they were not able to start classes in Master of Business Administration (for in the light of judgment of Apex Court in Association of Management of Private Colleges Vs. All India Council for Technical Education and Others, , they were not required to obtain approval of All India Council for Tech Education (AICTE for short) and they required only affiliation to the University concerned. However, at the initial stage, University refused affiliation,

therefore, they approached this Court by filing writ petition seeking directions to the University. The said writ petition (W.P.(C).No.18707 of 2013) came to be disposed of on 19.8.2013 directing the University to consider the application of affiliation sought by the writ petitioner. The respondent-University granted affiliation for the academic year 2013-14. The fact remains, they never started course for the academic year 2013-14.

4. Meanwhile, the decision in Association of Management of Private Colleges (supra) was referred to larger Bench; and the Apex Court by interim order dated 9.5.2014 observed in I.A.No.2 & 3 of 2014 as per Ext.P4 as under:-

The order dated 17.4.2014 passed by this Court is clarified and it is directed that prior approval of All India Council for Technical Education (AICTE) is compulsory and mandatory for conduct of a technical course including the MBA/Management Course by an existing affiliated Technical College and also new Technical College which will require affiliation by a University for conduct of its Technical Courses/ Programmes for the academic year 2014-15.

The time given in the order dated 17.4.2014 is extended by 10.6.2014.

5. There is no dispute, so far as directions given by the Apex Court regarding requirement of approval by AICTE. The contention of writ petitioner was, at the relevant point of time they did not require approval of AICTE, but needed affiliation by the University, therefore, it is an existing college or establishment and they are required to seek approval from AICTE as per Chapter II and not as per Chapter 1 of the Regulations of AICTE. It is not in dispute, regulations indicating the process for approval of establishment or new courses applicable to 2013-14 is also applicable for 2014-15. Chapter 1 deals with new establishment, that is, how it should seek approval and what is the criterion to be satisfied for getting such approval. Chapter II deals with existing establishment which is already affiliated and had approval of AICTE and how should it be renewed once the approval period comes to an end. The criterion under Chapter II is altogether different from criterion under Chapter 1, which is also not in dispute.

6. According to learned Senior Counsel arguing for respondent/writ petitioner, as it is existing institution, they are required to seek approval only as per Chapter II and Chapter 1 is not applicable to them. He also took us through relevant regulations under Chapter 1 and Chapter II.

1.2 of Chapter 1 reads as under:-

New Technical Institute offering technical education shall not be established and / or started without prior approval of the Council.

1.1 of Chapter II reads as under:-

Technical institution/Technical Campus offering technical education shall not continue technical courses or programs beyond the specified period of approval given by the Council.

7. After going through the contents of these two Chapters and also the facts and circumstances pertaining to the respondent-institution, admittedly there was no approval for starting MBA course in the new established institution of respondent, in the light of judgment of Apex Court in Association of Management of Private Colleges (*supra*).

8. Virtually there was no occasion for AICTE to consider the application of approval with reference to Chapter 1 at any point of time. By virtue of interim order, Supreme Court has made it clear that, even in respect of affiliated college or institution, approval of AICTE is a must. In the present case, earlier approval was not at all taken by the respondent institution. Therefore, the request for approval by respondent institution with reference to Chapter 1 was never considered by AICTE. It is as good as granting approval for first time by AICTE. Reading of interim direction would only mean that, if AICTE has granted earlier approval or if approval period is coming to an end, the existing affiliated institution/college etc. also must seek renewal of approval. In the present case, it is a strange situation where there was no such approval at all. Therefore, we are of the opinion, in spite of affiliation granted by the University in question, in the light of non-commencement of course, though affiliation was granted, it is as good as seeking approval for the first time from AICTE, therefore, Chapter 1 alone applies and not Chapter II.

With these observations, this writ petition is disposed of, setting aside the impugned judgment.