

(2013) 04 MAD CK 0336

In the Madras High Court

Case No : Writ Appeal No. 1996 of 2012 M.P. No's. 1 of 2012 and 1 of 2013

All India Council for Technical Education and The Regional
Officer, Southern Regional Office, All India Council for
Technical Education

APPELLANT

Vs

Veludaiyar Educational Trust

RESPONDENT

Date of Decision : 15-04-2013

Acts Referred:

Citation : (2013) 5 MLJ 192

Hon'ble Judges : R.K. Agrawal, Acting C.J.;N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : A.R.L. Sundaresan, for Mrs. A.L. Gandhimathi, for the Appellant;
N.R. Chandran, for Mr. R. Kannan, for the Respondent

Final Decision : Allowed

Judgement

N. Paul Vasanthakumar, J.—This writ appeal is preferred by AICTE, New Delhi, represented by its Member-Secretary and the Regional Officer of Southern Regional Office of AICTE, Chennai, against the order dated 30.7.2012 made in W.P. No. 17660 of 2012, wherein the learned single Judge quashed the order passed by the AICTE dated 27.6.2012 and directed the appellants to grant approval to the Polytechnic course in the respondent Polytechnic College based on the recommendation of the Expert Committee. The reasons stated by the appellants for not granting approval are that barrier free environment is not provided and toilet created for physically challenged persons has not been completed and the work is still in progress. The contention of the appellants is that giving a positive direction to grant approval to the respondent institution within ten days in spite of the said deficiencies pointed out in the impugned order passed by the AICTE, is not legal.

2. Mr. AR. L. Sundaresan, learned Senior Counsel appearing for the appellants contended that the officials of the appellant should have been directed to re-inspect and find out as to whether the said two deficiencies pointed out are

complied with for the grant approval of the course. The learned Senior Counsel also relied on certain decisions in support of his contention that unless and until all the infrastructural facilities are provided as per the norms for the grant of approval, no institution is entitled to seek approval to conduct any course.

3. Mr. N.R. Chandran, learned Senior Counsel appearing for the respondent institution on the other hand submitted that the deficiencies pointed out were very minor, which were also subsequently complied with during the month of May, 2012, and the said minor deficiencies pointed out having been rectified, the order of the learned single Judge in giving positive direction is just and proper, which requires no interference. The learned Senior Counsel further submitted that even if the academic year 2012-2013 is over, approval can be granted by the appellants for the academic year 2013-2014. In support of his contentions, learned Senior Counsel cited the decision of the Supreme Court reported in Al-Karim Educational Trust and another Vs. State of Bihar and others, .

4. We have considered the rival submissions made by the learned Senior Counsels for the appellants as well as the respondent.

5. The respondent had applied for approval of polytechnic course before the AICTE on 31.1.2012 and the application was scrutinised by the Committee on 15.2.2012, which found certain deficiencies. On 7.3.2012 the Regional Committee not recommended the request of the respondent for the grant of approval and on 15.4.2012 request for approval was rejected. The respondent filed appeal before the first respondent and the Standing Appellate Committee verified the documents and ordered for a visit by the Expert Committee. On 22.4.2012 the Expert Committee visited the respondent Institution and filed a report noting down the above said two deficiencies. Based on the said deficiencies noted, the Standing Appellate Committee recommended for rejection of the appeal and consequential order was passed on 27.6.2012, which was challenged before the learned single Judge and the said writ petition was allowed on 30.7.2012.

6. In the counter affidavit filed before the learned single Judge, the appellants specifically pleaded that barrier free environment and toilet for physically challenged persons were not made available and even though the work was in progress, the same were not completed and thereby the order rejecting approval dated 27.6.2012 is legal and valid.

7. In the reply affidavit filed before the learned single Judge by the respondent herein it is stated that the work for barrier free environment is now over and toilets are created for physically challenged persons and all the works were completed by 26.5.2012 and the deficiencies pointed out having been complied with, there cannot be any legal impediment for granting approval.

8. When such a stand is taken by the respondent in the reply affidavit, the appellants should have been directed to verify the said averments made in the reply affidavit by sending an expert/inspection team to consider the request of

the respondent, afresh. The learned single Judge, instead of giving such a direction, allowed the writ petition to grant approval with ten days.

9. The issue as to, whether on the request made by an institution for the grant of approval, Courts can give positive direction to the expert body to grant approval or affiliation, was considered by the Hon"ble Supreme Court in the decision reported in Parshavanath Charitable Trust and Others Vs. All India Council for Tech. Edu and Others, and in paragraph 47 the Hon"ble Apex Court deprecated the practice of granting approval contrary to the decision of the expert committee, which found inadequacies in the report as granting approval to such institutions will affect the career of the students. The said position is reiterated in the decision reported in Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P. and Others,).

10. The decision cited by the learned Senior Counsel appearing for the respondent reported in Al-Karim Educational Trust and another Vs. State of Bihar and others, was rendered taking note of the peculiar fact that the Medical College was functioning pursuant to the order of the Court. In that case, new deficiencies were pointed out after complying with the deficiencies already pointed out, and held that if approval is rejected the students admitted would suffer. The Supreme Court, in the very same decision emphasised the importance of fulfilling the essential pre-requisite set out by the Medical Council of India for granting recognition. In the case on hand, the respondent institution is seeking approval of a new polytechnic college. Hence the said principle cannot be applied to this case.

11. Insofar as the submission made by the learned Senior Counsel for the respondent that the respondent institution may be given approval for the year 2013-2014, it is to be noted that the application for approval was submitted for the year 2012-2013, which was processed and the final order of rejection was passed on 27.6.2012, and the said order was challenged before the learned single Judge immediately and the writ petition was allowed by this Court on 30.7.2012 and this writ appeal was filed on 10.9.2012. In writ appeal, interim stay was granted by this Court on 14.9.2012 and the respondent filed vacate stay petition and during the pendency of this proceeding, last date for submitting application for approval for 2013-2014, had expired.

12. Considering the said peculiar facts and circumstances as well as the stand taken by the learned Senior Counsel for the respondent that two deficiencies pointed out were already fulfilled, we are of the view that interest of justice would be met by permitting the respondent to pay inspection fee for re-inspection of the polytechnic college to find out as to whether the proposed polytechnic is having infrastructural and instructional facilities as per the norms fixed by AICTE to commence course/courses from the academic year 2013-2014 and pass fresh orders. In fine, the writ appeal is partly allowed with a direction to the respondent to pay the fee for inspection of its institution, within a period of two weeks from the date of receipt of copy of this judgment, and on such

payment being made, the appellants are directed to make inspection within three weeks, and based on the inspection report to be submitted, appellants are directed to pass fresh orders on the request seeking approval of the respondent polytechnic for the academic year 2013-2014, within a period of two weeks therefrom. No costs. Connected miscellaneous petitions are closed.