

(2000) 04 AP CK 0078

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5838 of 1999

Chintareddy Madhusudhan Reddy Educational Society and
another

APPELLANT

Vs

All India Council for Technical Education, New Delhi and
another

RESPONDENT

Date of Decision : 21-04-2000

Acts Referred:

Citation : (2000) 4 ALD 51 : (2000) 3 ALT 731 : (2000) 2 APLJ 326

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : Mr. M. Surendra Rao, for the Appellant; Mr. M.V.S. Suresh Kumar, SC for AICTE and Government Pleader for Education, for the Respondent

Judgement

1. This writ petition is filed seeking a writ of mandamus to the 1st respondent to consider the application of the petitioners for grant of permission to start an Engineering College for the academic year 1998-99 on the basis of the No Objection Certificate issued by "the State Government in Letter No.SP6569/EC2/97 dated 28-1-1998 or in the alternative to give a declaration that the No Objection Certificate issued by the State Government shall be in force till the same is either cancelled or withdrawn by the State Government, without reference to the academic year.

2. The facts are not in dispute. The petitioner-Society applied for starting an Engineering College as well as B. Pharmacy College during the academic year 1998-99 and the State Government on the basis of the inspection report submitted by its officials granted a No Objection Certificate to the petitioner-Society for consideration of its case for starting both the colleges. But the All India Council for Technical Education (in short "AICTE")-1st respondent herein rejected permission to the petitioner-Society to start the Engineering College for the academic year 1998-99 on the sole ground that the application for establishing a B. Pharmacy College in that year is under consideration by the

Council. But ultimately it turned out that the AICTE did not give permission to start Engineering College, but gave permission to establish B. Pharmacy College for the academic year 1998-99. When the petitioner-Society renewed its request for establishing the Engineering College, the AICTE insisted for production of a fresh No Objection Certificate for the academic year from the State Government.

3. The question now that falls for consideration of this Court would be whether the No Objection Certificate issued by the State Government automatically lapses after the end of the academic year or the same shall enure for the benefit of the petitioner-Society without reference to any academic year as long as it is in subsistence.

4. I directed the Counsel for the AICTE to produce the relevant rules, if any, insisting for a fresh No Objection Certificate every years or the rules stating that No Objection Certificate issued by the State Government will automatically lapses after the period for consideration of the applications by the Council for that year comes to an end. Neither the Counsel for the AICTE, nor the Government Pleader for High Education produced any rules to that effect. Hence the issue has to be thrashed out on the basis of the arguments advanced before this Court.

5. Admittedly the petitioner-Society responding to the notification inviting for applications, applied by fulfilling all the conditions laid down in the notification for establishing an Engineering College for the academic year 1998-99. The State Government having sent its expert team, came to the conclusion that the proposals submitted by the petitioner-Society for establishing of an Engineering College and B. Pharmacy College are viable and accordingly issued the No Objection Certificate. But the AICTE rejected the application of the petitioner-Society for grant of permission to establish an Engineering College solely on the ground that for that academic year the Counsel is likely to give permission for establishing a B. Pharmacy College only, perhaps under a bona fide doubt that it may be difficult for the petitioner-Society to manage both the institutions which have to be developed from the scratch in the same year, but not on any other ground like lake of financial resources, non-availability of land, technical staff etc. As stated supra, while the State Government is satisfied about the capabilities of the petitioner-Society, it is the Council that doubted its ability to start and run both the colleges in the same academic year. Be that as it may. When the State Government applied its mind and issued No Objection Certificate for establishment of an Engineering College for a particular academic year and when the same is not either cancelled, annulled or withdrawn, whether the same shall be in force, more so in the absence of any rules that the No Objection Certificate issued by the State Government automatically loses its utility after the AICTE takes a decision for rejection on some technical grounds and without reference to the merits of the case. My answer would be in the positive and I am of the opinion that the No Objection Certificate issued by the State Government on an application filed by the petitioner-Society responding to the notification issued by the AICTE calling for applications, will be in force till it is withdrawn, cancelled or

annulled. Even assuming without admitting that the AICTE is entitled to insist for No Objection Certificate from the State Government every academic year, it amounts an empty formality as the State Government cannot change its views from time to time in the absence of changed circumstances like change in the norms prescribed by the AICTE. Hence, the AICTE is not justified in insisting for a fresh No Objection Certificate. At the same time, it is always open for the AICTE to get the views of the State Government on the No Objection Certificate issued by it and take decision on its own as per the report of the team sent by it for inspection, for granting permission to establish the Engineering College. As the AICTE is empowered either to grant or refuse permission and the No Objection Certificate to be obtained from the State Government being formal in nature and as the college is likely to be established in the territorial jurisdiction of the concerned State, the issuance of No Objection Certificate cannot by itself entitle or disentitle the petitioner to get the permission from the AICTE.

6. Accordingly, a direction is given to die AICTE to treat the No Objection Certificate issued by the State Government to the petitioner-Society for the academic year 1998-99 as sufficient compliance of die rules and process the application filed by the petitioner-Society for grant of permission atleast for the coming year 2000-2001 as per its own rules and regulations.

7. To the extent indicated above, the writ petition is allowed. No order as to costs.