

**(2013) 07 UK CK 0052**

**In the Uttarakhand High Court**

**Case No : Writ Petition No. 1204 of 2013**

Dev Bhoomi Institution of Polytechnic and Another

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

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**Date of Decision :** 19-07-2013

**Acts Referred:**

**Citation :** (2013) 07 UK CK 0052

**Hon'ble Judges :** V.K. Bist, J

**Bench :** Single Bench

**Advocate :** Vipul Sharma, for the Appellant; Paresh Tripathi, Addl. Chief Standing Counsel for State/Respondent No. 1, Mr. Rakesh Thapliyal, Advocate for Respondent No. 2 and Mr. Naresh Pant, Advocate for AICTE/Respondent No. 3, for the Respondent

**Final Decision :** Disposed Off

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## **Judgement**

V.K. Bist, J.—Heard Mr. Vipul Sharma, Advocate for the petitioners, Mr. Paresh Tripathi, Additional Chief Standing Counsel for the State of Uttarakhand, Mr. Rakesh Thapliyal, Advocate for respondent no. 2 and Mr. P.S. Bisht, holding brief of Mr. Naresh Pant, Advocate for respondent no. 3. On 26th April, 2013 All India Council for Technical Education (for short AICTE) granted permission to the petitioner no. 1-institution for opening new Diploma Courses in Civil Engineering, Electrical Engineering, Electronic Engineering, Computer Science Engineering and Mechanical Engineering (Automobile) with intake of 60 seats each. This was communicated to the Uttarakhand Board of Technical Education (for short Board) as well as State Government. On 15.05.2013, the Board declined affiliation in respect of the aforesaid courses to the petitioner no. 1. The reason for declining affiliation is mentioned in the order dated 15.05.2013. A bare perusal of the order dated 15.05.2013 reveals that the Principal Secretary, Technical Education of the State Government wrote a letter to AICTE on 13th May, 2013 informing that recognition to the new courses in Diploma Engineering in plain districts may not be granted in view of the fact that State Government has opened ten Govt.

Polytechnic Colleges in hilly areas, inasmuch as, the Government has received complaint about the private institutions that they are charging exorbitant fees from the students.

2. Contention of the learned counsel for the petitioners is that once the recognition is granted by AICTE, after verifying the norms and after being satisfied that the institution fulfills all required conditions, the Board has no authority to decline affiliation. He submits that the ground on which the affiliation has been declined, is not a valid ground, inasmuch as, the Board has refused affiliation with malafide intention to preclude the petitioner institution for imparting Diploma courses.

3. Mr. Rakesh Thapliyal, Advocate for the Board, on the other hand, submitted that in fact the petitioner no. 2 is a Society and is running several institutions in the same campus. He submitted that last year one inspection was conducted by the Committee and that Committee recommended for cancellation of the recognition. Report of the Committee was sent to the AICTE vide letter dated 13.02.2013. He submits that in view of this factual position, the AICTE should not have granted recognition to new institutions for opening new Diploma courses. He further submits that once affiliation has been refused within time, no interim order should be granted in favour of the petitioner's institution.

4. Mr. Paresh Tripathi, learned Addl. Chief Standing Counsel for the State referred the letter written by the Principal Secretary, Technical Education dated 13.02.2013 and submitted that, in fact, the AICTE was duty bound to decide the objection before granting permission to new institutions. He submitted that the said letter was in respect of institutions run by respondent no. 2. Learned Addl. C.S.C. also referred the judgment of this Court passed in Writ Petition No. 2141 of 2013 (MS) and contended that controversy involve regarding grant of affiliation has already been decided by this Court in which this Court has held that Board has no jurisdiction to refuse affiliation regarding seats, which have already been approved by AICTE. He also submits that the AICTE has not challenged the observations made in para-10 of the judgment rendered in WPMS No. 2141 of 2013.

5. I have considered the submissions of learned counsel for the parties.

6. Though the arguments advanced by the learned counsel for the respondents have some force, and infact, the AICTE was required to consider the objections raised by the Board and the State, but in the case in hand, I find that affiliation has been declined on the ground of letter of the State Government dated 13.05.2013, which cannot be said to be a valid and reasonable ground for declining affiliation of the petitioner institution.

7. Prima-facie, I do not find the order dated 15.05.2013 a just order. Same is stayed. The respondent-Board is directed to grant provisional affiliation to the petitioner institution. Petitioner institution is permitted to enroll students in Diploma courses of Civil Engineering, Electrical Engineering, Electronic

Engineering, Computer Science Engineering and Mechanical Engineering (Automobile) in terms of intake capacity fixed by the AICTE vide order dated 19.03.2013. Petitioners' institution is also permitted to participate in counselling.

8. The AICTE is directed to file counter affidavit within a period of two weeks from today.

9. List this petition on 5th August, 2013. It is made clear that on that date, the petition shall be decided finally. Interim order granted by this Court shall be subject to the final decision of this petition. Interim relief application (CLMA No. 5374/13) stands disposed of.