
(2013) 05 AHC CK 0093

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 22308 of 2013

Devo Mahesha College of Engineering and Technology

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 22-05-2013

Acts Referred:

Citation : (2014) 1 ALJ 247 : (2013) 3 UPLBEC 2511

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Anurag Khanna, for the Appellant; Neeraj Tiwari, for the Respondent

Final Decision : Allowed

Judgement

Arun Tandon, J.—Heard Sri. Anurag Khanna, learned counsel for the petitioner, Sri. Neeraj Tiwari, learned counsel for respondent Nos. 2 to 4 and learned Standing Counsel for the State-respondents. Application made by the petitioner institution, namely, Devo Mahesha College of Engineering & Technology, Sukrit, Robartsganj, Sonbhadra for establishing a college of engineering and technology was rejected by the Member Secretary, All India Council for Technical Education (hereinafter referred to as the "AICTE") under order dated 6th March, 2013. The only reason assigned in the order is that there are deficiencies as per the reports, (a) Scrutiny report, (b) Re-scrutiny report, (c) Expert Committee visit report, (d) Regional Committee report, and (e) Rejection in the EC. As per the rules applicable, the matter stood referred to the Standing Appeal Committee (hereinafter referred to as the "SAC"). The petitioner was informed vide letter of the same date i.e. 6th March, 2013 to appear before the Appeal Committee on 12th March, 2013 at its New Delhi office. Petitioner was permitted to produce all original records in support of his defence.

2. It is the case of the petitioner that in response to the aforesaid order, he did appear before the SAC on the date and time fixed. However, SAC referred the petitioner to the Regional Office and directed the petitioner to make available all

relevant records on 14th March, 2013 before the Regional Office. Petitioner complied with the aforesaid direction and thereafter the petitioner was informed that a team of expert shall visit the petitioner institution on 22nd March, 2013. Actual inspection did take place on 22nd March, 2013 by the team of experts of AICTE. Suddenly on 5th April, 2013, petitioner has been served with an order signed by the Member Secretary stating therein that his application for establishing the engineering and technology institution has been rejected on the basis of the reports, as referred earlier with the addition of SAC report.

3. Learned counsel for the petitioner points out that the Appellate Committee did not afford any opportunity of hearing before taking such decision. The scrutiny report in fact is based on incorrect statement of facts. Deficiencies pointed out in the scrutiny reports are non-existent. If opportunity of hearing had been afforded by SAC he would have demonstrated that the deficiencies do not exist.

4. Faced with the aforesaid contention, Sri. Neeraj Tiwari, learned counsel for the respondents contended that it is not necessary for the SAC to afford fresh opportunity of hearing to the petitioner, inasmuch as his claim has been considered earlier and records were examined. The Scrutiny Committee Report is only for verification of the case pleaded by the institution got inspection done by the Expert Committee, no further opportunity of hearing was required to be afforded.

5. I have considered the submissions made by the learned counsel for the parties and have examined the records of the present writ petition.

5A. At the very outset, this Court may record that the manner of rejection of the applications of the institutions as in practice with the AICTE by merely referring to the deficiencies as noticed in various reports is highly unsatisfactory. The case of the institutions seeking such recognition qua that deficiencies having been removed, are non-existent, must be considered under an order supported by reasons for not accepting their case.

6. The Apex Court in its judgment in the case of State of Uttaranchal and Another Vs. Sunil Kumar Singh Negi, as well as in the case of Raj Kishore Jha Vs. State of Bihar and Others, has held that reasons are heart beat of any conclusion and without the same it is lifeless.

7. Serious civil consequences follow because of rejection of the application for recognition of institutions, as they made huge investments, the minimum required is that they are informed of the specific reason for such rejection. The SAC must examine the contention raised on behalf of the institutions while deciding the appeal and must record reasons while rejecting the appeal.

8. It is the case of the petitioner that the report submitted by the Expert Committee after their visit on 22nd March, 2013 was factually incorrect. This Court finds that the report of the Expert Committee dated 22nd March, 2013 has been relied upon without affording opportunity of hearing to the petitioner to

meet the deficiencies noticed therein. The order impugned dated 5th April, 2013 therefore, cannot be legally sustained. It is hereby quashed.

9. Let the SAC decide the appeal of the petitioner by means of a reasoned speaking order, after affording opportunity of hearing to the petitioner preferably within two weeks from the date a certified copy of this order is filed before the authority concerned. The present writ petition is allowed subject to the observations made above.