(2013) 08 DEL CK 0391

In the Delhi High Court

Case No : Writ Petition (C) 7844 of 2012

Dibyanshu Kumar and Another APPELLANT

Vs

Guru Gobind Singh Indraprastha University and Another RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:
University Grants Commission Act, 1956 — Section 12A, 25, 26

Citation : (2013) 08 DEL CK 0391

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Pratham Kant, for the Appellant; Asit Tewari, for R-1 and Mr. Amitesh Kumar, for R-2, for the Respondent

Final Decision : Disposed Off

Judgement

V.K. Jain, J.—The issue involved in this writ petition is as to whether the students who took admission in the M. Tech Course at Guru Gobind Singh Indraprastha University (GGSIPU) on the basis of Graduate Aptitude Test in Engineering (GATE) are entitled to scholarship which the respondent no. 1 is disbursing to such students. The petitioners before this Court are the students of M.Tech. Course in GGSIPU, they having taken admission on the basis of an All India Competitive Examinations called GATE. The respondent no. 2-All India Council for Technical Education (AICTE) has formulated a policy for granting scholarships to the students taking admission to M.Tech Course through GATE. According to AICTE, its policy is to grant such scholarships only to the students taking admission to the technical institutions approved by it. The grievance of the petitioners is that despite they being entitled to the aforesaid scholarship, AICTE has not released the said scholarship to the university for disbursal to them. The petitioners are, therefore, seeking a direction to respondent no. 1-GGSIPU to disburse the scholarships to them. A perusal of the counter affidavit filed by respondent no. 1-GGSIPU would show that the said university has been applying for grant of GATE scholarship to GGSIPU since the year 2005-2006, such scholarships have been released and disbursed to the students upto the year 2009-2010 and utilization certificate in this regard was also submitted to AICTE. The procedure adopted prior to 2010-2011 was that hard copies of all the documents including the Letter of Approval issued by AICTE along with all annexures such as seat allocation, indemnity bonds, pre-receipts and utilization certificates were sent to the Headquarters of AICTE at Delhi and its Regional Office at Chandigarh, for processing and releasing the scholarships. However, academic year 2010-2011 onwards, AICTE introduced online applications for applying for grant of GATE Scholarship, but the university, on account of some technical glitches, could not apply within time stipulated in this regard and, therefore, it applied to AICTE by submitting hard copies of the necessary documents as per the practice it was following in the previous years. The proposal for grant of scholarship for the academic year 2010-2011, was submitted to AICTE vide letter dated 4.5.2011. Vide its communication dated 25.4.2011, AICTE acknowledging receipt of the proposal dated 4.4.2011 sought (i) Letter of Approval of AICTE for the session 2010-11, (ii) Annexure-I (details for seats allocation) and annexure-II and (iii) Indemnity bond and Pre-receipt. This was followed by the letter dated 11.10.2011 requesting the university to expedite the matter. Vide its communication dated 20.12.2011, the university referring to the said letter dated 11.10.2011 submitted a compliance report desired by AICTE, attaching the necessary documents. However, regarding the letter of approval for the session 2010-2011, it was stated that a letter had already been written by the university to the Regional Officer, AICTE, Chandigarh. A copy of the said letter was annexed to the communication dated 20.12.2011. However, vide its communication dated 26.3.2011 AICTE informed the university that it had not submitted copy of approval of AICTE, which it had sought vide letter dated 11.10.2011. According to the university, its officers had a meeting with the Regional Officer of AICTE at Chandigarh on 21.12.2012 and in that meeting AICTE took a plea that the university did not have online approval letter which could be downloaded from AICTE Portal only in the year 2010. It is further stated by the university that it had sent a list of various approved institutions duly signed by the Member Secretary of AICTE to respondent no. 1 which clearly indicated the strength of M.Tech Course approved for the year 2010-2011 and even the database of AICTE showed approval for the said academic year in respect of GGSIPU. According to the university, since they did not receive that approval letter for the academic year 2010-2011, it was not possible for them to submit any pre-receipt or utilization certificate to AICTE as the pre-receipt can be issued only when the grant if approved by AICTE. Thus the university has entirely blamed AICTE for not releasing the scholarship to the petitioners and other students who took admission in M.Tech Course.

2. In its counter affidavit, the respondent no. 2-AICTE has stated that it has formulated a policy to provide GATE Scholarship to the students admitted in AICTE approved technical institutions and the university had failed to submit (i) Letter of Approval of AICTE for the session 2010-11, (ii) Annexure-I (details for

seats allocation) and annexure-II and (iii) Indemnity bond and Pre-receipt. Thus, the stand taken by AICTE is that since the university failed to submit the requisite documents, the scholarship for the year 2010-2011 could not be approved by it.

3. It is not in dispute that AICTE has been granting such scholarships to the students admitted to M. Tech Course upto the year 2009-2010, on the basis of their score in the GATE Examination. The only reason given by AICTE for not releasing the scholarships for the year 2010-2011 is the failure of the university to submit three documents i.e. (i) Letter of Approval of AICTE for the session 2010-11, (ii) Annexure-I (details for seats allocation) and annexure-II and (iii) Indemnity bond and Pre-receipt. Admittedly, prior the academic year 2010-2011, AICTE has been accepting from the university, hard copies of the application and other documents for grant of scholarship to the M.Tech students. The requirement of online submissions of such proposals was introduced for the first time in the academic year 2010-2011. There is no dispute that for one reason or the other, the respondent no. 1-GGSIPU could not apply online for grant of scholarship to its M.Tech students for the academic year 2010-2011 and the proposal in this regard was submitted to AICTE only on 4.4.2011. In my view, even if there was a delay on the part of the university in submitting the proposal for grant of financial assistance, the students cannot be made to suffer for the lapse on the part of the university. The students discharged their obligations in this regard by submitting the applications with the requisite documents to the university, and thereafter it was for the university to submit their application to AICTE for processing and disbursal of scholarship amount. It would be appropriate to note here that the proposal dated 4.4.2011 submitted by the university for grant of scholarship to its students for the academic year 2010-2011 was not rejected by AICTE on the ground that it had been received late. AICTE processed the proposal received on 5.4.2011 requiring the university to submit (i) Letter of Approval of AICTE for the session 2010-11, (ii) Annexure-I (details for seats allocation) and annexure-II and (iii) Indemnity bond and Pre-receipt. This was followed by a reminder dated 11.10.2011 and 26.3.2012. It would thus be seen that the delay in submitting the proposal for disbursal of scholarship was not fatal and AICTE was in a position to disburse the scholarship even on the strength of the proposal received on 4.4.2011.

4. A perusal of the communication dated 26.12.2012 sent by AICTE to the university would show that the only document left to be submitted was AICTE approval for the academic year 2010-2011. In this regard, the learned counsel for the university has drawn my attention to the list of institutions issued by the Member Secretary AICTE on 19.7.2011. The heading of the said list is "List of Institutions granted approval for the academic year 2011-2012". This document does show that AICTE had approved various institutions affiliated to GGSIPU for the academic year 2010-2011. A perusal of the database of AICTE filed by the university shows the approved intake for various post graduate courses of GGSIPU for the academic year 2008-2009 onwards including the academic year

2010-2011. I fail to appreciate how in the face of its own database, AICTE can claim that it did not grant approval to the technical course to the postgraduate technical courses of GGSIPU for the academic year 2010-2011. It is true that a formal approval which could be downloaded from the AICTE Portal, for the year 2010, had the information been uploaded online, was not and in fact could not have been submitted to AICTE. That, however, cannot have the effect of denial of scholarship to the students who are otherwise eligible for grant of the said scholarships, they having taken admission on the basis of their score in the GATE examination. Though AICTE has claimed that its policy is to grant such scholarship only to the students of the institutes approved by it, no such written policy has been filed in the Court.

5. GGSIPU is a State University having been set up under the Act passed by the Delhi Legislative Assembly. No approval from AICTE is required for admission to technical course by the university or by its constituent or affiliated colleges.

6. In Association of Management of Private Colleges versus AICTE and other [Civil Appeal No. 1145/2004, decided on 25.4.2013), the appellant colleges which were affiliated to Bharathidasan University & another university were running MCA Courses for which they had not obtained approval of AICTE. The issue which arose before the Court was whether such colleges affiliated to a university were obliged to take permission/approval from AICTE to run classes for technical courses in which the affiliated university is not required to obtain any permission/approval under AICTE Act. After considering its earlier decision on the issue, the Apex Court held that it was UGC which had been given the power to regulate universities and make regulations in relation to granting sanction/approval and maintaining educational standards and overseeing fee structure including admission of students in various courses and programmes that would be conducted by the university and its institutions, the constituent colleges, units and affiliated colleges and, therefore, its decision in B. Dasan University case would also be applicable to the appellants before the Court. The following view taken by the Court in this regard is pertinent:

...A cumulative reading of the aforesaid paragraphs of Bharathidasan University''s case which are extracted above makes it very clear that this Court has exempted universities, its colleges, constituent institutions and units from seeking prior approval from the AICTE. Also, from the reading of paragraphs 19 and 20 of Parashvanath Charitable Trust case it is made clear after careful scanning of the provisions of the AICTE Act and the University Grants Commission Act, 1956 that the role of of AICTE vis-?-vis universities is only advisory, recommendatory and one of providing guidance and has no authority empowering it to issue or enforce any sanctions by itself.

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....Therefore, affiliated colleges to the university/universities are part of them and the exclusion of university in the definition of technical institution as defined in Section 2(h) of the AICTE Act must be extended to the affiliated colleges to the university also, otherwise, the object and purpose of the UGC Act enacted by the Parliament will be defeated. The enactment of UGC Act is also traceable to Entry 66 of List-I. The aforesaid provisions of the UGC Act have been examined by this Court with reference to the provisions of AICTE Act in Bharathidasan University''s case. Therefore, it has clearly laid down the principle that the role of the AICTE Act is only advisory in nature and is confined to submitting report or giving suggestions to the UGC for the purpose of implementing its suggestions to maintain good standards in technical education in terms of definition u/s 2(h) of the AICTE Act and to see that there shall be uniform education standard throughout the country to be maintained which is the laudable object of the AICTE Act for which it is enacted by the Parliament. The provisions of the AICTE Act shall be implemented through the UGC as the universities and its affiliated colleges are all governed by the provisions of the said Act u/s 12A of the UGC Act read with Rules Regulations that will be framed by the UGC in exercise of its power under Sections 25 and 26 of the said Act.

7. In view of the authoritative pronouncements of the Apex Court, AICTE cannot insist upon disbursing such scholarships only to the students taking admission in technical institutions approved by it, though as far as the case before this Court is concerned, the documents filed by the university clearly show that the technical courses in GGSIPU do have the approval of AICTE. In fact, the university has placed on record approval granted to it by AICTE for the academic year 2011-2012, 2012-2013 and 2013-2014. Admittedly, the technical courses in GGSIPU were approved by AICTE from 2005-2006 to 2009-2010 and the students who took admission during those years were also granted scholarships by AICTE. In my opinion, the stand taken by AICTE for denying the scholarships to the petitioners and other similarly situated students is wholly arbitrary, unreasonable and unjustified. For the reasons stated hereinabove, respondent no. 2-AICTE is directed to release the scholarships to the petitioners and other similarly situated students of GGSIPU for the year 2010-2011, within eight weeks from today. The University shall then disburse the amount of scholarship to the concerned students within four weeks thereafter after completing all necessary formalities.

The writ petition stands disposed of accordingly. There shall be no order as to costs.

