

(2020) 09 DEL CK 0168

In the Delhi High Court

Case No : Letter Patent Appeal No. 264 Of 2020, Civil Miscellaneous Application
No. 23584, 23585 Of 2020

Heritage Academy

APPELLANT

Vs

All India Council For Technical Education

RESPONDENT

Date of Decision : 23-09-2020

Acts Referred:

Citation : (2020) 09 DEL CK 0168

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Prateek Jalan, J

Bench : Division Bench

Advocate : Himanshu Kaushik, Anil Soni, Devesh Dubey

Final Decision : Disposed Of

Judgement

D.N. Patel, CJ

The proceedings in the matter have been conducted through video conferencing.

CM APPL.23584/2020 (exemption)

Allowed, subject to just exceptions.

The application stands disposed of.

LPA 264/2020

1. This appeal has been preferred by the appellant (original petitioner) against the judgment and order of the learned Single Judge in W.P.(C)4720/2020 dated 30th July, 2020 (Annexure A-1 to the memo of this LPA) whereby it has been directed by the learned Single Judge that the representation of this appellant (original petitioner) for getting approval to start the Post Graduate Diploma in Management course be decided by the AICTE in accordance with law.

2. It appears from the facts of the case and the correspondence between the parties to this litigation that several deficiencies have been enumerated by the

AICTE to this appellant (original petitioner) with regard to setting up of New Technical Institute, and hence the permission for setting up the New Technical Institute was rejected vide communication dated 30th June, 2020 (Annexure P-1).

3. The following deficiencies were pointed out in the aforesaid communication by AICTE to this appellant (original petitioner):-

"1. Stock register of Office Equipment- Not Presented

2. Digital Payment for all financial transactions as per MHRD directives - Not Presented

3. Availability of Potable water supply- Not Presented

4. Details and proof of Telephone connections available at the proposed Technical Institution- Not Presented

5. Availability of Institute website - Not Presented

6. Barrier free Built environment and toilets created for Physically Challenged. (Ramp or working Lift etc.)- Not Accepted

7. Safety and Security provisions for fire and other calamities - Not Presented

8. General Insurance provided for assets against fire, burglary and other calamities - Not Presented

9. Occupancy / Completion / Structural Stability certificate/Form D from the Competent Authority clearly stating that the building(s) is/are fully developed and ready in all aspects for the intended use considering the total built up area as required to run the programme and the divisions/departments for the first year of the course- Not Presented by Competent Authority.

10. Administrative Area: Classroom, Central Store, Exam Control Office, Housekeeping, Maintenance, Office All inclusive, Principal Directors Office, Security - Not Accepted (On the Verification of the documents by the EVC today, it is found that the institute building plans (Ground floor, First Floor, Second Floor, Third Floor) are approved by the "Commissioner, Nagar Palika vide letter No. 1470/IMC/z213/W77/2018, DT 27 March 2018, which do not bear the Specified areas as shown above in column No. 03. Hence, it is not possible to fill the areas/details as asked by AICTE. The layout plans of different floors submitted by the institute are unapproved.

11. Amenities Area: Boys Common Room, Cafeteria, First aid cum Stick Room, Girls Common Room, Stationery Store - Not Accepted (On the Verification of the documents by the EVC today, it is found that the institute building plans (Ground floor, First Floor, Second Floor, Third Floor) are approved by the "Commissioner, Nagar Palika vide letter No. 1470/IMC/z213/W77/2018, DT 27 March 2018, which do not bear the Specified areas as shown above in column No. 03. Hence, it is not possible to fill the areas/details as asked by AICTE. The layout plans of

different floors submitted by the institute are unapproved.

12. Instruction Area - Common Facilities: Computer Center, Library & Reading Room - Not Accepted (On the Verification of the documents by the EVC today, it is found that the institute building plans (Ground floor, First Floor, Second Floor, Third Floor) are approved by the Commissioner, Nagar Palika vide letter No. 1470/IMC/z213/W77/2018, DT 27 March 2018, which do not bear the Specified areas as shown above in column No. 03. Hence, it is not possible to fill the areas/details as asked by AICTE. The layout plans of different floors submitted by the institute are unapproved.

13. Instruction Area Management: Classroom, Tutorial Room, Seminar Hall - Not Accepted (On the Verification of the documents by the EVC today, it is found that the institute building plans (Ground floor, First Floor, Second Floor, Third Floor) are approved by the -Commissioner, Nagar Palika vide letter No. 1470/IMC/z213/W77/2018, DT 27 March 2018, which do not bear the Specified areas as shown above in column No. 03. Hence, it is not possible to fill the areas/details as asked by AICTE. The layout plans of different floors submitted by the institute are unapproved."

4. The aforesaid deficiencies, for any reason whatsoever, could not be removed before the cut off date given by the Hon'ble Supreme Court which in the normal circumstances, is 30th April, 2020 and extended due to present pandemic situation till 30th June, 2020. The relevant paragraph (paragraph 46.6) of the judgment rendered by the Hon'ble Supreme Court in Parshvanath Charitable Trust & Ors. v. All India Council for Technical Education & Ors., (2013) 3 SCC 385 reads as under:-

"46.6. If the appellate authority decides the matter prior to 30th April of the year concerned and grants approval to a college, then alone such institution will be permitted to be included in the list of colleges to which admissions are to be made and not otherwise. In other words, even if the appellate authority grants approval after 30th April, it will not be operative for the current academic year. All colleges which have been granted approval/affiliation by 10th or 30th April, as the case may be, shall alone be included in the brochure/advertisement/website for the purpose of admission and none thereafter."

5. In view of the aforesaid judgment, the cut off date for giving approval for the course by the AICTE is 30th April, 2020. However, considering the prevailing circumstances due to pandemic COVID-19 situation, the date was extended upto 30th June, 2020. As the approval for any reason whatsoever could not be granted on or before 30th June, 2020, no question whatsoever arises for starting Post Graduate Diploma in Management course for the session 2020-21.

6. In these circumstances, the learned Single Judge directed AICTE to consider the application of the appellant herein (original petitioner) for the next academic year (2021-22). The learned Single Judge also recorded the submission on behalf of the appellant (original petitioner) that it was not pressing for approval for the

current academic year. Pursuant to the impugned order of the learned Single Judge, the Standing Appellate Committee of AICTE has also recommended the case of the appellant for the year 2021-22 on 17th August, 2020.

7. Learned counsel for the appellant submits that the application of the appellant (original petitioner) ought to be considered for the present academic year (2020-21), and the submission to the contrary recorded in the order of the learned Single Judge has been recorded due to some technical issues with video conferencing. The appellant (original petitioner) moved an application before the learned Single Judge to this effect, but the same has admittedly been dismissed on 04th September, 2020.

8. In any event, in view of the fact that the approval was not granted within the cut off date prescribed by AICTE, following the aforesaid decision of the Hon'ble Supreme Court, there is no question of grant of approval for the current year.

9. Nonetheless, AICTE is at liberty to decide the approval for Academic Session 2021-22 in accordance with law, especially keeping in mind the fact that the defects or deficiencies are removed by this appellant (original petitioner). The decision will be taken by the AICTE in accordance with law, rules, regulations and government policies applicable to the facts of the case.

10. With these observations, this LPA is hereby disposed of.

CM APPL. 23585/2020

In view of the order in the LPA, no orders are required to be passed on this application.

The same stands disposed of.