

(2015) 08 BOM CK 0192

In the Bombay High Court

Case No : Writ Petition No. 4620 of 2015

Karmaveer Bhaurao Patil College of Engineering

APPELLANT

Vs

All India Council for Technical Education and Others

RESPONDENT

Date of Decision : 14-08-2015

Acts Referred:

Citation : (2016) 1 MhLj 299

Hon'ble Judges : Anoop V. Mohta, J;V.L. Achliya, J

Bench : Division Bench

Advocate : S.C. Naidu, Rahul Tanwani and Aniketh Poojary i/by C.R. Naidu and Co., for the Appellant; Mihir Desai, Senior Advocate, Sarnath Sariputta and Swaraj Jadhav, Advocates for the Respondent

Final Decision : Allowed

Judgement

Anoop V. Mohta, J—Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

2. The Petitioners is a college, run by public charitable trust and imparting technical education on the basis of approval granted by Respondent No. 1.

3. By this Petition, the Petitioners have challenged the decision dated 30 April 2015 of Respondent No. 1 to put the Petitioner-College into no admission category i.e. ("zero") intake capacity for the academic year 2014-15 and/or related action arising out of the same and further prayed for the related prayers including directions to Respondent No. 1 to issue revised EOA with full intake capacity for 2014-15 and/or 2015-16.

4. Petition was filed on 5 May 2015. This Court (Coram:--Anoop V. Mohta & K.R. Shriram, JJ.), on 8 May 2015 has granted ad-interim relief and permitted the Petitioners to participate in CAP admission for the current academic year 2015-16.

5. Heard finally along with other group of connected matters. We have recorded

basic reasons in *Saraswati Education Society's Saraswati College of Engineering v. All India Council for Technical Education (AICTE)* (Writ Petition No. 4586 of 2015) dated 14 August 2015, both on issues of law and related aspects. The reasons and the decision in said case, is fully applicable to the present facts and circumstances of the case, as the Petitioner is similarly situated and challenging the similar action/orders of the Respondents. Therefore, in view of the reasons so recorded, we are disposing of the present Writ Petition for the same reasons.

6. So far as the deficiencies in the present facts of the case are concerned, after hearing both the counsel, we have noted that the Petitioners have pointed out and placed on record material to justify the compliances so made as to deficiencies raised by the Respondents in letter/communication dated 27 March 2015. After going through the relevant papers/documents, i.e. deficiencies noted by EVC dated 27 March 2015 and observations/recommendation of Standing Complaint Committee dated 22 April 2015, we have noted that there are no material deficiencies exist to justify passing of such drastic order to put the Petitioner-institute in no admission category. Deficiencies and compliance status report 2015-16 submitted by the learned counsel for the Petitioners during the course of argument is taken on record and marked as "X" for identification.

7. It is argued by learned counsel for Petitioners that the faculty strength exist as per the norm and accepted by SCC. The deficiencies noted by EVC in this regard is erroneous. According to him, the faculty requirement for all the courses are duly complied with. He has placed on record, the details of faculty members. It is further explained by filing additional affidavit that the reservation policy of the State Government is not yet clearly defined therefore, roaster could not be finalized by the University. According to the learned counsel, all the regular faculty members working in the Petitioner-institute, are paid salary as per 6th Pay Commission. The Petitioners sought approval for recruiting regular candidates from the University. The statement is also made that after getting roaster approval and advertisement, post will be filled through the University selection process. The Petitioners have also explained as to why the regular appointment could not be made.

8. So far as the other deficiencies are concerned, the learned counsel for the Petitioners submitted that campus is barrier free. Toilet for physically challenged are also ready and new ramps are already inaugurated. Photographs of existing facilities were presented to the SCC during the hearing on 22 April 2015. Tutorial rooms are as per the process handbook. The documents submitted by the Petitioners were not considered by AICTE. Respondents also submitted drawings in respect of halls. The photographs and architects certificate were also enclosed in support of explanations. Although the laboratory exists as per the process handbook, still same was not considered. According to the Petitioners, one seminar hall for two UG Courses and 1 seminar hall per PG Courses are also available. Boys and Girls common room, cafeteria, computer center are as per the requirement.

9. Therefore, taking overall view of the matter, we are of the view that deficiencies referred above are curable in nature. They have already taken steps to remove such deficiencies as pointed out by AICTE. The submissions so advanced is supported by documents. So also deficiencies are not sufficient to take such drastic action against the Petitioners. We are convinced from the documents placed on record that such deficiencies including faculty and cadre ratio is maintained to great extent and no major deficiencies substantial in nature exist. In the facts and circumstances of the present case, we are of the view that the case is made out to grant relief subject to conditions so recorded in Saraswati Education Society's Saraswati College of Engineering v. All India Council for Technical Education (AICTE), WP No. 4586 of 2015, dated 14 August 2015. Therefore, the following order.

ORDER

"a) Writ Petition is allowed in terms of prayer clause (a).

b) Interim order passed by this Court on 8 May 2015, is confirmed.

c) The Respondents are directed to consider the representation/case of the Petitioners, specifically on the issue of cadre and faculty and other related aspects by giving opportunity of hearing to Petitioners and pass the reasoned order, at the earliest.

d) The Respondent-University is directed that in order to avoid the delay in appointments of teaching faculty in the institution like the Petitioners, the proposals received for approval of draft advertisement, roster, nomination of the subject experts, nomination of nominee of the Vice Chancellor and approval of the candidates selected through duly constituted Selection Committee, such proposals be decided in expeditious and time bound manner so as to avoid deficiencies in respect of the same being shown by AICTE in the proposals of such institution for extension of approval.

e) The Petitioners to take steps to remove the deficiencies, even if any, as early as possible.

f) Writ Petition is accordingly allowed.

g) Rule made absolute accordingly.

h) There shall be no order as to costs."