

(2013) 05 PAT CK 0067

In the Patna High Court

Case No : CWJC No"s. 13488 and 13504 of 2012

Madan Murari

APPELLANT

Vs

All India Council for Technical Education and Others

RESPONDENT

Date of Decision : 14-05-2013

Acts Referred:

Citation : (2014) 1 PLJR 29

Hon'ble Judges : Mihir Kumar Jha, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

Mihir Kumar Jha, J.—Heard learned counsel for the petitioner. Despite service of notice in both the cases on the respondent no. 1 and even after filing of the counter affidavit by respondent no. 1, no one has appeared to assist this Court on behalf of the respondent no. 1 i.e. All India Council of Technical Education (AICTE).

2. Learned counsel for the petitioner, having referred to the materials on record, has submitted that the rejection by the AICTE for grant of recognition to the institute, in question, namely A.N.S. College, Barh (Patna) for starting the course of Master of Business Administration (MBA) and Master of Computer Application (MCA) is factually incorrect and legally unsustainable. In this regard, he has taken this Court to the all important report of the Inspection Visiting Committee (EVC) and from them, he has sought to canvass that when the EVC did not find any deficiency in the infrastructure and other amenities to be provided for starting the course of MBA and MCA, the ultimate decision of rejecting such claim of the petitioner as notified in the order dated 25.6.2012 cannot be sustained.

3. From the counter affidavit, it would however appear that the respondents have raised some sort of question mark on the EVC report, inasmuch as, it has been stated therein that:--

8. That the EVC has recommended without accepting the availability of internet,

legal software, legal system software, language lab, E-Journal and printers which are necessary for starting MBA course.

4. In the another counter affidavit, the respondent no. 1 has taken a plea that the recommendation for introduction of MCA course was not acceptable to the counsel but, then, its paragraph no. 8 again reads the same as quoted above which is in fact with reference to the MBA course.

5. Learned counsel for the petitioner in this regard has explained that there is no column in the inspection report as with regard to the verification of the availability of the facilities of internet, legal software, legal system software, language lab, E-Journal and printers and, therefore, these reasons could not have weighed upon the AICTE to hold them as deficient in the EVC report.

6. As noted above, learned counsel for the AICTE is not present and the counter affidavit to say the least is absolutely sketchy. It does not even answer the parawise averment made in the writ application nor discloses any specific reason for rejection of the case of recognition of the petitioner institution in respect of MBA/MCA course.

7. True it is that this decision for grant of recognition in respect of specialized technical educational course has to be taken by AICTE on the basis of the objective consideration including availability of infrastructure and other facilities necessary for starting of the course by any institution but, then, the AICTE cannot take a decision in a slipshod manner. The AICTE being a statutory authority will owe a responsibility not only to the institutions seeking recognition for undertaking the teaching in technical course but also to the students seeking admission in such institutions. It is this aspect of the matter which is making the order passed by the AICTE vulnerable in these cases, inasmuch as, Annexure-7 does not contain any reason for rejection of the case of recognition of the petitioner either for MBA course or MCA course.

8. It is true that for the MBA course or MCA course, if there is a provision made by the AICTE that there must be internet facilities, legal software, legal system software, language lab, E-Journal and printers, the petitioner institution will have to furnish them but, then, for that the petitioner institution was sought to be informed of such deficiencies. As noted above, the case of the petitioner institution, in the first round of consideration, was found to be deficient in many respects and after those deficiencies were removed in the EVC report, the expert had not found any deficiency. Thus, if the authorities of AICTE had accepted fulfillment of some more terms and conditions beyond the report of the EVC, it was necessary for them to inform the petitioner institution with regard to those deficiencies instead of passing a cryptic one word order of rejection.

9. Considering all these aspects, this Court would quash the impugned order as contained in Annexure-7, relating to rejection of grant of recognition for the MBA/MCA course to the institution, in question, represented by the petitioner and direct the authorities of the AICTE to reconsider the case of the petitioner in

accordance with law.

10. If the AICTE norms require the availability of internet, legal software, legal system software, language lab, E-Journal and printers as a condition precedent for grant of recognition for MBA/MCA course, the petitioner institution must first fulfill them and then approach the AICTE with a clear averment that those deficiencies have been removed. Once such a clear undertaking by the petitioner institution shall be furnished, the AICTE will again get the EVC conducted for satisfying itself that all the norms as laid down by it for giving recognition to the MCA/MBA course in the institution of the petitioner is fulfilled and having so satisfied, it will proceed to take a final decision as with regard to grant of recognition to the petitioner institution.

11. Considering the fact that the matter relating to grant of recognition of MBA/MCA of the institution of the petitioner has remained pending for a long period, this Court would direct the authority of the AICTE to do the needful within a period of six months from the date the petitioner gives an undertaking as with regard to the fulfillment of the internet facility, legal software, legal system software, language lab, E-Journal and printers. With the aforementioned observations and direction, both of these writ applications are disposed of.