
(2015) 04 RAJ CK 0162
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4812 of 2014

Shri Puraram Chahar Charitable Trust	APPELLANT
Vs	
All India Council for Technical Education	RESPONDENT

Date of Decision : 22-04-2015

Acts Referred:

Citation : (2015) 04 RAJ CK 0162

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Rajesh Joshi, for the Appellant; Girish Joshi, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Arun Bhansali, J.—This writ petition is directed against letter of rejection dated 30.05.2014 (Annexure-7) passed by All India Council for Technical Education ("AICTE") to set up new institute by petitioner institution and order dated 02.06.2014 (Annexure-14) passed by the Standing Appeal Committee ("Committee") rejecting the appeal of petitioner institution and final letter of rejection dated 10.06.2014 (Annexure-16).

2. The petitioner Trust established SPR Polytechnic College at village Bagsara, Post Sobhasar, Tehsil Sujangarh, District Churu by constructing a building with the required facilities and infrastructure and on 17.05.2014 applied for grant of approval to conduct diploma level course in Civil Engineering, Electrical Engineering and Mechanical Engineering for the Session 2014-2015 with AICTE under the All India Council for Technical Education Act, 1987 ("the Act") and All India Council for Technical Education (Grant of Approval to Technical Institution) Regulations, 2013-2014 ("the Regulations") and the guidelines, terms and conditions laid down by AICTE from time to time.

3. The Committee of AICTE after making scrutiny of the application and documents annexed thereto for grant of approval submitted its report to the

office of AICTE; whereafter, the Expert Visiting Committee of AICTE visited the site of the institution and pointed out certain deficiencies (Annexure-4); based on the said report of the Expert Visiting Committee, the AICTE by its order dated 30.05.2014 rejected the application for setting up of new Technical Institution and indicated that the reports in this regard containing deficiencies were available on the webportal, which may be downloaded and be treated as part of the letter of rejection; whereafter, the petitioner Trust was required to appear in person before the Committee on 02.06.2014 with all the necessary documents in original as per the Approval Process Hand Book.

4. It is claimed that the petitioner Trust met the deficiencies as pointed out in the inspection report dated 27.05.2014 and removed the same and no deficiency existed; the petitioner has given out the steps taken by the petitioner for removal of deficiencies in para 6 of its petition along with Annexures-8 to 13.

5. It is submitted that the Secretary of the Trust visited the AICTE on 02.06.2014 to present its case before the Committee along with all necessary documents and the petitioner filed application/submissions (Annexure-14) before the Committee; however, the Committee by its decision dated 02.06.2014 itself rejected the appeal of the petitioner institution and whereafter the AICTE issued final letter of rejection dated 10.06.2014 (Annexure-16) and observed that it shall be open for the applicant to make a fresh application next academic year.

6. It is submitted by learned counsel for the petitioner that the report of Sub Committee of Regional Committee (Annexure-6) made the inspection on 27.05.2014, however, the report appears to have been made on 26.05.2014 itself, which indicates a prejudged mind; it is further submitted that a bare look at the rejection by the Committee is wholly cursory, inasmuch as, no reason has been indicated for not accepting the removal of deficiency by the petitioner Trust and, therefore, the orders impugned deserve to be set aside.

7. A reply on behalf of respondent No. 2 has been filed, inter alia, reiterating the deficiencies and the fact that the Sub Committee as well as the Committee were justified in rejecting the application; the allegations made in the writ petition have been denied.

8. During the pendency of the writ petition, the following order dated 04.12.2014 was passed by this Court:-

"It is submitted by learned counsel for the petitioner that from a bare look at the report of Expert Visiting Committee (Annexure-4), it is apparent that the report has been generated on 27.5.2014, however, the report of the Sub-Committee (Annexure-6), whereby the committee has decided not to recommend the petitioner's case indicates that the report has been printed on 26.5.2014, which apparently indicates the predisposed mind of the members of the sub-committee.

It is further submitted with reference to the report of the Standing Appellate Committee that the deficiencies pointed out by the Expert Visiting Committee

were removed by the petitioner, and photographs and vouchers indicating the removal of deficiencies were placed before the Appellate Committee. However, the Appellate committee has rejected all the photographs by observing "photographs shown are generally irrelevant and invalid" and has not provided any opportunity worth the name either by way of ordering re-inspection and/or ordering the petitioner to substantiate the said material, which also indicates the predisposed mind set.

A look at the report of the Standing Appellate Committee (Annexure-15) prima-facie indicates that qua all the invoices and photographs produced, the committee merely indicated "not accepted" without anything further.

When counsel for the respondent was called upon to respond to the above aspects, time has been sought for completing his instructions."

9. Whereafter, the respondents have filed an additional reply indicating that the Regional Committee report format though was printed on 26.05.2014, the meeting of the Regional Committee Sub Committee was held on 28.05.2014 and the mismatch in dates is only on account of the formates printed before hand; the removal of deficiencies by the petitioner Trust have been reiterated; during the course of submissions, the counsel for the respondents also produced certain print outs to emphasis the fact that the format was generated on 26.05.2014 and the report thereafter was prepared after the inspection was conducted.

10. Learned counsel for the petitioner submitted that the report of the Sub Committee of Regional Committee (Annexure-6) appears to be a exercise based on prejudged mental state, inasmuch as, the report has been generated on 26.05.2014 while the inspection took place on 27.05.2014 and the entire exercise in this regard stands vitiated.

11. Without prejudice to the above submission, it was submitted that the petitioner submitted all the documents with regard to the deficiencies before the Committee, however, the Committee by undertaking mere formality has simply without apparently even looking into the submission made in this regard has rejected the appeal by not accepting any of the material/documents/photographs produced by the petitioner; it is further submitted that the deficiencies, which were not even pointed out by the Scrutiny Committee regarding audited statements of accounts and FSI/FAR certificate, have also been pointed out as deficiencies; it is submitted that as the application was filed even before end of first financial year of setting up of the institution, there was no question of validity of audited statements of account for the year 2011-2012, however, the same has been indicated as deficiency by the Committee and, therefore, the orders passed deserve to be quashed and set aside.

12. It is submitted by learned counsel for the respondent that from the material available on record the plea regarding prejudged state of mind of the Sub Committee raised by the petitioner is baseless as the format was generated on 26.05.2014 and the report was produced after inspection was carried out on

27.05.2014, which is apparent from the material produced; it is further submitted that the material produced by the petitioner before the Committee was not sufficient for it to come to the conclusion that the deficiencies pointed out by the Committee had been taken care of by the petitioner as few invoices and photographs were produced, which are not recognized and cannot be taken cognizance of and, therefore, the Committee was also justified in rejection of the appeal.

13. Reliance was placed on State of Maharashtra and Others Vs. Prakash Prahlad Patil and Others, (2010) CriLJ 466 : (2009) 14 JT 438 : (2009) 9 SCALE 34 : (2009) 12 SCC 159 : (2009) 7 SCR 392 and Union of India (UOI) and Others Vs. J.D. Suryavanshi, AIR 2011 SC 3605 : (2011) 10 SCALE 689 : (2011) 13 SCC 167 : (2011) 11 SCR 158 : (2011) 6 UJ 3661 .

14. I have considered the submissions made by learned counsel for the parties.

15. So far as the objections raised by counsel for the petitioner regarding the pre-disposed mental state of the Sub Committee of Regional Committee based on the report Annexure-6 is concerned, though the report indicates "Printed On : 26-May-14", admittedly Expert Visiting Committee gave its report on 27.05.2014 (as indicated in Annexure-4 as "EVC Eval Report Generated on: 27 May 2014"); though the plea raised by learned counsel for the petitioner with reference to Annexure-4 and Annexure-6 prima facie raises doubts regarding the preparation of report on 26.05.2014 itself, after the order dated 04.12.2014 (supra) was passed by this Court and submissions have been made by learned counsel for the respondent after filing of the affidavit, it is apparent that the blank form was printed on 26.05.2014 and whereafter the same was filled in after the Regional Committee reviewed the matter and thereafter the recommendation was made; the said aspect is forfeited from the fact that while the form has been prepared in a different font, the recommendation has been typed in a different font and, therefore, merely on account of the indication in Annexure-6 regarding printing of the form on 26.05.2014, it cannot be said that even the recommendation was made on 26.05.2014, to that extent there is no substance in the submissions made by learned counsel for the petitioner.

16. Coming to the decision of the Committee, a look at the report of the Committee indicates that for every deficiency, for which, the petitioner made submissions and submitted documents/photographs indicating removal of deficiencies, the same have been met with the following recommendation/observation of the Committee:-

"Invoice/photograph produced not accepted, photograph shown not accepted, photograph shown not accepted, activities report accepted, title report not accepted, photograph shown not accepted."

17. A general observation has been made that "photographs shown are generally irrelevant and invalid" and a final recommendation of "Rejected" has been made.

18. A bare look at the deficiencies pointed out and the documents (Annexures-8 to 13) produced by the petitioner, it cannot be said that the material produced by the petitioner could have been rejected by the Committee on the grounds indicated in its report i.e. photograph not accepted, detail report not accepted, invoice not accepted; the general observations made that photographs shown are generally irrelevant and invalid also appears to be having no basis, inasmuch as, for the nature of deficiencies pointed out, before the Committee, the removal of deficiencies can apparently only be proved by way of photographs only and in no other manner. However, if the Committee had any doubt/apprehension about the genuineness of the photographs, the Committee was not powerless as it has power to order scrutiny or Expert Visiting Committee visit while deciding the appeal, which is apparent from the columns indicated in the report (Annexure-15). The non-exercise of power by the committee or ordering scrutiny/visit by Expert Visiting Committee qua the claim made by the petitioner regarding removal of the deficiencies, in the opinion of this Court clearly vitiates the finding of the Committee, which without anything more could not have rejected the material produced by the petitioner indicating the removal of deficiencies by it.

19. In that view of the matter, the order of the Committee dated 02.06.2014 (Annexure-15) cannot be sustained and the same is, therefore, set aside.

20. So far as the judgments cited by learned counsel for the respondent are concerned, in the case of State of Maharashtra v. Prakash Prahlad Patil (supra) Hon"ble Supreme Court laid down that Courts should not ordinarily interfere with the policy decision of the State and while exercising power of judicial review, the Court is more concern with the decision making process than the merit of the decision itself. There is no dispute about the well settled preposition as led by Hon"ble Supreme Court, however, in the present case, the decision making process of the Committee has been found wanting on account of non-consideration of material/rejection of material for apparently no cogent reasons.

21. In the case of Union of India v. J.D. Suryavanshi (supra) Hon"ble Supreme Court was dealing with the matter pertaining to the Railway administration found that the same was a specialized field and, therefore, the Court could not interfere in the same. In the present case, this Court is not pronouncing on the eligibility of the petitioner Trust to set up the institution, however, the process/procedure adopted by the Committee in rejecting the appeal cannot be sustained.

22. In view thereof, the judgments cited by learned counsel for the respondent have no application to the facts of the present case.

23. In view of the above, the writ petition filed by the petitioner is partly allowed. The decision of the Committee dated 02.06.2014 (Annexure-15) and the final letter of rejection dated 10.06.2014 (Annexure-16) are set aside and the matter is remanded back to the Committee to redetermine the appeal filed by the petitioner after giving an opportunity of hearing and after getting the re-scrutiny done by

the experts or after seeking report from the Expert Visiting Committee or adopting any other procedure to verify the claim made by the petitioner regarding removal of deficiencies. The Committee shall within a period of five weeks from the date a certified copy of this Court is placed before it after undertaking the required exercise decide the appeal. No order as to costs.