
(2020) 08 MP CK 0212

In the Madhya Pradesh High Court

Case No : Writ Petition No. 9822, 10690 Of 2020

Shri Ratnadeep Educational Society

APPELLANT

Vs

AICTE and Others

RESPONDENT

Date of Decision : 31-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 144

Citation : (2020) 08 MP CK 0212

Hon'ble Judges : S. C. Sharma, J;Shailendra Shukla, J

Bench : Division Bench

Advocate : Siddharth Gupta, Manu Maheshwari, Umesh Gajankush, Ajinkya Dagaonkar, Pushyamitra Bhargava

Final Decision : Dismissed

Judgement

01- Regard being had to the similitude in the controversy involved in the present cases, the writ petitions were analogously heard and by a common order, they are being disposed of by this Court. Facts of Writ Petition No.9822/2020 are narrated hereunder.

02- The petitioner before this Court, a registered Society registered with the objective of imparting education, has filed this present petition being aggrieved by the action of the respondents in rejecting the petitioner's application for grant of permission to start "Post Graduation Diploma in Management Course (PGDM Course)" for the academic session 2020-21 and the subsequent order rejecting the appeal. The petitioner has prayed for the following reliefs:-

"(i) That this Hon'ble Court be pleased to issue any appropriate / writ / order / direction quashing the decision of the SAC AICTE dated 24.06.2020 communicated on 30.06.2020, rejecting the application of the petitioner for opening a new PGDM institution and directing the AICTE for reconsidering and issuing Letter of Approval for the session 2020-2021 within a time bound period.

(ii) That this Hon'ble Court be pleased to issue any appropriate writ / order /

direction quashing the undated un-communicated decision of AICTE rejecting the application of the petitioner institution for opening of a new PGDM institution and directing the AICTE for reconsidering and issuing Letter of Approval for the session 2020-2021 within a time bound period.

(iii) Any other relief which this Hon'ble Court deems just and proper in the facts and circumstances of the case may also kindly be granted to the petitioner."

03- The petitioner's contention is that the petitioner in fact is a minority institution run by the minority "Jain Community" and an application was submitted to "All India Council for Technical Education (AICTE)" for approval to start PGDM Course. The application was submitted online on 29/02/2020. It has been stated that on account of Covid-19 Pandemic, there was complete lockdown from 15/03/2020 onward and various orders were issued under Section 144 of the Code of Criminal Procedure, 1973 by the District Magistrate, Dhar from time to time.

04- It has been further stated that on 14/06/2020 an e-mail was received from AICTE that Online Expert Visiting Committee (EVC) shall visit the Institute on 17/06/2020 at 10:00 AM and the said Online Expert Visiting Committee shall visit the Institute through video recording of the whole site through a specialized application providing 3600 view of the whole campus. The same was also done in the matter.

05- The petitioner further stated that there were certain minor deficiencies noticed by the Committee like non-availability of ramp for disabled persons, disabled friendly toilet, etc. and the petitioner submitted an appeal and uploaded the documents along with compliance / explanations of the various deficiencies. The petitioner has further stated that the Standing Appellate Committee submitted a report on 24/06/2020 rejecting the case of the petitioner. The order was in fact communicated to the petitioner in the evening of 30/06/2020 as stated by the petitioner.

06- Learned counsel for the petitioner has argued before this Court that the petitioner has cured all the deficiencies and therefore, re-inspection should be ordered in the matter in light of various judgments delivered from time to time on the subject by the Hon'ble Supreme Court.

07- A reply has been filed by the All India Council for Technical Education. It is admitted that the petitioner Institution did submit an application on 29/02/2020 and after carrying out inspection through special cameras deficiencies were brought to the notice of the petitioner Institution. It has been stated that in the case of petitioner Institution inspection by the Expert Visit Committee (EVC) was held on 17/06/2020 and by the Standing Appellate Committee (SAC) it was held on 24/06/2020 and at the time of both the inspection the petitioner was not fulfilling the required parameters, such as Barrier Free Environment, Toilet facility for physically challenged (ramp or working lift, etc.), General Insurance provided for assets against fire, Burglary and other Calamities, Internet Bandwidth and

Vehicle Parking facility. 08- The respondents have stated that Institution was given time to prefer an appeal before the Standing Appellate committee (SAC) and to enable the Institute to complete the remaining deficiencies and show the proof, however, the same was not done in time. The respondents have stated that as per the schedule which has been approved by the Hon'ble Supreme Court, the respondent does not have the right to extend the dates fixed for grant of approval. The revised calendar issued by All Indian Council for Technical Education is quoted as under:-

REVISED ACADEMIC CALENAR

Sr. No

Event (particulars)

As per APH 2020-21

Revised Calendar as on 11.08.2020

1.

Last date to grant approval to Technical Institution

30th April of the Calendar Year

30th June of the Calendar Year

2.

Last date for Grant of affiliation by University / Board

15th May of the Calendar Year

15th September, 2020

3.

Last date for Completion of First round of counselling / admission for allotment of seats

On or before 30th June of the Calendar Year

20th October, 2020

4.

Last date for cancellation of seats of technical courses except PGDM / PGCM with full refund

-

10th November, 2020

5.

Last date for Completion of Second round of counselling / admission for

allotment of seats / commencement of 1st semester classes

On or before 10th July of the Calendar Year

1 st November, 2020

6.

Last date up to which students can be admitted against vacancies

15th August of the Calendar Year

15th November, 2020

7.

Last date for Commencement of classes for existing students of technical courses except PGDM / PGCM

-

1 st September, 2020

8.

Last date for Commencement of the classes including Lateral Entry of Second Year Courses for newly admitted students

1 st August of the Calendar Year

1 st November, 2020

9.

Technical Institutions conducting PGDM / PGCM Courses shall not initiate the admission before

1 st April of the Calendar Year

1 st April, 2020

10.

Commencement of classes for existing students PGDM / PGCM

15th July, 2020

11.

Last date for cancellation of seats of PGDM / PGCM with full refund

30th June of the Calendar Year

17th August, 2020

12.

Admission ending date of PGDM / PGCM Courses

30th June every year

25th August, 2020

13.

The academic session for the PGDM / PGCM Courses for newly admitted students
1 st July of the Current Calendar Year to 30th June of the next Calendar Year

10th August, 2020

14.

Last date up to which students can be admitted in Open and Distance Learning Courses.

15th August and 15th February of the Calendar Year for the July and January Session respectively

30th August 2020 and 28th February 2021 in two sessions respectively

Note:

? All the AICTE approved institutions/Universities are requested to follow UGC Revised Guidelines on Examinations in view of COVID-19 Pandemic.

? The classes may be started in online/offline (class room) or blended mode (online + offline) following the prescribed protocols/guidelines related to COVID-19 pandemic.

? The academic calendar may further change subject to the conditions existing due to COVID-19 pandemic and guidelines issued by Ministries of Health, Home and Human Resource Development.

? Institutions who have already started classes as per earlier AICTE calendar , either postpone the classes or conduct special classes for the students who would be required to appear in final year examination of their Graduation/Diploma.

? Student Induction programme for the AY 2020-21 is suggested for one week instead of three weeks in the first semester and the remaining two weeks may be conducted in the subsequent semesters as per the convenience.

? In case of refund of fee, last date of the admission as mentioned in the schedule will be applicable.

(Prof. Rajive Kumar)

Member Secretary, AICTE"

The respondents have also stated that the aforesaid calendar has been approved by the Hon'ble Supreme Court vide order dated 10/07/2020 and the Hon'ble Supreme Court in Parshvanath Charitable Trust and Others Vs. All India Council for Technical Education & Others has passed the following order:-

"The prayer of extension of time is rendered infructuous in view of the fact that the respondent All India Council for Technical Education (AICTE) has issued a fresh calendar, which is on record. The same is approved.

Order accordingly.

IA 57493/2020 is disposed of.

M.A. No. 1154/2020 stands disposed of."

In the considered opinion of this Court, once the revised academic calendar has been approved by the Hon'ble Supreme Court, this Court cannot extend the time to grant approval to the petitioner Institution and it only the Hon'ble Supreme Court, which can extend the time, if any, keeping in view the facts and circumstances of the case.

09- Learned counsel for the petitioner has placed reliance upon a judgment delivered in the case of Romil B. Shah (Dr.) and Others Vs. State of Gujarat and Others reported in (2006) 6 SCC 268 and his contention is that the cut-off date fixed by the AICTE can be extended. The aforesaid case was a case relating to admission of the postgraduate course (MDS). In the aforesaid case, the Hon'ble Supreme Court has held that the examination was conducted by the College in a haphazard and hasty manner and in those circumstances, the last date fixed for admission to postgraduate course was waived. In the present case, the time schedule was framed much in advance. It has been revised on 11/08/2020 and the same has been approved by the Hon'ble Supreme Court and therefore, the question of interference keeping in view the aforesaid judgment does not arise.

10- Reliance has been placed upon a judgment delivered in the case of Shubh Deep Ayurved Medical College Vs. Union of India and Others reported in 2013(3) MPLJ 94. The aforesaid case was in respect of postgraduate courses in Ayurved and the Central Government was directed to pass an order in respect of extension of cut-off date after seeking permission from CCIM. The aforesaid judgment does not help the petitioner as in the present case the revised academic calendar has already been approved by Hon'ble Supreme Court.

11- Reliance has also been placed upon a judgment delivered in the case of Asha Vs. Pt. B. D. Sharma University of Health Sciences and Others reported in (2012) 7 SCC 389. In the case of Asha, she was denied admission and it was a case of admission to a candidate in medical college. The judgment is not at all relating to grant of permission to start a course and therefore, the judgment does not help the petitioner at all.

12- Learned counsel for the petitioner has placed reliance upon a judgment delivered in the case of Saraswati Educational Charitable Trust and Another Vs. Union of India and Another reported in (2017) 16 SCC 637. In the aforesaid case, the Hon'ble Supreme Court has interfered because the debarment of college was done from taking admission without properly considering the relevant aspects. This Court has carefully gone through the aforesaid judgment

and the aforesaid judgment was also not in respect of cut-off date. The petitioner in the present case himself has admitted about the deficiencies noticed by the authorities and once there were deficiencies noticed in existing, the petitioner's application for grant of permission to start Post Graduation Diploma in Management Course (PGDM Course) for the academic session 2020-21 was rightly turned down.

13- Learned counsel has also placed reliance upon a judgment delivered in the case of Parshvanath Charitable Trust and Others Vs. All India Council for Technical Education and Others reported in (2013) 3 SCC 385. Paragraph No.41 to 43 of the aforesaid judgment reads as under:-

"41. The appropriate Schedule, thus, would be as follows :

Event

Schedule

Conduct of entrance examination (AIEEE/State CET/Management quota exams, etc.)

In the month of May

Declaration of result of qualifying examination (12th exam or similar) and entrance examination

On or before 5th June

1 st round of counselling/admission for allotment of seats

To be completed on or before 30th June

2 nd round of counselling for allotment of seats

To be completed on or before 10th July

Last round of counselling for allotment of seats

To be completed on or before 20th July

Last date for admitting candidates in seats other than allotted above

30th July However, any number of rounds for counselling could be conducted depending on local requirements, but all the rounds shall be completed before 30th July

Commencement of academic session

1st August

Last date up to which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota)

15th August

Last date of granting or refusing approval by AICTE

10th April

Last date of granting or refusing approval by University/State Government

15th May

42. The admission to academic courses should start, as proposed, by 1st August of the relevant year. The seats remaining vacant should again be duly notified and advertised. All seats should be filled positively by 15th August after which there shall be no admission, whatever be the reason or ground.

43. We find that the above Schedule is in conformity with the affiliation/recognition schedule afore-noticed. They both can co-exist. Thus, we approve these admission dates and declare it to be the law which shall be strictly adhered to by all concerned and none of the authorities shall have the power or jurisdiction to vary these dates of admission. Certainty in this field is bound to serve the ends of fair, transparent and judicious method of grant of admission and commencement of the technical courses. Any variation is bound to adversely affect the maintenance of higher standards of education and systemic and proper completion of courses."

In the aforesaid case, the Hon'ble Supreme Court of India has dealt with in detail the cut-off dates prescribed for admission as well as the cut-off dates prescribed for grant of permission. This Court once the revised schedule has been affirmed by the Hon'ble Supreme Court, cannot extend the dates as prayed by the petitioner and the only course left to the petitioner is to approach the Hon'ble Supreme Court because the revised schedule is having a stamp of approval by the Hon'ble Supreme Court of India.

14- This Court does not find any reason to interfere with the order rejecting the application for grant of permission to start new course as well as order passed by the Standing Appellate Committee (SAC). The admission is declined in both the petitions.

Certified copy as per rules.