

(1998) 04 AP CK 0083

In the Andhra Pradesh High Court

Case No : Writ Petition No. 30339 of 1997

Sri Sarathi Institute of Engineering and Technology, Hyd. and
Another

APPELLANT

Vs

All India Council for Technical Education, New Delhi

RESPONDENT

Date of Decision : 28-04-1998

Acts Referred:

All India Council for Technical Education Act, 1987 — Section 10
Constitution of India, 1950 — Article 19(1), 226

Citation : (1998) 3 ALD 290 : (1998) 3 ALT 564

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Advocate : M/s. A. Krishna Murthi and P. Nageswara Sree, for the Appellant; M/s. M.V.S. Suresh Kumar, M.R.S. Srinivas and Srinivas Karr and Sri T.S. Harnath, for the Respondent

Judgement

1. The petitioners have assailed the validity of the statutory action of the All India Council for Technical Education (for short "AICTE") vide its proceedings in F.No.732-50-024 (NDEG)/ET/95 dated 21-10-1997 refusing to grant approval to the petitioners for establishing an Engineering College during the academic year 1997-98.

2. The facts leading to the filing of this writ petition be summarised briefly as under:

3. The 2nd petitioner is the Chairman of M/s Seva Trust, Habsiguda, R.R. district. The Seva Trust desiring to establish an Engineering College in the name and style of "M/s Sarathi Institute of Engineering and Technology", which is arrayed as petitioner No.1, made an application dated 29-12-1995 to the AICTE for grant of approval to establish an un-aided Engineering College from the academic year 1996-97 with the strength of 300 students, comprising five disciplines viz. Mechanical Engineering, Electronics and Communications Engineering, Electrical and Electronics Engineering, Computer Engineering and Production Engineering,

each discipline consisting of sixty students. The Committee constituted by the State Government of Andhra Pradesh inspected the proposed petitioner's college and recommended to the Government of Andhra Pradesh for making recommendation to AICTE for grant of approval. Subsequently, an expert committee of the AICTE, consisting of representatives of the State Government and the Jawaharlal Nehru Technological University (for short "JNTU") inspected the College on 30-5-1996. The AICTE after consideration of the reports of the Committees, passed the order on 4-11-1996 declining to accord approval for establishing the College. Aggrieved by the said order of the AICTE, the petitioners filed writ petition No. 25125 of 1996 in this Court and this Court disposed of the said writ petition finally on 19-6-1997. The operative portion of the order reads thus:

"It is necessary that the fresh inspection has to be made to ascertain whether the norms required have been fulfilled. As the petitioners agreed to pay inspection charges of Rs. 25,000/- and the Counsel for AICTE agreed for inspection within 15 days, since the question itself has arisen only because of the difference of opinions of expert Committee, it is appropriate that the Committee which is to make fresh inspection will not consist of those members who have come earlier. It is also agreed that because of the delay in the process of the application, the respondent AICTE shall consider the application in the light of the conditions prevailing on the date of the application for the purpose of passing appropriate orders regarding approval on the basis of the report of the fresh Committee. Such orders shall be passed before 31-7-1997."

In the meanwhile, the petitioners made another application to the AICTE for grant of approval for the academic year 1997-98. For the purpose of considering the applications made for the academic year 1997-98, the Government of Andhra Pradesh constituted a High Power Committee, headed by the Vice-Chancellor of JNTU and that Committee reviewed 86 applications received during the year 1997-98. In the report submitted by the said High Power Committee, the petitioner's institution was placed at Sl.No.1 in Category-I and recommended to the Government of Andhra Pradesh and AICTE to grant approval to the petitioner college. The petitioners as per the directions of this Court in W.P.No. 25125 of 1996 paid the inspection charges. The AICTE Expert Committee inspected the petitioners' proposed college on 12-7-1997 and the management of the college made available all the informations and particulars to the Committee. The Expert Committee of the AICTE prepared the report on 30-7-1997 and the same was submitted to the AICTE by fax. The AICTE passed the order on the same day i.e. 30-7-1997 rejecting the application of the petitioners for grant of approval. The petitioners being aggrieved by the said order of the AICTE filed Writ Petition No. 20323 of 1997 in this Court. This Court by its order dated 30-9-1997 allowed the writ petition. The operative portion of the order reads as under:

"I have considered the respective contentions. I am not convinced with the way in which the matter was dealt with. Admittedly, the report was dated 30-7-1997

and on the very same day, an order of rejection was passed by the first respondent stating that the report was faxed. Even assuming that the report was faxed, it is necessary that the matter should be dealt with proper application of mind to the facts and circumstances of the case and it cannot be dealt with for the sake of compliance of procedure. What is required is application of mind and fair decision. I am convinced that the decision was not taken in a fair atmosphere. It only appears that in order to comply with the directions of this Court to pass orders within the time limit fixed, such an order was passed. Therefore, for these reasons, without going into the merits of the case, I am inclined to set aside the impugned order and remand the matter for fresh consideration and disposal to the first respondent with the following directions:

"The first respondent shall consider the matter keeping in view the report of the Regional Committee dated 30-7-1997 and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order. It is also made clear if any minor deficiencies are noticed by the authorities which could be rectified in the course of running educational institution, it would be fair for the authorities to grant conditional approval pending compliance of the minor deficiencies. For this purpose, the institute should not be denied the facility of conducting Engineering Classes. However, it is also brought to the notice of this Court that such a conditional approval was granted to D.V.R. College of Engineering in proceedings dated 30-5-97/ 2-6-97 and it is the case of the petitioners that though the said institution did not comply with the basic requirements, it was granted conditional approval.

"I am not inclined to go into this aspect. Suffice it to say, if the petitioners fulfill the criteria at least for conditional approval, the same should be considered and appropriate orders be passed. The authorities are also at liberty to take a decision as to whether the petitioners could be given temporary approval pending compliance of certain minor deficiencies for the establishment of an Engineering College. The impugned order is accordingly set aside. Consequently, the writ petition is disposed of. No costs."

As per the above directions of this Court, the application of the petitioners for grant of approval was re-considered and the same was, however, rejected by the impugned proceedings of the AICTe dated 21-10-1997. Hence this writ petition.

4. Sri Amancharla Krishna Murthy, learned Counsel appearing for the petitioners would contend that (i) the grounds stated in the impugned order to refuse grant of approval to the petitioners for establishing an Engineering College are baseless; (ii) that the impugned order is totally arbitrary and unreasonable; (iii) that the impugned order is tainted with mala fide; (iv) that the AICTE by passing the impugned order has violated the directions issued by this Court in W.P.No. 20323 of 1997, and would conclude stating that it is a fit case where this Court, instead of directing the AICTE to re-consider the application of the petitioners, should direct it to accord approval on permanent basis and, if for any reason, such approval on permanent basis cannot be granted, then, to direct the AICTE

to grant conditional or temporary approval to start the Engineering College.

5. On the other hand, Sri M.V.S. Suresh Kumar, the learned Standing Counsel appearing for the AICTE would maintain that the impugned order is fully justified on facts and in terms of law, and in fact in passing the impugned order, the AICTE has not taken into account the minor deficiencies as suggested by this Court while disposing of W.P.No. 20323 of 1997.

6. It is of utmost importance for the State to see that the students who join professional and technical courses should receive proper and expected standard of education, and it cannot be left to the sweet will and discretion of the managers and the founders of the educational institutions to determine the standard and quality of education and to provide infrastructural facilities, as they like. The graduates coming out of the professional and technical colleges are expected to play a pivotal role in the nation-building and rendering service to the community at large, whether they join the services under the State or practice their profession independently. To achieve this goal, the Legislatures, both at the Central level and State level, have stepped into the field of professional and technical education and enacted regulatory laws. All India Council for Technical Education Act, 1987 (for short "the Act") is one such law enacted by the Indian Parliament by virtue of the power granted to it under Entry 66 of List-I and Entry 25 of List-III of VII Schedule to the Constitution of India to regulate and coordinate technical education in the country. u/s 10 of the Act, the AICTE, an authority created under the Act, is entrusted with the powers, particularly, to allocate and disburse grants, to evolve suitable performance appraisal systems incorporating norms and mechanisms for maintaining accountability of the technical institutions, laying down norms and standards for courses, curricula, staff pattern, staff qualifications, assessment and examinations, fixing norms and guidelines for charging tuition fee and other fees, granting approval for starting new technical institutions or introducing new courses or programmes, to lay down norms or granting autonomy to technical institutions, providing guidelines for admission of students, inspecting or causing to inspect colleges, for withholding or discontinuing of grants in respect of courses and programmes, declaring institutions at various levels and types fit to receive grants, advising the Commission constituted under the Act for declaring technical educational institutions and deemed universities, setting up of National Board of Accreditation to periodically conduct evaluation on the basis of guidelines and standards specified and to make recommendations to it or to the Commission or other bodies under the Act regarding recognition or de-recognition of the institution or the programme conducted by it. So far as the above matters are concerned, as held by the Supreme Court in *State of T.N. and Another Vs. Adhiyaman Educational and Research Institute and Others*, , the norms and standards specified by the AICTE shall prevail over the norms and standards fixed by the State Acts. In other words, prior approval of the, AICTE is sine qua non for starting a technical educational institution, without which neither the State Government nor the concerned University can grant recognition or

affiliation to such institution. When this is the settled position in law, the reliefs sought by the petitioners make an interesting reading. The prayer reads as follows:

"For the reasons stated in the affidavit, it is prayed that this Hon''ble High Court be pleased to call for records and quash the impugned order vide letter No. F.No. 732-50-024(NDEG)/ET/95 dated 21-10-1997 issued by the first respondent AICTE and declare the same as null and void and consequently or otherwise to grant the necessary approval to the petitioner for establishing an Engineering College with an intake of 300 students with 5 disciplines i.e. Mechanical Engg., Electronics & Communication Engg., Electrical & Electronics Engg., Computer Engg., and Production Engg., 60 students in each discipline, at Habsiguda temporarily and permanently at Parvathapur village, Ghatkesar Mandal, R.R. District for the academic year 1997-98, as per the conditions prevailing on the date of the application dated 29-12-1995 immediately or alternatively to direct the 1st respondent AICTE, to grant the necessary approval to the petitioner to establish an Engineering College, with an intake of 300 students with 5 disciplines, i.e. Mechanical Engg., Electronics & Communication Engg., Electrical & Electronics Engineering, Computer Engg. and Production Engineering, 60 students in each discipline, at Habsiguda temporarily, and permanently at Parvathapur village, Ghatkesar Mandal, R.R. district for the academic year 1997-98 as per the conditions prevailing on the date of the application dated 29-12-1995 immediately and to direct the State Government to accord permission for establishing the said Engineering College and to direct the JNT University to provide affiliation immediately to enable the petitioner to commence Engineering College for the academic year 1997-98 and direct the Convenor EAMCET-97 to allot students to the petitioners college for the academic year 1997-98 from the list of successful candidates in EAMCET-97 examination, by issuing a Writ of Mandamus or any other appropriate writ or order, or direction as this Hon''ble High Court deems it fit and proper and to grant such other relief or relief to which me petitioner is found entitled to in the circumstances of the case and to allow the writ petition with costs otherwise the petitioners will be put to irreparable loss, injury, damage and hardship."

Unless the petitioners obtain prior approval of the AICTE to start the Engineering College, they are not entitled to seek any direction against the State Government or JNTU to grant recognition and affiliation. Similarly, question of issuing a direction to the Convenor of EAMCET-97 to allot students to the petitioner college also does not arise.

7. Before dealing with the contentions of the learned Counsel for the petitioners, a brief, preface nay, a note of caution to the Court itself is necessary. It is quite often emphasised by the Courts that in academic matters, the decisions taken by the statutory educational authorities or bodies shall not be interfered with lightly, and only in those cases where a strong and substantive ground is made out, the Courts can interfere. The rationale behind this hypothesis is that these statutory

educational authorities or the bodies are the experts in the field of education and the Courts are not. However, it is a constitutional obligation of the Courts under Article 226 of the Constitution to review even the decisions taken by the statutory educational authorities like the AICTE. In doing so, the Court can only see whether the AICTE in passing the impugned order adhered to the procedure prescribed under the Act and the Regulations, whether the reasons stated by it for rejecting the application are perverse and whether principles of natural justice and fair-play inaction are violated. In reviewing such actions, the Court need not approach the subject with mathematical, precision or a surgeon's accuracy and dissective skill to locate and remove the diseased or damaged body-particle. A Constitution Bench of the Supreme Court in *The State of Maharashtra and Another Vs. Lok Shikshan Sansatha and Others*, held that so long as there is no violation of any fundamental right and the principles of natural justice are not offended, it is not for the High Court to lay down policy that should be adopted by the educational authorities in the matter of granting permission for starting educational institutions.

8. The impugned order of the AICTE reads as follows:

F.No.732-50-024(NEG)/ET/95 October 21,1997

The Chairman, Seva Trust, H.No. 3-76 Jaya Nagar, Street No.6, Habshiguda, Hyderabad-7

Sub:-Proposal for establishment of new Degree Institute in Engineering and Technology in the name and style of Sri Sarathi Institute of Engineering and Technology, Temp: Location: Habshiguda, Hyderabad-500 007, permanent Location :Paravathapur village, Ghatkesar Mandal, Ranga Reddy District. A.P

Sir,

I am to refer to your proposal for establishment of abovementioned new Engineering College and to state that the proposal has been processed and examined keeping in view the norms and standards of AICTE.

In pursuance of the Hon''ble High Court of A.P. judgment dated 30-9-97 received by the Council on 8-10-97 passed in writ petition No. 20323/97, the AICTE has considered the aspects of grant of approval, grant of conditional/temporary approval in the light of the Expert Committee report dated 30-7-97 and has ultimately come to the conclusion that the institution suffer from major deficiencies and hence not fit for grant of approval to start the Engineering College in the name and style of Sri Sarathi Institute of Engineering and Technology for the academic year 1997-98. The reasons for not granting the approval are enumerated below:

1. As per the norms and standards, the land required for permanent location of the College falls short by 2.2 acres. The shortfall is substantial and further the access to the permanent location requires to be laid and it is not known as to when the proper road facility would be available to the permanent site.

2. The space required as per the norms for establishing the Workshop is 900 sq.mt whereas the institution is having 410.62 sqm which is hardly sufficient for running an Engineering College.

3. The Computer Lab. requirements fall far below³ the requirement and standards for setting up an Engineering College, the required space is 300 sqm. whereas the institution is having only 95.70 sqm.

4. As per the norms and standards, the faculty required for the proposed Engineering College for the proposed five programmes in.

1. Mechanical Engineering

2. Electronics & Communication Engg.

3. Electrical & Electronics Engg.

4. Computer Engg.

5. Production Engg.

should comprise of a Principal, 5 Asst. Professors and 15 Lecturers. However, it is noticed from the report of the Expert Committee that no Principal is identified. Further, there is no clue of 5 Assistant Professors. There is also no information as regards to 15 Lecturers. Thus, it would be preposterous to permit an Engineering College without there being a teaching staff and it would amount to a farce if an Engineering College is allowed to be started without teaching faculty and it would be subjecting the students to the vagaries of the Management.

5. It is also noticed much to the anguish of the Council that the Technical Staff for the Workshop is not identified by the Institution and it is not in the interest of student community to permit an Engineering College in the absence of such a requirement apart from others. As per requirement, one Workshop Superintendent, one Assistant Workshop Superintendent or Foreman, 6 Mechanics and 6 Attendants are required to man the Workshop. It should be sorry state of affairs if approval is to be granted when none of them is identified.

6. It is revealed by the report of the Expert Committee that the Library Staff is not identified when a Librarian, an Assistant Librarian and 4 Library Assistants are required as per norms. Mere possessing of books that too falling short of required norms is of no use in the absence of any identified Library Staff.

7. The norms requires a System Manager, a System Analyst, a Computer Programmer and 2 Computer Operators for running the Computer Lab. However, it has been brought out that none of them is identified and it is also not understood how Computer Lab could be run without any attempt to identify such staff.

8. The Administrative Staff as per norms is to comprise of a Registrar or Administrative Officer, Medical Officer (Part-time) and a Senior Stenographer and PA to Principal. None of them has been identified by the institution as per the

report of the Export Committee and this is an alarming situation for considering the pros and cons for granting of approval.

9. Overall space requirement for running an Engineering College with an intake of 300 students with 5 programmes for running the first year classes as proposed by the subject institution should be 3256.75 sqm. whereas the space available falls short by 1162.89 sqm. and therefore it may not be appropriate to permit an Engineering College or grant approval in such a situation.

The AICTE while considering your case as per the judgment of the Hon''ble High Court has not taken into consideration the minor deficiencies but only the major deficiencies have been considered. The Council has also felt that no useful purpose would be served by granting conditional/ temporary approval in the light of the major lacunae as mentioned above and hence sees no reason to grant approval for the academic year i.e. 1997-98.

Yours faithfully Sd/ B.G. Sangameshwara dated 21-10-92"

It is quite apparent that in passing the impugned order, the AICTE has not taken into consideration the minor deficiencies as indicated by this Court in its order dated 30-9-97 made in W.P.No. 20323 of 1997. The AICTE has pointed out nine major deficiencies, rather grounds, for rejecting the application of the petitioners'' college for approval. Therefore, the first question which falls for consideration is, whether the nine grounds stated in the order are baseless and perverse. Sri Krishna Murty, learned Counsel for the petitioner quite fairly did not dispute the fact that in order to grant approval on a permanent basis, the deficiencies pointed out in the impugned order have to be complied with. The crux of the argument of the learned Counsel is that there was absolutely no justification for the AICTE to demand compliance of all the norms at the threshold of starting the College itself, and he would maintain that the AICTE has in fact granted conditional or temporary approval to many other applicants to start the Engineer Colleges though such applicants did not fulfil the prescribed norms. The learned Counsel would draw the attention of the Court by referring to certain documents appended to the writ petition and contend that the AICTE granted conditional or temporary approval to many Trusts and Societies though they did not fulfil the specified norms.

9. At the outset, it is relevant to note that the provisions of the Act and the Regulations do not envisage granting of temporary or conditional approval to start the Engineering Colleges. It may be that out of the norms specified by the AICTE, some may be major and the others minor, and in a particular fact-situation, the AICTE in its discretion may grant approval subject to the applicant complying with some minor norms within a specified time. But, no applicant has any vested right to claim approval as a matter of right without fulfilling and complying with the prescribed norms and conditions. In Unni Krishnan, J.P. and others Vs. State of Andhra Pradesh and others etc. etc., , though it was assumed by the majority for the purpose of those cases that a person or body of persons

has a right to establish an educational institution in this country, but categorically held that no citizen, person or institution has a right much less a fundamental right to affiliation or recognition, or to grant-in-aid from the State or statutory educational authorities. Therefore, at the most, right to establish an educational institution may be a right under Article 19(1)(g) of the Constitution, but, if a person seeks recognition for the education so imparted in the institution and/or if such education is secular education, then such person is bound to comply with and fulfil the prescribed norms and conditions governing recognition before he seeks recognition or approval. Even the minority institutions are not spared from complying with such requirements. None has a right to have his or its institution recognised by the State or the Statutory authorities without complying with the norms and standards laid down by the State or the Statutory authorities, as the case may be. Even in a case where an applicant fulfils all the norms and conditions, the State may not grant permission or recognition if it is of the opinion that there is no need for new educational institution or if it thinks that the establishment of the new educational institution would lead to unhealthy competition or lower the standards of education. Similarly, the Court cannot issue direction to the Government or Universities or the statutory educational authorities to grant approval or permission or recognition or affiliation, as the case may be, either on permanent basis or on temporary basis, when the Court finds that the applicant seeking such approval or permission or recognition or affiliation has not fulfilled the prescribed norms and conditions. The Courts cannot assume the role of a supreme administrator in the field of education and impose its subjective opinion on the statutory authorities. Refusal to grant approval for non-compliance of the norms, whether major or minor, can never be condemned as an arbitrary or unreasonable action. Therefore, the request of the learned Counsel for the petitioners to direct the AICTE to grant at least conditional or temporary approval is not acceptable to the Court. It is well settled by the pronouncements of the Supreme Court in *State of Bihar and others Vs. Ramdeo Yadav and others*, and in *J and K. Public Service Commission, etc. Vs. Dr. Narinder Mohan and others etc. etc.*, that High Courts cannot issue mandamus to disobey the law.

10. In the instant case, the materials placed before the Court amply prove that the petitioners have not complied with many major norms. Norms fixed for building and space for an Engineering College with intake of 300 students in 5 programmes require a total land of Ac. 22.2 as could be seen from page 29 of the compendium of "Norms and Standards" published by the AICTE (1995 Edition), whereas the petitioners are possessing 20 acres. However, the deficiency may not be a major deficiency having regard to what is stated in paragraph 12.8 of the compendium. In that paragraph, it is stated that it will not be desirable to set the norms for the land requirements for an Engineering College because of existing high pressure on land availability and other similar factors; if enough land is not available near a large town, the double and triple storey constructions may have to be resorted to; keeping all these points in view,

it is expected that a new engineering institution located in non-metro location will have a land of about 20 acres at its disposal before starting. The second deficiency relates to the space required for establishing the workshop. According to the norms, the space required for establishing the workshop is 900 sqm. whereas the institution admittedly is having only 410.62 sqm. The AICTE has pointed out that the available space is hardly sufficient for running an Engineering College. The third deficiency relates to Computer Lab requirements. The required space for this is 300 sqm. whereas the institution is admittedly having only 95.70 sqm. Adverting to the fourth deficiency pointed out by the AICTE in the impugned order, though there is some controversy between the petitioners and the AICTE about the appointments of the Principal, Assistant Professors and Lecturers, it cannot be said that the reason given by the AICTE to conclude that if the petitioners are allowed to start the Engineering College without the necessary teaching faculty, the students would be subjected to vagaries of the management, is baseless and unreasonable. The expert committee in its report has noted that the consent letters given by certain identified persons did not refer to any offer made by the College/Trust. Norms relating to non-teaching, technical and supporting staff, library staff, computer centre staff, administrative staff are not at all complied with by the petitioners. Even assuming that the petitioners have complied with the norms relating to the land and the teaching faculty, even then, the AICTE cannot be commanded to grant approval to the petitioners because the Court finds that the other major norms are not complied with. Equally, the Court cannot direct the AICTE to grant conditional or temporary affiliation hoping that the management of the college would comply with those norms after starting the college. There are many pronouncements to the supreme Court and this Court cautioning against exercise of jurisdiction characterised more by benevolence than on settled legal principles. A relief must be such as could be considered permissible in law and worked out by the application of legally recognised principles. The decision must have legitimacy of legal reasoning and should not incur the criticism of lacking objectivity of purpose and rational and legal justification. I do not find either rationale or legal justification to issue a direction to the AICTE to grant conditional or temporary approval as requested by the learned Counsel for the petitioners quite passionately, it is not difficult to contemplate the danger of granting conditional or temporary approval where many major norms are not complied with. If conditional or temporary approval is accorded and the college admits the students to the First Year course on the basis of such conditional or temporary approval, and if the management fails to comply with all the norms within the stipulated time, then the careers of the students admitted into the college would be put in jeopardy. Therefore, there is nothing wrong on the part of the AICTE to demand compliance of all major norms before it accords approval under the Act. Therefore, it cannot be said that AICTE in passing the impugned order has acted arbitrarily or unreasonably.

11. The argument of the learned Counsel for the petitioners that the impugned

action is tainted with mala fide is not well-founded. This argument is based on certain allegations made against Dr. Subbayan, the Chairman of the Expert Committee constituted by the AICTE, which visited the college on 30-5-1997 and against Mr. Mahajan, the Deputy Director of AICTE and the Chairman of the Expert Committee constituted by the AICTE which visited the College on 12-7-1997. The very same allegations were made earlier in W.P.No.20323 of 1997 and in the counter-affidavit filed in the said writ petition, these allegations were denied. After perusal of the pleadings, I am not satisfied that the petitioners have laid any factual matrix to bring home malice-in-fact against the two officers. Further, the petitioners for the reasons best known to them, have not chosen to implead those two officers as party-respondents in their personal capacity. Therefore, even on this ground also, the contention of the learned Counsel for the petitioners cannot be sustained. The AICTE is not expected to traverse those allegations personally attributed to those two officers.

12. No malice-in-fact, however, can be attributed to a legal person like the AICTE. Malice-in-fact can be attributed only to natural persons. However, the learned Counsel for the petitioners would contend that the impugned action suffers from legal mala fide. It is true that no establish "legal mala fide, personal animosity, ill-will or vengeance need not be established. Mala fide exercise of power only means that the statutory power is exercised for the purpose foreign to those for which it is in law intended, as held by the Supreme Court in *Jaichand Lall Sethia Vs. State of West Bengal and Others*, . Therefore,, the question for consideration is, whether in the present case, AICTE has exercised its statutory power for any purpose other than the purpose for which such power is granted to it under the Act. There is absolutely no material before the Court to satisfy itself that the AICTE has either abused or mis-used its statutory power in rejecting the application of the petitioners for grant of approval. On the other hand, the AICTE has given cogent and acceptable reasons for its decision. No exception can be taken to the same.

13. Coming to the contention of the learned Counsel for the petitioners that AICTE violated the directions of this Court issued in its order dated 30-7-1997 in W.P. No.20323 of 1997, suffice it to state that this Court did not direct the AICTE to grant temporary or conditional approval in positive terms. The Court only stated that, "if any minor deficiencies are noticed by the authorities which could be rectified in the course of running educational institution, it would be fair for the authorities to grant conditional approval pending compliance of the minor deficiencies." The impugned order makes it abundantly clear that as suggested by this Court, the minor deficiencies are not taken into consideration and the application is rejected only on the ground of non-compliance of major norms. Therefore, the argument of the learned Counsel for the petitioners that the AICTE has violated the direction of the Court is not correct.

14. The other point urged by the learned Counsel for the petitioners that in certain cases though the applicants did not comply with the norms, the AICTE

granted conditional or temporary approval and, therefore, the petitioners should also be granted conditional or temporary approval, need not detain the Court for long. As pointed out supra, in the first place, the Act and the Regulations do not envisage grant of conditional or temporary approval. Assuming that by practice such conditional or temporary approval was granted by the AICTE to start an Engineering College, in a particular case, that itself will not be a precedent for the Court to issue direction to the AICTE to grant conditional or temporary approval in the case of the petitioners also.. It is now well settled by the decisions of the Supreme Court in *State of Orissa Vs. Durga Charan Das*, ; *Coromandel Fertilizers Ltd. Vs. Union of India (UOI) and Others*, ; and *Gurusharan Singh v. New Delhi Municipal Committee*, (1996) 2 SCC 457 that if an authority makes an order in violation of a rule and confers a right on an ineligible person,, that would not justify a claim by another ineligible person. Therefore, no such direction as prayed for by the petitioners can be granted.

15. No other point was urged or argued.

16. In the result, the writ petition is dismissed with no order as to costs.