

(2015) 01 MP CK 0050
In the Madhya Pradesh High Court
Case No : Writ Petition No. 9091 of 2014

Swami Vivekanand College of Science and Technology	APPELLANT
Vs	
All India Council For Technical Education	RESPONDENT

Date of Decision : 13-01-2015

Acts Referred:

All India Council for Technical Education Act, 1987 — Section 11, 11(2)

Citation : AIR 2015 MP 33 : (2015) 1 MPLJ 475

Hon'ble Judges : S.K. Gangele, J.;Rajendra Menon, J.

Bench : Division Bench

Advocate : Siddharth Gupta, Learned Counsel, for the Appellant; Pradeep Sharma, learned counsel, Advocates for the Respondent

Final Decision : Allowed

Judgement

Rajendra Menon, J.—Challenging the communication dated 18.6.2014 passed by the All India Council for Technical Education withholding the extension of approval granted to the petitioner/ Institute for the academic session 2014-15, this writ petition has been filed.

2. With regard to grant of extension of approval and calling in question certain action taken by the All India Council for Technical Education (hereinafter referred to as "AICTE") in refusing the EOA for the academic session 2012-13 and again 2013-14, the matter came to this Court in W.P.No.2074/2014 and by a detailed order passed by this Court on 13.5.2014, this Court directed for granting EOA for the academic session 2012-13 and 2013-14 for various reasons as are incorporated in the order passed on 13.5.2014. However, for the academic session 2014-15 for grant of EOA, liberty was granted to the AICTE to conduct inspection and proceed in accordance with the statutory rules and regulations.

3. In pursuance to the aforesaid direction, as certain action is said to have been taken by the AICTE and by contending that the proper inspection in accordance with rule has not been undertaken and without conducting an inspection, as is

required under law, EOA is withheld, this writ petition has been filed.

4. It is the case of the petitioner that after orders were passed on 13.5.2014 in W.P.No.2074/2014, the petitioner/Institute through its Registrar has submitted a detailed representation along with various documents and they were present in Delhi to canvass the case of the petitioner/Institute for grant of EOA. However, in the meanwhile, when the representatives of the petitioner/Institute was in the New Delhi for persuading the matter, an email was received by the Institute indicating that the inspection of the Institute by an expert visiting team shall be conducted at Bhopal on 27.5.2014 at 10:00 am. It is stated that this email was received on 26.5.2014 at 10:30 am and in this regard, photocopy of this email Annexure-P15 is filed. A message was sent by the Institute to the AICTE for postponing the inspection on the ground that the Registrar along with the relevant documents necessary for inspection is present in New Delhi on 26.5.2014 and 27.5.2014 and therefore, inspection in the matter as proposed may not be feasible. That apart, a detailed representation in this regard was submitted in New Delhi on 26.5.2014 vide Annexure-P16.

5. Grievance of the petitioner is that inspite of all these communications being made and inspection was conducted on 27.5.2014 itself and various deficiencies technical in nature were pointed out and EOA withheld.

6. Shri Siddharth Gupta, learned counsel took us through the provisions of Section 11 of the All India Council for Technical Education Act, 1987 (herein after referred to as the "Act of 1987"), the manner in which the inspection was conducted and certain judgments of the Supreme Court in the case of National Council for Tech. Edu. and Another Vs. Vaishnav Inst. of Tech. and Mgt., and in the case of Manohar Lal Sharma Vs. M.C.I. and Others, to say that the manner, in which the inspection was conducted in gross violation to the provisions of Section 11(2) is unsustainable. He submitted that the Institute should be granted adequate opportunity and an inspection conducted afresh in accordance with the requirement of law before taking any adverse action against the Institute.

7. On the contrary, Shri Pradeep Sharma, learned counsel submitted that in pursuance to the order passed in the earlier W.P.No.2074/2014, the inspection in question was conducted on 27.5.2014 in accordance with the requirement of Regulation 4.28 of the All India Council for Technical Education (Grant of Approvals for Technical Institution) Regulations, 2012 and as various deficiencies found in the functioning of the Institute for the reasons given by the Visiting Team filed as Annexure-R1, the action of the Committee does not call for any interference.

8. We have heard learned counsel for the parties and perused the records. Section 11 of the Act of 1987 contemplates a provision for inspection of the Institute and this provision indicates that for the purpose of ascertaining the financial needs of the Technical Institute or for the University or for assessing the standard of teaching, examination and research, the Council may cause an

inspection of any department or the Institute or the University itself and the provision for informing the Institute about the date and time for the inspection to be conducted is contemplated under Section 11(2) of the Act.

9. It is the grievance of the petitioner primarily in this regard that the inspection conducted on 27.5.2014 was without proper notice to them and without grant of proper opportunity to them to present their case.

10. On the contrary Shri Pradeep Sharma, learned counsel for the respondents points out that in accordance with the provisions of Section 11(2), the statutory Regulation namely, 4.28, which reads as under has been formulated and as this inspection has been conducted in accordance with the statutory regulation, the petitioner should not have any grievance as deficiencies still exist in the matter have not been rectified.

Regulation 4.28 :

? AICTE may also conduct from time to time inspections with or without notifying dates in such cases where specific complaints of falsification of documents, misrepresentation, violation of norms and standards, mal-practices and take appropriate actions, including withdrawal of approval and any other action deemed necessary against the applicant promoters/ technical Institutions, as the case may be.?

11. We have considered the rival contentions and we have also gone through the judgments rendered and referred to by Shri Gupta. Even though, the judgments rendered are with reference to the specific statutory provision contemplated under the provisions of National Council for Technical Education Act but in the facts and circumstances of the present case, we find that when the question for granting approval to the Institute for the academic session 2012-13 and 2013-14 was considered by this Court in W.P.No.2074/2014, this Court did not interfere with the prayer made at that stage for grant of approval for the academic session 2014-15 for the simple reason that proper inspection report in accordance with the requirement of the statutory regulation for this period was not available. When the direction was issued by this Court on 13.5.2014 granting liberty to AICTE to conduct inspection and further opportunity to the Institute to seek approval for the academic session 2014-15 afresh, it was the intention of this Court that in accordance with the requirement of rule, the inspection should be conducted and a fair and reasonable opportunity should be granted to the Institute to participate in the process of inspection.

12. It's not a case, where on the complaints received on an allegation of malpractices, a surprise inspection was required to be conducted and deficiencies or malpractices to be detected. It's a case, where the Institute is already functioning for various periods right from the session 2006-07 and various inspections were conducted between the period from 2006-07 upto 2010-11 after which the dispute started surfacing in the functioning of the society and all these impugned actions were required to be taken.

13. Taking note of the circumstances, as is available on record, it cannot be said that this is a case, where we find that due to complaints of malpractices or illegality in the functioning of the Institute a surprise inspection was required to be done. It is a routine inspection to assess the suitability and existence of proper facilities in the Institute in question and, therefore, in the facts and circumstances of the case, we are of the considered view that the manner in which the inspection was conducted on 27.5.2014 by the expert committee was not proper. The requirement of Section 11(2) clearly contemplates that before conducting the inspection, suitable date and notice should be given and if the statutory provision contemplates giving of notice and fixing of date, it is only with the purpose to give notice to the Institute and give them sufficient time for preparing for inspection to be conducted.

14. In the present case, we are of the considered view that this opportunity has been denied to the petitioner/ Institute for the simple reason that the documents available on record do show that in connection with grant of approval, the Registrar of the Institute along with the documents and officials were present in New Delhi on 26.5.2014, when the notice for inspection was received and the reasonable request for postponing the inspection to any other date other than 27.5.2014 was not acceded to.

15. That apart, notice for inspection on 27.5.2014 was received by the Institute on 26.5.2014 around 10:30 am and at that point of time, the Registrar who is the officer and who was to assess the Committee during inspection and who was required to produce various documents and other material was not available in Bhopal.

16. Taking note of all these circumstances, we deem it appropriate to allow this petition to the extent of directing the All India Council for Technical Education to conduct the inspection again and proceed to take action afresh in accordance with law.

17. Keeping in view the totality of the circumstances and with a view to curtail any further dispute in the matter, it is directed that the AICTE through it's competent authority shall direct for inspection of the Institute in question and the team of experts of the Council shall conduct the inspection in the Institute from 10:30 am onwards on 5th of February, 2015. The petitioner/ Institute shall make all necessary arrangements for conduct of the inspection on 5th of February, 2015 from 10:30 am onwards and shall ensure that all cooperation be extended to the Committee for conducting the inspection. The Committee after conducting the inspection on 5th of February, 2015 and continuing the same, if required, till conclusion of the inspection in accordance with rule shall take steps for submission of it's report to the Council on 10th of February, 2015 and the Council shall pass appropriate orders with regard to grant of EOA or otherwise in accordance with law on or before 13th of February, 2015.

18. In view of the aforesaid order passed, the impugned order Annexure-P1 is

quashed. The All India Council for Technical Education shall pass fresh orders with regard to grant of approval or otherwise to the Institute for the academic session 2014-15 as has been indicated herein above. It is made clear that the students be allowed to prosecute their studies till fresh orders are not passed in the matter.

19. With the aforesaid, petition stands allowed and disposed of.

Certified copy as per rules.