

(2016) 09 AP CK 0016

In the Andhra Pradesh High Court

Case No : Writ Appeal Nos. 893, 894, 922 and 923 of 2016.

The All India Council for Technical Education, 7th Floor Chandralok Building, Janpath, New Delhi, Rep. by its Member Secretary, and another - Petitioners @HASH Harshith Educational Society, Plot No. 120, Pipeline Road, Kamalapasanna Nagar, Near Allwyn Co

Date of Decision : 23-09-2016

Acts Referred:

Citation : (2016) 5 ALT 700

Hon'ble Judges : Sri. V. Ramasubramanian and Anis, JJ.

Bench : Division Bench

Advocate : Mr. Ramakanth Reddy, Advocate, for the Appellant; G.P. for Higher Education (TG), for the Respondent

Final Decision : Disposed Off

Judgement

Sri. V. Ramasubramanian, J. - All these writ appeals arise out of the interim orders passed by the learned Single Judge, granting a direction to the appellants as well as the university to include the petitioners for counselling and for allotment of students in MBA course and also a direction to the university to grant affiliation.

2. Heard Mr. Ramakanth Reddy, learned counsel appearing for AICTE, Mr. P. Pandu Ranga Reddy, learned counsel took notice for respondents 1 to 3 and he is represented by Mr. L. Ravichander, learned Senior Counsel and Mr. A. Abhishek Reddy, learned counsel for JNTU.

3. The grievance of the AICTE is that the impugned orders have the effect of granting the main reliefs in the writ petition itself. For the purpose of easy appreciation of the above contention, it is necessary to extract the prayer made in the main writ petition W.P. No.28334 of 2016 and the reliefs sought in the miscellaneous petitions W.P.M.P. Nos.35085 & 35086 of 2016 in a tabular column. They are as follows:-

Prayer in W.P. No.28334/2016

Prayer in W.P. M.P.35085

Issue an appropriate Writ, Order or Direction more particularly one in the nature of "Writ of Mandamus" i) Declaring the proceedings in F.No.AICTE/AB/SCR/1- to grant interim directions directing the respondents to include the petitioner institution in TS-ICET Counselling process and allot students in favour of the 11554091/2016-17 Dated 16.08.2016 issued by the 2nd respondent as illegal, irrational, arbitrary, Unconstitutional apart from being violative of the AICTE Regulations. ii) Set aside the said proceedings Dated 16.08.2016 and direct the 2nd respondent to forthwith grant fresh approval for the academic year 2016-17, iii) and consequently direct all the respondents to treat the 2nd petitioner as a validly approved institution for the academic year 2016-17 for the entire intake and courses as approved by the AICTE in its approval Dated 09.04.2015 and; Pass

To grant interim directions directing the respondents to include the petitioner institution in TS-ICET Counselling process and allot students in favour of the petitioner institution in MBA course for the academic year 2016-17, pending disposal of the main writ petition and pass

Prayer in W.P.M.P. No.35086/2016

to pass orders of affiliation for the academic year 2016 17, pending disposal of the above writ petition and pass.

4. From the above it is clear that the grievance of the appellants is justified. Though Mr. L. Ravichander, learned Senior Counsel submitted that without filing a petition to vacate the interim orders, the appellants ought not to have come up with the above writ appeals, we are of the considered view that a petition for interim direction stands on a different footing than a petition for interim stay or injunction. Once an order is passed granting interim direction as prayed for, it is doubtful if a petition to vacate the interim direction may be entertained.

5. The next contention of the learned Senior Counsel for the private respondents is that in the first order passed by this Court, a direction was given to the AICTE to conduct an inspection of the class rooms and infrastructure facilities and to pass orders. Despite the fact that the respondents had sufficient buildings and infrastructure and despite the fact that the other courses have been given up, the AICTE did not apply its mind to the said fact.

6. But the above contention is on the merits of the dispute.

7. Therefore, we do not think that when the writ petition is pending it would be proper for us to get into the said dispute.

8. There are now two courses of action available to this Court. The first is to admit the writ appeals and examine the correctness of the interim directions issued by the learned judge, by examining the merits. The second option is to send the appellants back to the learned Judge to move a petition for vacating the

interim direction, by holding that the impugned orders contained only interim directions capable of being reconsidered by the learned Judge. The second option appears to be the best option, in view of the fact that the AICTE and the university have not so far filed a counter either to the main writ petition or to the miscellaneous petitions.

9. Therefore, all the writ appeals are disposed of directing the AICTE to move a petition to vacate the interim orders, by treating the orders impugned in these appeals, as interim directions capable of being reconsidered by the learned Judge. The orders impugned in these appeals, shall not be enforced, until the vacate petitions are disposed of. However, taking into account the time constraint, the appellants and/or the university should file applications for vacating the interim orders on or before 29.09.2016. If at all the contesting respondents succeed on merits, either in the miscellaneous petitions or in the writ petition, the AICTE and the university shall not defeat the rights of the respondents by taking the plea that the writ petition has become infructuous. There shall be no order as to costs.

10. As a sequel pending miscellaneous petitions, if any, shall stand closed.