

(2014) 07 MAD CK 0149

In the Madras High Court

Case No : W.A. (MD). No. 873 of 2014 and M.P. No. 1 of 2014

The Anna University

APPELLANT

Vs

Dhaya College of Engineering

RESPONDENT

Date of Decision : 21-07-2014

Acts Referred:

Citation : AIR 2015 Mad 15 : (2014) 4 LW 855

Hon'ble Judges : R. Mahadevan, J; M. Jaichandren, J

Bench : Division Bench

Judgement

M. Jaichandren, J.—Heard Mr. A.L. Somayaji, the learned Advocate General, appearing on behalf of the appellants, Mr. C.A. Diwakar, the learned counsel appearing on behalf of the first respondent and Mr. K. Chellapandian, the learned Additional Advocate General appearing on behalf of the respondents 2 to 5. This Writ Appeal has been filed against the order of the learned Single Judge, dated 01.07.2014, made in W.P. (MD). No. 11470 of 2013.

2. The appellants, in the present Writ Appeal, were the respondents 3, 4 and 5 in the Writ Petition. The first respondent, in the present Writ Appeal, was the petitioner in the Writ Petition, in W.P.(MD).No. 11470 of 2013. The Writ Petition had been filed by the first respondent herein praying for the issuance of a Writ of Certiorarified Mandamus to call for and quash the impugned order of the third respondent, dated 15.07.2013, and to, consequently, direct the respondents 2 to 5 in the Writ Petition to grant temporary affiliation to the petitioner college, for the academic year 2013-2014, and to permit the petitioner college to participate in the counselling for admission of the students in the Engineering Courses, for the said academic year, as per the recognition granted by the All India Council for Technical Education, by its letter, dated 30.04.2013.

3. The brief facts of the case, as stated by the Writ Petitioner, the first respondent herein, are as follows:-

3.1. The petitioner college is run by a Trust, in the name of M.K. Alagiri

Charitable Trust. The petitioner college had started with five programmes. The petitioner college is situated in a rural area, which is an undeveloped village. There are no educational institutions in and around the area in which the petitioner college is situated. The petitioner college had approached the All India Council for Technical Education, [hereinafter referred to as, "the AICTE"], for its approval. The AICTE had conducted several inspections in the petitioner college and had finally granted its approval, for the academic year 2011-2012, by its proceedings, dated 18.08.2011. The approval had also been granted for the subsequent academic years. The petitioner college had made a request to the Anna University, [hereinafter referred to as "the University"], for the necessary affiliation. Based on the request made by the petitioner college, an inspection of the petitioner college had been made, by the Inspection Committee of the University, on 20.07.2011. Three defects had been pointed out by the Inspection Committee, which are as follows:-

- "(i). Non-availability of 175 books,
- (ii). cafeteria to be shifted from inside the building to outside the premises; and
- (iii). to provide transport facilities to the students".

All the above three defects, pointed out by the Inspection Committee, had been rectified, by the petitioner college and a communication to that effect had also been sent to the University, on 25.07.2011. Even thereafter, the University had not granted the affiliation to the petitioner college. Instead of granting the affiliation to the petitioner college, a direction had been issued to the Inspecting Committee to inspect the petitioner college, once again. The petitioner college had filed W.P. [MD]. No. 8354 of 2011, before this Court, seeking a direction to the University to affiliate the petitioner college, under the University, from the academic year 2011-2012 and consequently, to direct the respondents therein to permit the petitioner college to admit the students, both under the counselling, as well as under the management seats, commencing from the year 2011-2012. A learned Single Judge of this Court, by an order, dated 01.08.2011, had disposed of the said Writ Petition, by directing the University to consider the compliance report of the petitioner college, dated 25.07.2011, and grant affiliation, if the deficiencies had been rectified, so as to enable the petitioner college, to admit the students and also to take part in the counselling process.

3.2. Aggrieved by the order, dated 01.08.2011, made in W.P. [MD]. No. 8354 of 2011, the University had filed a Writ Appeal, in W.A. (MD). No. 740 of 2011. By a Judgment, dated 09.08.2011, the Writ Appeal had been disposed of, directing the University to consider the request of the petitioner college, dated 25.07.2011. Instead of complying with the order, passed by the Division Bench of this Court, the University had issued a communication, stating that an inspection of the petitioner college was to be conducted, afresh. In such circumstances, the petitioner college had filed a Writ Petition, in W.P. [MD]. No. 9667 of 2011. On 21.10.2011, the said Writ Petition had been disposed of by a learned Single

Judge of this Court, by way of a detailed order, allowing the Writ Petition, by setting aside the impugned order, and consequently directing the University to strictly act in accordance with the directions issued by the Division Bench of this Court, in W.A. (MD). No. 740 of 2011, dated 09.08.2011, by considering the reply sent by the petitioner college, dated 25.07.2011, within a period of ten days.

3.3. Questioning the correctness of the said order, the University had filed W.A. [MD]. No. 1517 of 2011. A Division Bench of this Court, by its Judgment, dated 20.12.2011, had disposed of the said Writ Appeal, by directing the University to consider the matter, afresh, as per the directions issued by the Division Bench of this Court, in W.A. (MD). No. 740 of 2011, dated 09.08.2011, and also by considering the reply submitted by the petitioner college, dated 25.07.2011. After the disposal of the said Writ Appeal, the University had filed two Miscellaneous Petitions, in M.P. [MD]. Nos. 1 and 2 of 2012, seeking extension of time and to issue a direction to the petitioner college to co-operate with the Inspection Committee of the University, for conducting a fresh inspection. Both the Miscellaneous Petitions had been dismissed, by a Division Bench of this Court, on 09.05.2012.

3.4. Challenging the order, dated 09.05.2012, the University had preferred Special Leave Petitions, in S.L.P. [Civil]. Nos. 17760 and 17761 of 2012. The Supreme Court, by its order, dated 30.05.2012, had dismissed the Special Leave Petitions, by holding that no ground had been made out, by the University, to interfere in the matters. Meanwhile, a Writ Petition, in W.P. [MD]. No. 8876 of 2011, by way of a Public Interest Litigation, had been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondents 1 to 4 therein to restore the water sources, which had originally existed, in respect of Karisal Kanmoi, Sivarakottai and Goundan Nathi and the same is pending. In the said Writ Petition, a detailed counter affidavit had been filed by the petitioner college. The said Public Interest Litigation has nothing to do with the affiliation to be granted to the petitioner college, by the University. The petitioner college had provided all the infrastructural facilities and it had already been considered by the University, and thereafter, there was no legal embargo for the grant of affiliation to the petitioner college, by the University. However, the University is not considering the request of the petitioner for affiliation, for the reason that the Trust, which runs the petitioner college, is affiliated to a particular political party and that the founder of the trust was a Member of Parliament, belonging to DMK Party.

3.5. Even after the lapse of six months from the date of the Judgment, passed by this Court, in W.A. [MD]. No. 1517 of 2011, dated 20.12.2011, the University had not passed any order, in spite of the time for compliance having been extended upto 30.05.2012. Therefore, the petitioner college was constrained to file a Writ Petition, in W.P. [MD]. No. 7525 of 2012, seeking grant of temporary affiliation and to permit the petitioner college to participate in the counselling

process, for the academic year 2012-2013. The said Writ Petition, in W.P. [MD]. No. 7525 of 2012, was dismissed, on 19.06.2012, stating that the petitioner college ought to have approached the Division Bench, for obtaining appropriate orders. Hence, the petitioner college had filed a Writ Appeal, in W.A. [MD]. No. 469 of 2012, challenging the order passed in W.P. [MD]. No. 7525 of 2012, dated 19.06.2012. The Writ Appeal, in W.A. [MD]. No. 469 of 2012, was disposed of, on 29.06.2012, by holding that the question of granting temporary affiliation would not arise, in view of the subsequent developments. However, the University had been directed to pass orders, with regard to the affiliation of the petitioner college, after obtaining the report of the Inspection Committee.

3.6. However, in spite of the inspection having been made, on 26.06.2012, no order had been passed by the University, for the grant of affiliation to the petitioner college. Thereafter, by order, dated 06.07.2012, the University had rejected the request of the petitioner for affiliation, for the academic year 2012-2013, by giving new reasons for the same. The petitioner college had challenged the said order, by filing a Writ Petition, in W.P. [MD]. No. 9695 of 2012. By order, dated 21.09.2012, the said Writ Petition had been allowed, directing the University to consider the application of the petitioner college, strictly in accordance with the directions issued by this Court. Challenging the said order, dated 21.09.2012, the University had preferred a Writ Appeal, in W.A. [MD]. No. 884 of 2012. Thereafter, the University had sent a letter to the AICTE, making certain allegations against the petitioner college. The AICTE had issued a show cause notice to the petitioner college, on 05.12.2012. A personal enquiry had also been conducted by the AICTE. However, no action had been taken by the AICTE against the petitioner college. On the other hand, the AICTE had granted extension of approval, for the academic year 2013-2014, through a letter, dated 30.04.2013. As such, it is clear that the petitioner college had fulfilled all the infrastructural and other basic requirements necessary for the grant of affiliation by the University.

3.7. In such circumstances, the petitioner college had made a request to the University, to grant affiliation, for the academic year 2013-2014. On 05.03.2013, the University had chosen to appoint a Committee for the inspection of the petitioner college, by fixing the date of inspection, as 13.05.2013. The said communication had reached the petitioner college only on the date of inspection. Due to the delayed intimation received by the petitioner college, its staff and faculty members were not available. Therefore, the Inspection Committee had left the premises of the petitioner college, without passing any order and without issuing the inspection report. However, the Inspection Committee seems to have reported that the petitioner college was not functioning. Accepting the said report, the University had passed an order, dated 20.05.2013, rejecting the request of the petitioner college for affiliation, for the academic year 2013-2014. The petitioner college had challenged the rejection order, in W.P. [MD]. No. 8719 of 2013. On 07.06.2013, the said Writ Petition had been allowed, with costs of Rs. 25,000/-, by directing the University to grant provisional affiliation to the

petitioner college. The University had preferred a Writ Appeal, in W.A. [MD]. No. 532 of 2013, challenging the order, dated 07.06.2013.

3.8. Both the Writ Appeals, in W.A. [MD]. No. 884 of 2012 and W.A. [MD]. No. 532 of 2013, had been taken up together and heard, on merits, by a Division Bench. On 03.07.2013, by a Common Judgment, W.A. [MD]. No. 884 of 2012 had been dismissed, as infructuous, as the relevant academic year, in respect of which the Writ Appeal had arisen had got over. In the Writ Appeal, in W.A. [MD]. No. 532 of 2013, the Division Bench had passed the Judgment, restoring the application filed by the petitioner college with a direction to the University to send an Inspection Team to the petitioner college to compare and to verify the availability of the infrastructural and instructional facilities, including the details, regarding the faculty members, which had been submitted before the AICTE, for the grant of approval of the courses, for the academic year 2013-2014 and to pass fresh orders, within a period of ten days.

3.9. Pursuant to the Judgment, dated 03.07.2013, passed in W.A. [MD]. No. 532 of 2013, an inspection of the petitioner college had been conducted by the Inspection Committee, on 11.07.2013. The University had empowered the Inspection Committee to go beyond the directions issued by the Division Bench of this Court, in W.A. [MD]. No. 532 of 2013. The Inspection Team and the Standing Committee, by the proceedings, dated 15.07.2013, had recommended for the grant of provisional affiliation of the petitioner college, for the academic year 2013-2014, on fulfillment of three conditions, which are as follows:-

"(i). Certificate from licensed holder for electrical installation is to be obtained;

(ii). Certificate from the Health Inspector is to be renewed;

(iii). Certificate from PWD Superintending Engineer for the Structural Stability of the building is to be obtained."

Based on the report of the Inspection Committee, the University had passed the order, dated 15.07.2013, rejecting the request of the petitioner college for the grant of affiliation, in view of the discrepancies pointed out in the survey numbers, cited in the Land Use Certificate, issued by the Revenue Divisional Officer, Usilampatti, dated 26.12.2000, and also due to the objections raised by the District Collector, Madurai, dated 20.08.2011.

3.10. Aggrieved by the order, dated 15.07.2013, passed by the University, the petitioner college had preferred a Writ Petition, in W.P. [MD]. No. 11470 of 2013. On 01.07.2014, the said Writ Petition had been allowed, directing the University to treat the application of the petitioner college, submitted for the academic year 2013-2014, as the application for the current academic year 2014-2015. The University had been further directed to grant provisional affiliation to the petitioner college, for the academic year 2014-2015, within a period of seven days and to permit the petitioner college to take part in the counselling, for the academic year 2014-2015. In such circumstances, the University had filed the

present Writ Appeal.

4. Mr. A.L. Somayaji, the learned Advocate General appearing on behalf of the appellants, in the present Writ Appeal, had submitted that the petitioner College, namely, "Dhaya College of Engineering", the first respondent in the present Writ Appeal, is run by a Trust, bearing the name "M.K. Alagiri Charitable Trust". An application had been submitted to the Anna University by the petitioner College for the grant of affiliation for five Academic Programmes. The petitioner College had been involved in a number of litigations before the various Statutory Authorities and the Courts of law, with regard to the title of the land, in which the petitioner College is situated and with regard to certain other aspects. However, the petitioner College had obtained the approval from AICTE. He had further submitted that a Public Interest Litigation, in W.P. [MD]. No. 8876 of 2011, relating to the use of the land in question, is pending before this Court.

5. The learned Advocate General had also submitted that the petitioner College has been submitting applications to the University for the grant of affiliation, for the various academic years, from the academic year 2011-2012 upto the academic year 2013-2014. However, it had not fulfilled the requirements, prescribed by the statutory provisions, applicable to the grant of affiliation, especially, the conditions prescribed in Section 5 of the Anna University Act, 1978, as amended by the Anna University (Amendment) Act, 2001 (hereinafter referred to as "the Act"). Section 5 of the Act relates to the conditions to be satisfied by the educational institutions, seeking affiliation. Section 5.5 of the Act prescribes the requirements relating to the land and building in which the institution concerned is situated. Section 6 of the Act relates to the pre-requisites for applying for the grant of affiliation. Section 7 of the Act prescribes the procedures for the grant/withdrawal of affiliation, with regard to the academic Programmes. He had further submitted that, as per Section 7.3 of the Act, an Inspection Committee shall be constituted for the inspection of the institution, as per the Regulations. The Committee would be authorised to inspect the institution concerned and to submit a report to the University, in the format specified in the Regulations applicable to the grant of affiliation.

6. The learned Advocate General had also submitted that pursuant to the order, dated 21.09.2012, made in W.P. (MD). No. 9695 of 2012, for the grant of affiliation, for the academic year 2012-2013, the University had constituted an Inspection Committee. Thereafter, a communication had been sent to the petitioner College, by the University, dated 05.07.2013, with regard to the grant of provisional affiliation, for the academic year 2013-2014. Pursuant to the directions issued by a Division Bench of this court, dated 03.07.2013, in W.A. (MD). No. 532 of 2013, the University, by a communication, dated 15.07.2013, had informed the petitioner college that an Inspection Committee had been sent to the petitioner College, on 11.07.2013, and the said committee had submitted its report. The inspection report of the Committee and the relevant documents had been placed before the Standing Committee. It had been further stated, in

the said communication, that upon scrutiny of the materials placed before the Standing Committee on Affiliation, the said Committee had made the following observations:-

"Certificate from licensed holder for electrical installation is to be obtained. Certificate from the Health Inspector is to be renewed.

Certificate from the Superintending Engineer, Public Works department for the structural stability of the building is to be obtained."

In addition, it had been pointed out that there were certain discrepancies observed in the survey numbers, cited in the Land Use Certificate, issued by the Revenue Divisional Officer, Usilampatti, dated 26.12.2000 and in the letter, dated 22.08.2011, issued by the Deputy Director of Town and Country Planning, Madurai Region. It had also been pointed out that the District Collector, Madurai, had submitted a letter, dated 20.08.2011, addressed to the Commissioner of Technical Education, raising certain objections, which were to be clarified by the petitioner College. It had been stated that, in such circumstances, the University was not in a position to grant the affiliation to the petitioner College, for the academic year 2013-2014. The said communication, dated 15.07.2013, had been challenged, by the petitioner College by way of a Writ Petition, in W.P.(MD). No. 11470 of 2013. By an order, dated 01.07.2014, the learned Single Judge of this Court had passed an order, directing the third respondent University to treat the application of the petitioner College, submitted for the academic year 2013-2014, as the application for the grant of affiliation, for the academic year 2014 -2015. Consequently, the third respondent University had also been directed to grant affiliation to the petitioner College, for the academic year 2014-2015, within a period of seven days from the date of receipt of a copy of the order and to permit the petitioner College to take part in the counselling, for the academic year 2014-2015. Challenging the order passed by the learned single Judge, dated 01.07.2014, made in W.P.(MD).No. 11470 of 2013, the present Writ Appeal has been filed by the appellants, who were the respondents 3, 4 and 5, in the Writ Petition, in W.P.(MD). No. 11470 of 2013.

7. The learned Advocate General had submitted that the claim of the petitioner College that the University should grant the affiliation, as prayed for by the College, automatically, without raising any objections, in view of the fact that the AICTE had granted the necessary approval, for the relevant academic years, cannot be sustained. The grant of approval, by the AICTE, under the relevant statutory provisions, cannot be held to be a compelling factor for the grant of the necessary affiliation, by the University concerned. The University would examine as to whether the institution concerned fulfills the necessary requirements, as prescribed by the Statutes and Regulations, governing the powers and the functions of the University. In the present case, the provisions of the Act and the Regulations, applicable to the grant of affiliation, for the Academic Programmes, to be conducted by the petitioner College, could be granted only on the College fulfilling the requirements, as prescribed by the relevant provisions of the Act

and the Regulations. Accordingly, on an inspection of the petitioner College, conducted by the Inspection Committee, it had been found that there were certain serious deficiencies. Based on the said report, the University had issued a communication to the petitioner College, dated 15.07.2013, pointing out the observations made by the Standing Committee, on Affiliation. It had also been pointed out that, in view of the deficiencies pointed out by the Inspection Committee, in its inspection report, dated 11.07.2013, and in view of the observations made by the Standing Committee on Affiliation, the request of the petitioner College, for the grant of affiliation, for the academic year 2013-2014, could not be accepted.

8. The learned Advocate General had also submitted that the positive direction, issued by the learned Single Judge, by his order, dated 01.07.2014, in W.P. (MD). No. 11470 of 2013, is erroneous and unsustainable in the eye of law. He had further submitted that the learned Single Judge ought to have seen that the petitioner College, the first respondent in the present Writ Appeal, had submitted an application for the provisional affiliation of the College, without furnishing the necessary documents and without sufficient proof to substantiate its claims, as per the Regulations, Rules and the norms applicable for the consideration of its request. The learned Single Judge had erred in holding that the University is not entitled to refuse to grant the provisional affiliation, even though the petitioner College had not fulfilled the necessary requirements, when the AICTE had granted its approval. The Act and the Regulations applicable to the grant of affiliation to a college is independent of the provisions of law governing the grant of approval, by the AICTE. The college concerned has to fulfill all the specific requirements, as prescribed by the relevant provisions of the Anna University Act and the Regulations applicable for the grant of provisional affiliation. The provisions, governing the grant of approval, by the AICTE, and the provisions of law governing the grant of affiliation by the University exist, independently. The provisions, governing the grant of approval by the AICTE, do not exclude the provisions of the Act. The learned Advocate General had relied on the following decisions, in support of the said contentions.

1. The University of Madras Vs. Loordhu Ammal Educational Trust and The Director of Collegiate Education,
2. Rukmani College of Education run by Rukmani Educational and Charitable Trust Vs. The State of Tamil Nadu, .

9. The learned Advocate General had relied on the decision of the Supreme Court, in Avinash Mehrotra Vs. Union of India (UOI) and Others, to point out that the buildings, in which academic activities are conducted, should strictly fulfill the requirements relating to the safety and the security of the students, prescribed by the National Building Code of India, 2005. Paragraph No. 47 of the said Judgment reads as follows:

"47. In view of what happened in Lord Krishna Middle School in District

Kumbakonam, where 93 children were burnt alive and several similar incidences had happened in the past, therefore, it has become imperative to direct that safety measures as prescribed by the National Building Code of India, 2005, be implemented by all government and private schools functioning in our Court. We direct that

(i) Before granting recognition or affiliation, the State Governments and Union Territories concerned are directed to ensure that the buildings are safe and secure from every angle and they are constructed according to the safety norms incorporated in the National Building Code of India.

(ii) All existing government and private schools shall install fire extinguishing equipments within a period of six months.

(iii). The school buildings be kept fire from inflammable and toxic material. If storage is inevitable, they should be stored safely.

(iv). Evaluation of structural aspect of the school may be carried out periodically. We direct that the engineers and officials concerned must strictly follow the National Building Code. The safety certificate be issued only after proper inspection. Dereliction in duty must attract immediate disciplinary action against the officials concerned.

(v). Necessary training be imparted to the staff and the other officials of the school to use the fire extinguishing equipments."

10. The learned Advocate General had also pointed out that, as per Section 6.2 of the Act, relating to land and building requirements, the necessary Structural Stability Certificate should be obtained from the officials of the Public Works Department, not below the rank of a Superintending Engineer. However, the petitioner College had failed to furnish the Structural Stability Certificate in respect of the buildings in question, as per the said provision. Further, the petitioner College had also failed to furnish the certificate from a licensed holder, for the electrical installations in the building. It had also failed to furnish the renewal certificate from the Health Inspector.

11. The learned Advocate General had also submitted that various discrepancies had been pointed out, with regard to the title and possession of the lands, in which the petitioner College is situated. Disputes had arisen with regard to the blocking of the irrigation channel, supplying water to the neighbouring lands. Certain serious discrepancies had also been noticed in the title deeds and the other documents relating to the lands in question. In such circumstances, certain clarifications were required from the trustees, and therefore, notices had been issued to them. However, they had failed to submit their explanations. In such circumstances, the University had refused to grant the affiliation to the petitioner College. However, the learned Single Judge had come to the conclusion that the petitioner College is being discriminated against, by the appellants, unjustly. The conclusion arrived at by the learned Single Judge that the denial of affiliation to

the petitioner College, by the University, is due to bias and mala fide motive is erroneous and unfounded. Such a finding, without sufficient materials to substantiate the same, is liable to be rejected.

12. The learned Advocate General had also submitted that no positive direction can be issued to the University, to grant the affiliation, as prayed for by the petitioner College, contrary to the provisions of law prescribing the procedures for the grant of such affiliation. The learned Advocate General had relied on the following decisions in support of his submissions:-

(i). Union of India and Another Vs. Kirloskar Pneumatic Company Limited, ;

(ii). Jagdish Prasad Sharma Vs. State of Bihar and Others, ;

(iii). Association of Management of Private Colleges Vs. All India Council for Technical Education and Others, ;

(iv.) Parshvanath Charitable Trust and Others Vs. All India Council for Technical Education and Others ;

13. It had been further submitted that the Structural Stability Certificate and the other documents produced before the AICTE cannot be taken into consideration, by the University, for the grant of affiliation to the petitioner College. The grant of affiliation, by the University, is not an automatic exercise. He had further submitted that the learned Single Judge had erred in directing the University to treat the application of the petitioner College, submitted for the academic year 2013-2014, as the application for the academic year 2014-2015. There is no provision in law to do so, as the academic institution concerned should make separate applications for every academic year, for the purpose of granting affiliation. The institution concerned would only be granted provisional affiliation for each academic year, on the separate applications being submitted with the necessary particulars and on complying with the required formalities, as per the relevant regulations and norms. Therefore, the direction issued by the learned Single Judge to treat the application submitted by the petitioner College, for the academic year 2013-2014, as the application for the grant of affiliation, for the academic year 2014 -2015, cannot be sustained. In such circumstances, the order passed by the learned Single Judge, dated 01.07.2014, in W.P. (MD). No. 11470 of 2013, is liable to be set aside.

14. Mr. K. Chellapandian, the learned Additional Advocate General appearing on behalf of the respondents 2 to 5, had submitted that the petitioner college had not rectified the deficiencies pointed out in the inspection report of the inspection committee, dated 11.07.2013. The grant of approval by the AICTE, by itself, would not be sufficient for the grant of affiliation to the petitioner college, by the University. The grant of approval by the AICTE and the grant of affiliation by the University are based on the different norms and requirements. One does not follow the other, automatically.

15. The learned Additional Advocate General had further submitted that the

petitioner college had failed to submit the application for its affiliation, for the academic year 2014-2015. However, the learned Single Judge, by his order, dated 01.07.2014, made in W.P. (MD). No. 11470 of 2013, had directed the University to consider the application submitted by the petitioner college for its affiliation, for the academic year 2013-2014, as the application for the academic year 2014 -2015. Such a direction issued by the learned Single Judge cannot be sustained, as the petitioner college is required to submit separate applications for every academic year, with the necessary particulars, along with the fee prescribed for the same. Further, the allegations made by the petitioner college that the authorities concerned have a biased attitude, with regard to the petitioner college has not been substantiated, with sufficient evidence. He had further submitted that no positive direction could be issued to the University to grant the affiliation, especially, when the petitioner college had failed to comply with the requirements specified under the provisions of the Act and the regulations applicable to the grant of affiliation. The learned Additional Advocate General had relied on the following decisions in support of his contentions:-

- (i). Tata Sky Ltd. Vs. State of M.P. and Others, ;
- (ii). Jagdish Prasad Sharma Vs. State of Bihar and Others, ; and
- (iii). Association of Management of Private Colleges Vs. All India Council for Technical Education and Others, ;

16. Per contra, Mr. C.A. Diwakar, the learned counsel appearing on behalf of the petitioner College, the first respondent in the present Writ Appeal, had submitted, inter alia, that the respondents 3 to 5, in W.P. (MD). No. 11470 of 2013, the appellants in the present Writ Appeal, had acted in a mala fide and biased manner. The denial of affiliation to the petitioner College, by the University, is not based on the provisions of law, as claimed by the appellants herein. It is clear from the fact that the Registrar of the University had not appeared before the Court, even though a counter affidavit had been filed on his behalf, which shows his biased attitude towards the petitioner College. A number of litigations had arisen, before the Courts of law, only due to the adamant attitude on the part of the present appellants, in refusing to grant the necessary affiliation to the petitioner College, for starting the Academic Programmes, which are meant for the poor and downtrodden segments of the society, in the area concerned. Even though the AICTE, which is a statutory body, had granted the approval, in favour of the petitioner college, as it had fulfilled all the required norms, as per law, the University had been rejecting the request of the petitioner College, without having proper reasons to do so. When the Structural Stability Certificate had been obtained from a reputed registered/chartered Engineer, recognised by the District Collector, and when the said certificate had been accepted by the AICTE, for the grant of approval, it would not be open to the University to direct the petitioner college to furnish a Structural Stability Certificate from an engineer of the Public Works Department, not below the rank of a Superintending Engineer.

17. It had been further submitted that, after a long drawn battle before the Courts of law, a specific direction had been issued by the Division Bench, by its Judgment, dated 03.07.2013, in W.A. (MD). No. 532 of 2014, and therefore, it would not be open to the University to go beyond the scope of such a direction. The Division Bench, by its Judgment, dated 03.07.2013, had specifically directed the University to conduct an inspection of the petitioner College only, with regard to the deficiencies, already pointed out by the University, during its earlier inspection. While so, it would not be open to the University to raise new grounds for rejecting the request of the petitioner College, for the grant of affiliation.

18. The learned counsel had further submitted that, when all the necessary requirements, as per the norms prescribed for the grant of approval, by the AICTE, had been fulfilled, by the petitioner College, the rejection of the request of the petitioner college, for the grant of affiliation, based on the same requirements, is not sustainable. Once the AICTE had granted the approval, the affiliation to be granted by the University is only a formality.

19. The learned counsel had further submitted that the learned Single Judge, who had passed the order, dated 01.07.2014, in W.P. (MD). No. 11470 of 2013, had taken into consideration all the factual and legal aspects, governing the issues, and had rendered the finding that the appellants herein, had acted in a mala fide, motivated, and biased manner, against the petitioner College. The learned Single Judge had also found that new grounds had been raised by the University, for its refusal to grant affiliation to the petitioner College. It had also been submitted that there is nothing wrong in the order passed by the learned Single Judge, directing the University to treat the application of the petitioner College, submitted for the academic year 2013-2014, for its affiliation, as the application for the academic year 2014-2015. This had been done by the learned single Judge, keeping in mind the background of the case and the urgency involved in the matter. It had been further submitted that the AICTE had granted the approval, to the petitioner College, only after it had fulfilled all the requirements, for the grant of such approval, as per law. While so, the impugned proceedings issued by the University, dated 15.07.2013, rejecting the request of the petitioner College, for the grant of approval, for its Academic Programmes, is arbitrary, illegal and void.

20. The learned counsel had also submitted that the new grounds raised, by the University, for rejecting the request of the petitioner College, for the grant of affiliation, are frivolous in nature, and therefore, they are unsustainable in the eye of law. In such circumstances, the learned Single Judge had rightly set aside the impugned proceedings of the University, dated 15.07.2013, and had directed the University to grant the affiliation to the petitioner College, treating the application submitted by it, for the academic year 2013-2014, as the application for the grant of affiliation for the academic year 2014 -2015. As such, the Writ Appeal filed by the appellants herein is devoid of merits and therefore, it is liable to be dismissed.

21. In view of the submissions made by the learned Advocate General appearing on behalf of the appellants, as well as the learned counsel appearing on behalf of the first respondent, the learned Additional Advocate General appearing on behalf of the respondents 2 to 5, and on a perusal of the records available, and on considering the decisions cited supra, it is noted that the University concerned had inspected the petitioner College, as per the provisions of law and the norms and the regulations applicable to such inspection. During the inspection, held on 15.07.2013, certain deficiencies had been found to be existing in the petitioner College, by the Inspection Committee. A report to that effect had also been submitted to the Standing Committee for Affiliation. Therefore, in view of the existence of the deficiencies, the affiliation to the petitioner College had not been granted, by the University. Thereafter, pursuant to the Judgment, dated 03.07.2013, in W.A. (MD) No. 532 of 2013, an inspection team had visited the College and had made an inspection, on 11.07.2013. The Inspection Committee had found that the petitioner College had not furnished the certificate from a licensed holder, for the electrical installations in the buildings in question.

22. It is also noted that the certificate from the Health Inspector had not been renewed. Further, the petitioner College had not submitted the Structural Stability Certificate, from the Superintending Engineer of the Public Works Department, with regard to the buildings in question. The Standing Committee had noted the deficiencies pointed out in the report submitted by the Inspection Committee. The University concerned, which is the first appellant in the present Writ Appeal, had also found certain other discrepancies, with regard to the survey numbers, cited in the Land Use Certificate, dated 26.12.2000, issued by the Revenue Divisional Officer, Usilampatti and in the letter, dated 22.02.2011, issued by the Deputy Director of Town and Country Planning, Madurai Region. The District Collector, Madurai, had submitted a letter, dated 20.08.2011, to the Commissioner of Technical Education, raising certain objections, which had to be clarified by the petitioner College. Certain other issues had also been raised with regard to the title, possession and other related aspects, in respect of the lands in which the petitioner College is situated. Certain allegations had also been made against the petitioner College, by way of a Public Interest Litigation, in W.P. [MD]. No. 8876 of 2011, with regard to the blocking of the channel meant for irrigating the agricultural lands, located in the vicinity of the College. In spite of such deficiencies having been pointed out, the petitioner College had not taken necessary steps to fulfill the requirements, as prescribed under the provisions of the Act and the other norms and regulations applicable to the grant of affiliation to the petitioner College. Therefore, the University had refused to grant the affiliation to the petitioner College.

23. It is also noted that a number of litigations had arisen, with regard to the grant of affiliation to the petitioner College. Certain directions had been issued by this Court, to the University, to cause an inspection of the petitioner College and to grant the necessary affiliation, if the College fulfills the requirements, as per law. Further, the direction issued by the Division Bench of this Court, in W.A.

(MD). No. 532 of 2013, dated 03.07.2013, cannot be construed to mean that the University concerned should cause an inspection of the petitioner College only with regard to the deficiencies, pointed out by an earlier report, submitted by the Inspection Committee and in view of the compliance report, submitted by the petitioner College. If certain other deficiencies are found to be existing, as pointed out in the Inspection Committee report, dated 11.07.2013, it is for the petitioner College to comply with the same. Such deficiencies were relating to the specific requirements to be fulfilled by the petitioner College, as per the provisions of the Act applicable to the grant of the affiliation and the relevant regulations.

24. From a reading of Regulation 6.2 of the Regulations For Affiliation, it is clear that the petitioner College ought to have submitted the Structural Stability Certificate of the buildings in question, obtained from an Engineer of the Public Works Department of the State Government, not below the rank of a Superintending Engineer. It is not in dispute that the said certificate had not been furnished, by the petitioner College, to the University concerned. Further, certain other deficiencies have also been pointed out by the inspecting team, which had been authorised to cause an inspection of the petitioner College. Based on the report of the Inspection Committee, certain observations had been made by the Standing Committee on Affiliation. The petitioner College had also been directed to clarify certain matters relating to the lands in which the College is situated. There is nothing placed before this Court to show that the deficiencies pointed out by the Inspection Committee, in its report, dated 15.07.2013, had been complied with, by the petitioner College. In such circumstances, the University had rejected the request of the petitioner College, for the grant of affiliation, for the academic year 2013-2014. Therefore, it cannot be said that the impugned proceedings, issued by the University, dated 15.07.2013, is arbitrary and invalid in the eye of law.

25. It is also noted that no evidence has been furnished before this Court to establish the claim of the petitioner College that the rejection of the application, by the University, is due to bias or mala fide motive. Further, no application had been submitted, by the petitioner College, for the grant of affiliation, for the academic year 2014-2015. However, the learned Single Judge, in his order, dated 01.07.2014, in W.P. [MD]. No. 11470 of 2013, had directed the University to treat the application of the petitioner College, submitted for the academic year 2013-2014, as the application for the grant of affiliation, for the academic year 2014-2015. Such a course adopted by the learned Single Judge cannot be held to be correct in the eye of law, as the petitioner College is required to submit a fresh application, for every academic year, for the grant of affiliation.

26. In such circumstances, we are of the considered view that no positive direction can be issued to the University, to grant the affiliation to the petitioner College, as directed by the learned single Judge, in his order, dated 01.07.2014, made in W.P. (MD). No. 11470 of 2013. It is seen, from the relevant decisions

relied on by the learned Advocate General appearing on behalf of the appellants, that the affiliation to be granted, by the University, is not purely based on the approval granted by the AICTE. Therefore, it cannot be said that the grant of affiliation is an event, that should happen, automatically, following the grant of approval, by the AICTE. The norms prescribed for the approval of the College, by the AICTE, are different from those which have been prescribed for the grant of affiliation, to the petitioner College, by the University. As such, the contentions raised on behalf of the petitioner College that it would not be open to the University to deny the grant of affiliation, based on the norms, which have been prescribed for the grant of approval, by the AICTE, cannot be countenanced.

27. Further, the contention raised on behalf of the petitioner College that it would not be open to the University to cause an inspection, with regard to the requirements, which had not been pointed out during its earlier inspection, cannot be accepted. The directions issued by the learned Single Judge of this Court, by his order, dated 01.07.2014, in W.P. (MD). No. 11470 of 2013, cannot be read in a narrow manner, as claimed by the petitioner College. If the Inspection Committee of the University finds certain deficiencies, which had not been noted and pointed out, during the earlier inspection of the College, it would always be open to it to point out such deficiencies, in its report relating to its subsequent inspection. It is for the petitioner College to comply with the same, as per the norms and regulations applicable to the grant of affiliation.

28. In such circumstances, it cannot be said that the University had travelled beyond the scope and ambit of the Judgment, passed by the Division Bench of this Court, dated 03.07.2013, in W.A. (MD). No. 532 of 2013. In fine, we find it appropriate to hold that the order of the learned single Judge, dated 01.07.2014, made in W.P. (MD). No. 11470 of 2013, cannot be sustained. In the result, the Writ Appeal filed by the appellants is allowed, setting aside the order, dated 01.07.2014, made in W.P. (MD). No. 11470 of 2013. No costs. Consequently, connected Miscellaneous Petition is closed.