
(2014) 11 OHC CK 0071

In the Orissa High Court

Case No : Writ Petition (Civil) No. 11914 of 2014

Vikash College of Engineering for Women

APPELLANT

Vs

All India Council for Technical Education

RESPONDENT

Date of Decision : 10-11-2014

Acts Referred:

Citation : AIR 2015 Ori 26

Hon'ble Judges : I. Mahanty, J;B.N. Mahapatra, J

Bench : Division Bench

Judgement

B.N. Mahapatra, J.—This writ petition has been filed for quashing of the report of the Standing Appellate Committee (for short, "SAC") under Annexure-10 and letter dated 09.06.2014 (Annexure-11) with a further prayer to grant approval for conversion of the petitioner-institution to Co-educational institute from academic session 2014-15.

2. Mr. B. Mohanty, learned counsel for the petitioner submitted that in the year 2008, a "Trust", namely, Dasari Veer Raju & Gunnam Ram Chandra Rao Memorial Trust was created. In 2009, the said Trust established "Vikash College of Engineering for Women" in the district of Bargarh complying all the norms and standards prescribed by the AICTE spending huge money. After due inspection, approval was granted by the AICTE for the academic session 2009-2010 and such approval was extended from time to time, i.e., for subsequent years, i.e., 2010-2011, 2011-2012 and 2012-2013. Admission of the students were very dismal and below 40% of the approved intake. During the academic year 2013-14, only 20 students took admission. Vide letter dated July 7, 2012 (Annexure-2 series), the Biju Pattnaik University of Technology, Orissa, Rourkela (for short, "BPUT") issued no objection certificate for conversion of the petitioner's institution from "Vikash College of Engineering for Women" to Co-Ed Institute, namely, "Vikash Institute of Technology". The Government of Odisha in Employment and Technical Education and Training Department after careful consideration of the recommendation of the scrutiny committee had recommend

for conversion of "Vikash College of Engineering for Women" to a Co-Ed institute and intimated the same to the Regional Officer, Eastern Zonal Office, AICTE, Kolkata. In 2013, the petitioner while applying to the AICTE for extension of approval also applied for conversion of the Women's Institute to a Co-Educational institute complying with all the prescribed eligibility criteria. The AICTE while granting extension of approval to the existing courses declined for conversion of the petitioner's Institution to Co-Ed Institute pointing out certain deficiencies in spite of the institution's compliance. The petitioner-institution filed a writ petition, bearing W.P. (C) No. 12801 of 2013 before this Court challenging the rejection of application for conversion of Women Institute to Co-Educational Institute. On 19.03.2014, this Court while disposing of the said writ petition directed the AICTE to send an Inspection Team to verify the alleged non-compliance of the deficiencies and submit report thereof before the appropriate authority for consideration of conversion of the petitioner's institution to a Co. Ed. Institution. This Court had further directed that the AICTE would work with due haste and complete all steps within a period of four weeks from the date of the said order keeping in view the completion of the academic year 2013-14 and starting of the academic session 2014-15. It was submitted that the AICTE has neither complied with the aforesaid direction of this Court nor has filed any application before this Court for extension of time for compliance. However, on 24.05.2014, the Expert Visiting Committee (for short, "EVC") visited the petitioner-institute and confirmed compliance of the deficiencies but again indicated some new deficiencies, i.e., insufficient faculty, support facility, laboratory set up etc..

3. Mr. Mohanty further submitted that in the earlier EVC report, the deficiency No. (i) with regard to publication of advertisement for recruitment of Principal/Director and faculty members in at least one national Daily was not indicated and shown as "not applicable" as the application for approval of conversion is processed as a new institution in accordance with Approval Process Hand Book (for short, "APHB"). Deficiency No. (ii) to (vii) were shown as ready/accepted.

4. Being aggrieved, the petitioner-institution filed an appeal before the SAC on 31.05.2014. On 02.06.2014, though all the relevant documents were produced with regard to compliance of the alleged deficiencies pointed out in the EVC report, the SAC reiterating the same rejected the appeal. On 09.06.2014, a final letter of rejection of the application for conversion of the petitioner's institution was issued by the AICTE. On 10.06.2014, the AICTE while declining conversion granted approval for conducting six courses with intake of 60 students in each course. Mr. Mohanty vehemently argued that pursuant to the order of this Court dated 19.03.2014 passed in W.P. (C) No. 12801 of 2013, the EVC visited the petitioner-institution and found that the deficiencies pointed out have been complied with. Now, some new deficiencies have been pointed out with regard to permanent structures, i.e., ramp/lift and computer centre etc. These new deficiencies as pointed out are not correct in view of the earlier report of EVC, wherein, some of which have been shown to be ready and accepted. Such

deficiencies have been deliberately indicated to harass the petitioner- institution. So far as deficiency regarding appointment of Principal and teaching staff is concerned, the same is also not correct and such deficiency cannot be a ground for rejection of granting approval in view of the stipulations made in sub clause (8.1) of Clause 8 of the APHB. Deficiency, if any, with regard to appointment of Principal and faculty member may be ascertained only after grant of approval. The petitioner-institution has already appointed 60 faculty members including the Principal whose names have been registered with BPUT. The BPUT vide its letter dated 21.08.2014 has also indicated the strength of present registered faculty members including the Principal of the petitioner-institution. Refusal of grant of approval for conversion was illegal, arbitrary and contemptuous. Concluding his argument, Mr. Mohanty, learned counsel for the petitioner prayed to allow the prayer made in the writ petition.

5. Mr. J.K. Mishra, learned Senior Advocate appearing for the AICTE submitted that being aggrieved by the rejection of application for conversion issued on 04.04.2013 the petitioner-institution preferred an appeal in the year 2013. On 17.04.2013, the SAC heard the said appeal and recommended for conversion with 25% reduction in intake for the academic year 2013-2014. On 23.04.2013, the General Council did not agree with the recommendation of SAC for conversion with 25% reduction in intake and allowed EOA for women only. On 25.04.2013, EOA was issued in favour of the petitioner-institution for women only. Being aggrieved by the said order, the petitioner-institution approached this Court in W.P. (C) No. 12801 of 2013, which was disposed of on 19.03.2014 with certain directions. On 04.04.2014, the BPUT published a notification pursuant to UGC (Affiliation of Colleges offering Technical Education by Universities) Regulation, 2014. On 17.04.2014, the Hon'ble Supreme Court passed an interim order in SLP (C) No. 7277 of 2014 in favour of AICTE to regulate the approval process of all technical courses offered by Technical Colleges. On 19.05.2014, a meeting was held by the Scrutiny Committee and a recommendation was sent to EVC. On 25.05.2014, the Sub-Committee of Regional Committee reported not to recommend for conversion of the petitioner-institution to a Co-Educational Institute. On 30.05.2014, a letter of rejection was issued on conversion. On 31.05.2014, an appeal was preferred by the petitioner-institution and on 02.06.2014, the SAC heard the appeal and recommended for rejection of the prayer for conversion from women's Institution to a Co-Educational Institution pointing out various deficiencies. On 10.06.2014, order of EOA for the academic year 2014-15 was issued to the petitioner-Institution for women only. Concluding his argument, Mr. Mishra submitted that there is no illegality or infirmity in issuing Annexures-10 and 11, which are under challenge.

6. On the rival contentions of the parties, the only question falls for consideration by this Court is whether in the facts and circumstances of the case the petitioner-institution is entitled for a direction to the AICTE to grant approval for conversion of the petitioner-institution to a Co-educational institution for the academic session 2014-15 and 2015-16.

7. To deal with the above question, it is necessary to reproduce here the relevant regulations of All India Council for Technical Education (Grant of Approvals for Technical Institutions) Regulations, 2014 (for short, "Regulation") and relevant clauses of Chapter-I of the APHB which deals with grant of approval for conversion of Women Institution to a Coeducational institution.

4. Grant of Approvals for Technical Institution/Polytechnic (Technical Institution offering Diplomas)

xx xx xx

4.3 The Council shall publish, from time to time, Approval Process Handbook, detailing the conditions of approval and procedure to process the applications of institutions and/or promoters."

xx xx xx

4.20 Further based on the decision of the Executive Committee, Letter of Approval for a maximum period of two years at a time or Letter of Rejection shall be issued by the designated authority of the AICTE.

Relevant clauses of Chapter-I of APHB read thus:

"3.8 Conversion of Women's only Institution to Co-Ed Institution

(a) Eligibility

The Institute shall be AICTE approved existing Institute/Technical campus

(b) Conditions/Documents for Approval

1. A certificate stating that admissions for three consecutive years are less than 40% issued by Competent Admission Authority.

2. A certificate stating the actual enrolment of students for the last three consecutive years, issued by the Registrar of the Affiliating University.

3. Resolution of the Trust/Society/Board of Governors for the conversion from Women's Institution to Co-Ed Institution.

1. No Objection Certificate (NOC), from State Government

2. No Objection Certificate (NOC), from Affiliating University

3. Additional Money Deposit as per the Co-Ed Institute

4. Land relates documents to be submitted as per the Regulations.

C. Procedure

Institute seeking conversion from Women only to Co-Ed Institution, shall also apply on portal for extension of approval as per regulations.

The application shall be processed as per procedure of approval for New

Institution. It shall be necessary to provide built up area as per norms required to conduct all existing courses.

The conversion from women only to Co-Ed Institution shall be effected only after accord of approval in respect of conversion.

xx xx xx

7.1 ...Validity of the letter of approval, if issued, shall be for two academic years from date of issue of letter of approval...

xx xx xx

8.1. New Institutions granted Letter of Approval shall comply with appointment of teaching staff and Principal...."

8. In view of the above, Regulations of AICTE and clauses of APHB, an institution can seek approval for conversion of women institution to a Co-educational institution subject to satisfying the prescribed eligibility condition/documents which are the procedures for such conversion.

9. Now, the question arises, if the petitioner's prayer for grant of approval for conversion of the Women Institution to a Co-Educational Institution was rejected on the ground of certain deficiencies and pursuant to direction of this Court dated 19.03.2014 in W.P. (C) No. 12801 of 2013, an Expert Committee was sent by the AICTE who found that the deficiencies were complied with, whether the prayer of the petitioner for conversion of the Women Institution to a Co-educational Institution could be rejected on the existence of certain new deficiencies. The answer is certainly in negative. If the petitioner's prayer for grant of conversion of Women Institution to a Co-educational institution was rejected indicating some deficiencies and on inspection, it was found that those deficiencies were complied with, the AICTE is obliged to grant approval for conversion of Women Institution to Co-educational institution.

10. In view of the above, the AICTE is not justified in refusing to grant approval for conversion of the petitioner-institution to a Co-Educational Institution pointing out some new deficiencies.

11. Petitioner's assertion is that the new deficiencies pointed out were either complied with as per the earlier report of the EVC or they are irrelevant or insignificant. One of the new deficiencies pointed out is that the advertisement regarding recruitment of Principal was not presented. As per the earlier EVC report, the same is not applicable. Moreover, any such deficiency cannot be a ground for rejection of grant of approval in view of sub-clause 8.1 of clause 8 of APHB; the deficiency, if any, with regard to appointment of Principal and faculty members may be ascertained only after grant of approval. Further, the specific assertion of the petitioner is that the petitioner-institution has already appointed 60 faculty members including the Principal and their names have been registered with BPUT. The BPUT vide its letter dated 21.08.2014 has also indicated the

strength of present registered faculty members including the Principal of the petitioner-institution.

12. It is further asserted that in the earlier report of the EVC for the year 2013-14, some of the alleged deficiencies which were shown as ready and accepted, are shown as deficiencies in EVC report for the year 2014-15.

It may be relevant to note here that deficiencies shown in EVC report for the year 2013-14 were printer, computer to students ratio, girl common room, first aid-cum-sick room, class room UG, Lab. UG, Seminar hall. Pursuant to the order of this Court dated 19.03.2014, the EVC visited the petitioner's institution on 24.05.2014 and reported that all the above noted deficiencies are complied with. However, in its report, the EVC pointed out new deficiencies such as non-representation of advertisement regarding recruitment of Principal, no lift/ramp for physically handicapped students, no safety provisions including fire and other calamities, no general and Department notice board, no cafeteria and no details and proof about medical facilities and counseling arrangement, e-subscription/international journals. Interestingly, all the above defects except the last two defects pointed out in the EVC report for the year 2014-15 were shown as ready and accepted in the EVC report for the year 2013. This shows the casual approach of the opposite party-authorities in dealing with the petitioner's application for conversion of its institution to a Co-educational institution. As regards, the last two new deficiencies, the petitioner asserted that those have also been complied with.

13. Further, against some of the new deficiencies, it has been stated that the documents are not up to the standard, hence, not accepted. Strangely, what is the standard which should be maintained has no-where been indicated against deficiencies?

14. The matter can be looked at from a different angle. The AICTE refused to grant approval for conversion of the petitioner-institution to a Co-Educational Institution on the ground of existence of alleged deficiencies, but for the same academic year, it has granted extension of approval to the petitioner-institution for conducting six courses with intake capacity of 60 students in each course. We failed to understand, if the AICTE has no objection to extend the approval of the petitioner-institution for conducting six courses with intake 60 students in each course for the same academic year despite existence of alleged deficiencies, why conversion of the petitioner-institution to a Coeducational institution cannot be granted.

It may also be noted that as per the notes of submission submitted by opposite party No. 1-AICTE, on 17.04.2013, the SAC heard the appeal and recommended for conversion with 25% reduction in intake of the academic year 2013-2014 and on 23.04.2013, the General Council did not agree with the recommendation of SAC for conversion with 25% reduction in the intake and allowed EOA for Women's Institution only despite existence of alleged deficiencies.

15. In view of the above, the prayer of the petitioner-institution for conversion to a Co-Educational Institution should not have been rejected. We, therefore, quash Annexures-10 and 11 and direct the AICTE to grant approval for conversion of the petitioner-institution to a Co-Educational Institution for the academic year 2014-2015 and 2015-16. However, we make it clear that the petitioner-institution cannot give any admission for the academic year 2014-2015 after approval for conversion of petitioner's institution to a Co-educational Institution.

16. In the result, the writ petition is allowed to the extent indicated above.

I. Mahanty, J.

I agree