

Petitioner Vs. Respondent

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Court : Chennai

Decided On : Jun-20-2016

Judge : Huluvadi G. Ramesh & M.V. Muralidaran

Appeal No. : C.M.P. Nos. 9412 & 9413 of 2016 in W.A.No.716 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

1. C.M.P.No.9412 of 2016 has been filed seeking an order of interim stay of the impugned order passed by the learned Single Judge in W.P.No.18356 of 2016 dated 03.06.2016.
2. C.M.P.No.9413 of 2016 has been filed seeking to grant an order of interim direction directing the first and second respondent to permit the petitioner-institution to admit students for the academic year 2016-2017, pending disposal of the writ appeal.
3. Learned Senior Counsel appearing for the petitioner submitted that the petitioner-institution have fully complied with the conditions imposed by the AICTE and that the sale deed got registered in the name of the institution, wherein a lease for 99 years has been granted. The sale deed has been recognized as per the practice in vogue and, therefore, all the shortcomings, that have been raised and pin-pointed by AICTE in not granting the approval is for extraneous

consideration and, therefore, AICTE has sought to disaffiliate the institution. In this connection, learned Senior Counsel for the petitioner-institution placed reliance on the following decisions of the Hon'ble Apex Court,

(i) (2014) 16 SCC 350 [Jayamatha Engineering College vs. Union of India and others]

(ii) (2011) 4 SCC 623 [Priyadarshini Dental College and Hospital vs. Union of India and others]

(iii) (1996) 8 SCC 330 [Al-Karim Educational Trust and another vs. State of Bihar and another]and contended that totally different deficiencies have been raised in the inspection report, which was not part of the deficiencies pointed out earlier. In fine, it is prayed that this Court may grant an interim order in favour of the petitioner-institution.

4. Per contra, the learned Senior Counsel appearing for AICTE submitted that there is non-compliance of the conditions and suppression of material facts, which needs to be considered by this Court. Further, the lands in question of an extent of 2.7 acres has been taken on 99 years lease and it is not a Government lease nor any sale deed is there. Learned Senior Counsel, therefore, sought to contend that the steps taken by AICTE in not granting approval is in accordance with law. He also submitted that the petitioner-institution may not be permitted to admit students for the academic year 2016-2017.

5. Mr.M.Vijayakumar, learned Standing Counsel appearing for Anna University submitted that since AICTE has rejected the approval, Anna University has passed an order dated 14.05.2016 indicating that it is not in a position to grant approval for admitting students to the petitioner-institution for the academic year 2016-2017.

6. We have heard Mr.G.Masilamani, learned Senior Counsel appearing for the appellant; Mr.AR.L.Sundaresan, learned Senior Counsel appearing for All India Council for Technical Education [AICTE]; Mr.M.Vijayakumar, learned counsel appearing for Anna University and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing on behalf of respondents 4 and 5 and

perused the judgments cited by the learned Senior counsel for the petitioner-institution.

7. At this juncture, it is relevant to extract the relevant portion of the judgments of the Hon'ble Apex Court cited by the learned Senior Counsel for the petitioner, for ready reference.

(i) (2014) 16 SCC 350 [Jayamatha Engineering College vs. Union of India and others]

"2. In the application, AICTE has averred that it has received 7280 applications from existing technical institutions in the country, of which 6751 applications have been processed already and the remaining 529 applications are pending consideration as on 04.06.2014. Since the exercise was of this magnitude, all applications could not be processed so as to comprehensively respond to the directions of this Court, reproduced above. Mr.L.Nageswara Rao, learned Additional Solicitor General, states that if time is extended by one week, all the remaining applications shall also be processed by AICTE. The prayer in the writ petitions is substantially the same since the stand of AICTE is that although, after due consideration, EOA for the academic year 2014-2015 is recommended, because of the deadline given by this Court, the approval cannot be granted."

(ii) (2011) 4 SCC 623 [Priyadarshini Dental College and Hospital vs. Union of India and others]

"21. Though we have rejected the prayer for "approval" of the order of the Central Government, sought in the writ petition, we are of the view that the petitioner is entitled to a suitably moulded relief. As notice above, the delay was beyond the control of DCI and the Central Government. The petitioner College was also not responsible for the delay in applying for renewal of permission. The last date for admissions had not yet expired. The order was passed on the direction of the High Court to reconsider the matter. There were several other similar cases pending before the Central Government. All those applications for renewal of permission, which were directed to be reconsidered by the High Court could be considered to be a special category of applications where the Central Government had modified

the time schedule for grant of renewal of permissions under Note 2 to the Schedule to the DCI Regulations. By so deeming, the Order of the Central Government dated 17.08.2010 granting renewal of permissions in this case and other similar cases can be considered as having been validly made."

(iii) (1996) 8 SCC 330 [Al-Karim Educational Trust and another vs. State of Bihar and another]

"12. In the totality of the circumstances disclosed in the case and having regard to the fact that at each stage new deficiencies are being pointed out, the latest being the report dated 28.06.1995 [explained by the subsequent affidavit of the appellants dated 04.09.1995], we are satisfied beyond any manner of doubt, that the deficiencies have been substantially complied with and minor deficiencies pointed out in the last mentioned report dated 28.06.1995 are not such as to permit withholding of the affiliation to which the appellants' institution is entitled. From the manner in which the deficiencies have been pointed out from time to time, each time the old deficiencies are shown to have been removed, new deficiencies are shown, gives the impression that the affiliation is unnecessarily delayed. For the removal of the minor deficiencies pointed out in the report of 28.06.1995, a compliance affidavit dated 04.09.1995 is filed. Once the institution feels secure on the question of affiliation, we have no doubt that these minor deficiencies, if they exist, shall be taken care of by those in charge of the institution. For taking such further steps, the grant of affiliation need not wait. We make this position clear. The steps for the grant of affiliation to the appellants' institution may now be expedited and we direct the respondents to issue the necessary orders without loss of time. The appeal is disposed of accordingly. In the facts and circumstances of the case, we make no order as to costs."

8. The above ratio laid down by the Hon'ble Apex Court in all these aspects, viz., relating to the right of the institution as well as the affiliation to be granted by the Affiliating Authority, viz., AICTE have been stated in clear terms and to not to look out into the fullest compliance to make matter larger and it is also stated very much that the Affiliating Authority could issue such direction to comply with the conditions stipulated, within a reasonable time, without making any effort to

disaffiliate the institution.

9. In view of the same, the following order is passed:

(i) There shall be an order of interim stay of the impugned order dated 03.06.2016 passed by the learned Single Judge in W.P.No.18356 of 2016, pending disposal of the writ appeal. However, it is for the AICTE to accord approval for the academic year 2016-2017 and to inspect the documents, which are sought to be produced by the petitioner-institution regarding the sale deed, in lieu of lease for 99 years. Further, the AICTE to examine the document and if need be to inspect the college further for due compliance by the petitioner-institution out of seven deficiencies pointed out by AICTE.

(ii) It is hereby directed that the respondent/Anna University shall permit the petitioner-institution to admit students for the academic year 2016-2017 as it is shown that a decision has been taken hurriedly in the matter even though it is stated by the Anna University vide its letter dated 14.05.2016 that it is not in a position to permit the petitioner-institution to admit students for the current academic year as AICTE has not accorded approval.

(iii) It is further made clear that the interim order is subject to the final disposal of the writ appeal.

10. List the matter after eight weeks. Respondents to file counter, in the meantime.

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