

L R Polytechnic vs.all India Council for Technical Education and Ors

L R Polytechnic vs.all India Council for Technical Education and Ors

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Court : Delhi

Decided On : Feb-06-2017

Appellant : L R Polytechnic

Respondent : All India Council for Technical Education and Ors

Advocate for Pet/Ap. : Mr. Amitesh Kumar, Mr. Anil Soni, Ms. Priyanka Singh

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision: February 06, 2017 L R POLYTECHNIC + W.P.(C) 6771/2016 & CM. No.27796/2016 versus

... Petitioner

Through: Mr. Amitesh Kumar, Adv. ALL INDIA COUNCIL FOR TECHNICAL EDUCATION AND ORS

... RESPONDENTS

Through: Mr. Anil Soni, Standing Counsel with Ms. Priyanka Singh, Adv. CORAM:-

"HONBLE MR JUSTICE V. KAMESWAR RAO V. KAMESWAR RAO, J.

(ORAL) CM. No.3532/2017 1. This is an application filed by the petitioner with the following prayers:-

"(a) pass an ad interim order directing the AICTE to grant access to the Applicant institution to AICTE web-portal and to permit the Applicant institution to submit its

online application seeking extension of approval for the Academic Year 2017-18; and/or (b) pass such other or further order/orders as this Honble Court may deem fit and proper in the facts and circumstance of the W.P.(C) No.6771/2016 Page 1 of 6 case as well as in the interest of justice. 2. It is the submission of Mr. Amitesh Kumar that the grant of the prayers as made in this application would not cause any prejudice to anyone including the respondents, inasmuch as, if the writ petition is dismissed then the order, if any to be passed by this Court on this application would be of no consequence but in the eventuality the writ petition is allowed, the petitioner would benefit to the extent time shall be saved, as the process would commence immediately. He states even the submission of Mr. Soni that the Supreme Court has disapproved the orders as passed by the Courts granting provisional admission to the students is concerned, as the prayer in the application does not involve any student, the said order of the Supreme Court is not applicable.

3. That apart, it is his submission, that in the absence of deficiencies, as there are surplus teachers and infrastructure, the impugned orders in the writ petition whereby the respondents have withdrawn the approval for the academic year 2016-2017, shall be unsustainable and as such, balance of convenience lies in favour of the petitioner for grant of the prayers in the application. He has drawn my attention to the chart filed by him showing the alleged compliance status for the Polytechnic course. In this regard, he has drawn my attention to page 466 to show that as per the EVC report dated October 1, 2016, the Committee has noted the fact W.P.(C) No.6771/2016 Page 2 of 6 that the petitioner Institute has applied for the withdrawal of courses. In other words, the withdrawal of courses would not increase the deficiencies but would make the staff / infrastructure excess removing the deficiencies in that regard. That apart, he has drawn my attention to the list filed by him after it was downloaded from the website of the respondents, which depicts those Institutes against whom punitive action has been taken, were eligible for restoration for the year 2017-18. He states, the said list includes the petitioner herein. In other words, it is his submission despite such a list, the respondents are not giving access to the petitioner to their portal.

4. On the other hand, Mr. Anil Soni, learned counsel for the respondents would submit that the present application is beyond the reliefs as prayed for in the writ petition, inasmuch as in the writ petition, the challenge is primarily with regard to the withdrawal of the approval effective for the year 2016-17. The prayers as made for in the present application is a fresh cause of action and would not like to be granted by this Court. That apart, it is his submission that the plea of Mr. Kumar that no deficiency exist is clearly untenable. That apart, he would state that merely because the petitioner has desired to close certain courses would not mean that the courses have been closed. The closure requires certain W.P.(C) No.6771/2016 Page 3 of 6 procedure to be followed before the same becomes effective. He also rely upon Approval Process Handbook 2016-2017 (Chapter IV, clause 1.2) wherein it is stipulated that in the case of a withdrawal, the operations of the Technical Institution concerned cannot be started again before completion of two years from the date of such a withdrawal at the same location and address and such Institution has to apply afresh for approval as per the procedure for setting up a new Institute as defined in Chapter 1.

5. He also submit, the reliance placed by Mr. Kumar on the list downloaded from the website of the AICTE relating to Institutes eligible for restoration in 2017-18 is concerned, even if the name of the petitioner is reflected, the same is contrary to clause 1.2 of the Approval Process Handbook 2016-17. He states, it is precisely for the said reason, the petitioner was not given access to the portal. He seeks the dismissal of the application.

6. Having heard and considered the submissions made by the learned counsel for the parties, suffice to state that the petition has been filed by the petitioner with regard to the withdrawal of approval for the year 2016- 2017. The relief as prayed for in the application is primarily for the year 2017-18. The plea of Mr. Kumar, that if the petitioner succeeds in the writ petition, the petitioner may save time, as the process of extension of W.P.(C) No.6771/2016 Page 4 of 6 approval may take some time, is appealing but that cant be a ground to allow the prayer made in the application unless, a prima facie case exist. The plea of Mr. Kumar that no deficiencies exist, rather the faculty and the infrastructure are surplus, is countered by Mr. Soni on the basis of certain other deficiencies, which cant be ignored. That

apart, I note, that the effect of clause 1.2 of Approval Process Handbook 2016-17 clearly stipulates that in case of withdrawal, the Institute cannot start its operation before the completion of two years from the date of withdrawal at the same location and address and it has to apply afresh for approval as per the procedure for setting up a new Institute as defined in Chapter 1. The submission made by Mr.Soni that even if the name of the petitioner has been shown in the list of Institutes eligible for restoration in 2017-18, the petitioner was not given access to the portal in view of clause 1.2, is appealing.

7. Suffice to state, the submissions made by Mr. Kumar does not compel this Court to grant the relief as prayed for in the present application.

8. I do not see any merit in the application. The same is dismissed. Suffice to state, the aforesaid shall not be construed as an expression on merit of the controversy in the writ petition. W.P.(C) No.6771/2016 Page 5 of 6 W.P.(C) 6771/2016 & CM. No.27796/2016 Counter-affidavit has not been filed by respondents 1 and 2. Mr. Soni seeks and is allowed two weeks to file counter-affidavit. Rejoinder- affidavit thereto, if any be filed within one week thereafter. List the writ petition and CM No.27796/2016 for hearing on 27th March, 2017. V. KAMESWAR RAO, J FEBRUARY06 2017/AK W.P.(C) No.6771/2016 Page 6 of 6

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