

Indus College of Engineering Vs. All India Council for Technical Education

Indus College of Engineering Vs. All India Council for Technical Education

SooperKanoon Citation : sooperkanoon.com/59794

Court : Delhi

Decided On : Jun-29-2015

Judge : Rajiv Sahai Endlaw

Appellant : Indus College of Engineering

Respondent : All India Council for Technical Education

Advocate for Def. : Mr. Anil Soni

Advocate for Pet/Ap. : Mr. S. Nanda Kumar, Mr. Parivesh Singh, Mr. Ravi Kant, Mr. Mayank Manish, Ms. Jyoti Sharma

Judgement :

*IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

29. h June, 2015 % + W.P.(C) No.5982 /2015 INDUS COLLEGE OF ENGINEERING Petitioner Through: Mr. S. Nanda Kumar with Mr. Parivesh Singh, Mr. Ravi Kant, Mr. Mayank Manish & Ms. Jyoti Sharma, Advs. Versus All INDIA COUNCIL FOR TECHNICAL EDUCATION Respondent Through: Mr. Anil Soni, Adv. CORAM:HONBLE MR. JUSTICE RAJIV SAHAI ENDLAW RAJIV SAHAI ENDLAW, J1 The petition impugns the letter dated 30th April, 2015 of the respondent, withdrawing the approval earlier accorded to the petitioner vide letter dated 25th July, 2008 for establishing an institution for imparting education in engineering and technology. The writ petition came up first before the Vacation Bench on 12th June, 2015 when the counsel for the respondent also entered

appearance and the matter was posted for today for hearing.

2. The counsel for the petitioner has been heard at length.

3. The petitioner, in the writ petition has pleaded: (a) that the respondent, after being satisfied of the petitioner having fulfilled the requisite conditions, vide letter dated 25th July, 2008 granted approval to the petitioner for running the undergraduate engineering course with annual intake of 240 seats for the academic year 2008-09; (b) that the petitioner was also accorded extension of approval by the respondent from time to time for relevant academic year; (c) that on 4th June, 2014 the respondent granted extension of approval to the petitioner for running courses in engineering and technology with intake of 498 students for the session 2014-15; (d) that the respondent issued a show cause notice dated 15th September, 2014 to the petitioner and to which a reply was submitted by the petitioner and whereafter the petitioner was directed to appear before the Standing Complaint Committee Meeting scheduled on 11th November, 2014; (e) that the petitioner, in the hearing on 11th November, 2014 submitted relevant documents in order to cure the defects as pointed out by the AICTE; (f) that the respondent vide its letter dated 20 th November, 2014 directed the petitioner to obtain and submit approval from DPCT (sic for DTCP i.e. Director, Town and Country Planning) and NOC from Forest Department within three months therefrom; (g) that the petitioner applied for approval to DTCP; (h) that the respondent vide letter dated 24th March, 2015 asked the petitioner to appear before the Standing Complaint Committee Meeting scheduled on 30th March, 2015; (i) that the petitioner participated in the hearing on 30 th March, 2015 and produced all the relevant documents in order to cure the defect and also informed that it had applied for approval from DTCP and NOC from Forest Department; (j) that however, the said Committee without appreciating the case of the petitioner and his submissions made the arbitrary recommendation to withdraw the approval; (k) that the representation dated 27th February, 2010 (sic for 27th April, 2015) was submitted to the respondent; (l) that the respondent vide its letter dated 24 th April, 2015 directed the petitioner to appear before its Standing Appeal Committee and to present its case; (m) that the petitioner appeared before the Standing Appeal Committee and again represented its case stating that the initial Land Use

Certificate submitted by the petitioner was not forged certificate but merely a certificate issued by another authority i.e. the Panchayat; (n) that however the respondent arbitrarily issued the aforesaid letter dated 30th April, 2015 of withdrawal of approval.

4. However a perusal of the documents annexed to the petition shows the respondent to have withdrawn the approval earlier accorded to the petitioner for the reason: (i) that the petitioner at the time of seeking approval for the establishment of an institution for imparting education in engineering and technology had submitted the Land Use Certificate dated 24th December, 2007 issued by the Rural Development Officer (RDO), Coimbatore and the Land Conversion Certificate from the Alandurai Panchayat; (ii) that on verification of the authenticity of the Land Use Certificate with RDO / Collector of Coimbatore, it was informed by the District Revenue Office, Coimbatore vide letter dated 8th March, 2010 that the Land Use Certificate was not issued by the RDO, Coimbatore and hence the certificate was not an authentic one; (iii) that the petitioner in September, 2010 submitted another Land Use Certificate dated 27th February, 2010 issued by RDO, Coimbatore; (iv) that the petitioner had submitted its building plans to DTCP for approval; DTCP had asked the petitioner to submit certain documents including the NOC from the Hill Area Conservation Authority (HACA); (v) that the DTCP issued notice dated 18th January, 2013 to the petitioner stating that the buildings constructed by the petitioner were unauthorized and directed the petitioner to restore the land to its condition before the said construction took place and otherwise threatening sealing of the premises; (vi) that the petitioner approached the Court against the said notice of the DTCP but the case was dismissed and the order of DTCP was upheld; (vii) that since the petitioner failed to submit the documents to the DTCP for approval of the building, the DTCP served notice dated 25th July, 2014 to the petitioner of sealing of the premises with effect from 1st August, 2014; (viii) that DTCP sealed the Principals office and Administrative Block of the building of the petitioner on 1st August, 2014; (ix) that in view of the aforesaid events, the AICTE had issued the show cause notice dated 15th September, 2014 to the petitioner asking it to explain as to why the approval should not be withdrawn; (x) that the petitioner in its reply dated 30th September, 2014 to the aforesaid notice stated that the copy of the Land Use

Certificate dated 24th December, 2007 was not available in its records and that the Land Use Certificate dated 27th February, 2010 subsequently submitted by it was genuine and true and that it had taken steps in accordance with law and the matter was sub judice; (xi) that the petitioner in the hearing before the Standing Complaint Committee had sought three months time to obtain and submit NOC from DTCP and Forest Department and which was granted; (xii) that however the petitioner was unable to submit the said documents within the said period of three months; (xiii) that the Standing Complaint Committee accordingly concluded that the petitioners institute was started with a criminal activity and on the basis of a forged Land Use Certificate and that the buildings constructed by the petitioner institute were unauthorized and had been ordered to be demolished and accordingly recommended withdrawal of the approval earlier accorded to the petitioner; (xiv) that the petitioner was granted an opportunity to present its case before the Standing Appellate Committee on 24th April, 2015; (xv) that however the Standing Appellate Committee also concluded that the petitioner had obtained approval in the year 2008 on the basis of forged Land Use Certificate; (xvi) that as per Clause 4.27 of the All India Council for Technical Education (Grant of Approvals for Technical Institutions) Regulations, 2012, if the institution has misrepresented, the approval has to be withdrawn; (xvii) that accordingly the Standing Appellate Committee recommended withdrawal of approval and approval was accordingly withdrawn vide letter dated 30th April, 2015.

5. I have enquired from the counsel for the petitioner as to how the findings contained in the impugned letter dated 30th April, 2015, of the petitioner having obtained the approval in the year 2008 by submitting a forged Land Use Certificate is erroneous and that if it is not erroneous, how can the order of the respondent AICTE of withdrawal of approval on the said ground can be found fault with.

6. No proper reply has been forthcoming. The counsel however without stating any basis states that the petitioner has not indulged in any forgery.

7. I have further enquired from the counsel for the petitioner as to which Court the petitioner had approached against notice dated 18th January, 2013 (supra) of the DTCP asking the petitioner to restore the land to the condition before the

construction and threatening sealing of the premises.

8. The counsel for the petitioner states that the petitioner had then approached the High Court of Madras at Chennai.

9. As per the impugned letter dated 30th April, 2015, the aforesaid case of the petitioner was dismissed and the order of the DTCP was upheld. I have enquired from the counsel whether the said order of the High Court of Madras has attained finality.

10. The counsel replies in the affirmative.

11. The petitioner has however not chosen to place a copy of the said order of dismissal of its writ petition before this Court. On enquiry, the counsel for the petitioner states that he is not in possession of any copy of the said order.

12. In my opinion, with the dismissal of the writ petition preferred by the petitioner impugning the notice dated 18th January, 2013 of the DTCP holding the buildings raised by the petitioner to be unauthorized and directing the petitioner to demolish the said buildings and to restore the land to its original condition, the question whether the said buildings are unauthorized or not is no longer *res integra*. It can safely be presumed that the buildings must have been held to be unauthorized for the reason of having been constructed on land not meant for the said purpose and the use whereof had not been permitted to be changed. It can further safely be presumed that the petitioner, before the High Court of Madras also would have relied or ought to have relied on the change of Land Use Certificates on the basis whereof the petitioner in the year 2008 obtained approval from the respondent. The High Court of Madras has obviously not believed the said change of Land Use Certificate. Alternatively, if the petitioner has hesitated from relying upon change of Land Use Certificates before the High Court of Madras, the only reason therefor could be of the same being not genuine.

13. The counsel for the petitioner however contends that the buildings still exists and that the classes are being held therein for the students admitted in the previous years.

14. However merely because the order of demolition though passed has not been implemented till date would not make any difference. The same does not dilute the factum of the petitioner having indulged in forgery while obtaining approval in the year 2008 from the respondent. Under the Regulations of the respondent AICTE, the said conduct of the petitioner entitles the respondent to withdraw the approval.

15. Faced therewith the counsel for the petitioner contends that no proper hearing was given by the Standing Appellate Committee to the petitioner. He places reliance on: (i) Order dated 29th May, 2015 in W.P.(C) No.284/2015 titled as Nest Educational and Welfare Society Vs. All India Council for Technical Education; (ii) Order dated 18th May, 2015 in W.P.(C) No.4884/2015 titled as ACN College of Pharmacy Vs. All India Council for Technical Education; (iii) Order dated 18th May, 2015 in W.P.(C) No.4707/2015 titled as Institute of International Excellence Vs. All India Council for Technical Education; (iv) Order dated 19th May, 2015 in W.P.(C) No.4956/2015 titled as Daya Charitable Trust Vs. All India Council for Technical Education. to contend that in all the said cases also the matter was remanded to the Standing Appellate Committee for reconsideration.

16. I am afraid that is not the case pleaded by the petitioner nor is any such ground made out. The reliance placed on the judgments / orders aforesaid is thus entirely misconceived. Rather, I am constrained to observe that the pleadings in the petition are not lucid and clear and do not reflect the case as found to have been contained in the documents. All that can be observed qua the said contention of the counsel for the petitioner is that though the respondent AICTE in the letter dated 30th April, 2015, besides citing the ground of such forgery for withdrawal of approval has also stated that there were other deficiencies in relation to approval of building plan etc.

but without specifying the said deficiencies; however the ground, of the petitioner having indulged in forgery, itself is enough to uphold the order. The said ground of forgery, the petitioner has not been able to controvert. Though the petitioner in the hearing held before the Standing Complaints Committee on 12th November, 2014 sought three months time to obtain the requisite documents from DTCP but could not get the said documents. The question of getting any such documents after the

dismissal of the writ petition aforesaid by the High Court of Madras even otherwise does not arise.

17. The counsel for the petitioner at this stage states that the petitioner has applied afresh for change of land use and which is pending.

18. The aforesaid pendency however cannot come to the rescue of the petitioner and cannot entitle the petitioner to renewal / extension of the approval, grant whereof is steeped in forgery.

19. I therefore do not find any ground to entertain this petition which is dismissed. No costs. RAJIV SAHAI ENDLAW, J JUNE29 2015 gsr

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com