

Padmashree Polytechnic College. Vs. the All India Council for Technical Education and ors.

Padmashree Polytechnic College. Vs. the All India Council for Technical Education and ors.

SooperKanoon Citation : sooperkanoon.com/928434

Court : Chennai

Decided On : Jul-12-2012

Judge : K.Chandru, J.

Acts : [Constitution of India](#) - Articles 226

Appeal No. : W.P.No.13727 of 2012 and M.P.Nos.1 and 2 of 2012

Appellant : Padmashree Polytechnic College

Respondent : The All India Council for Technical Education and ors.

Advocate for Def. : Ms.A.L.Ganthimathi, Adv.

Advocate for Pet/Ap. : Mr.T.Mohan, Adv.

Judgement :

Writ Petition filed under Article 226 of the [Constitution of India](#) praying for a Writ of certiorarified mandamus, calling for the impugned order of the 3rd respondent dated 15.05.2012 and quash the same and further directing the respondents to grant approval for the Padmashree Polytechnic College, a unit of Prof.Sundaram Educational Trust based on its application No.1-755778292 dated 9.2.2012 effective from the academic year 2012-2013.

(Prayer amended as per order dated 21.06.2012 by KCJ in M.P.Nos.3 and 4/2012)

ORDER

1. The petitioner College run by a Trust has filed the present writ petition seeking to challenge an order passed by the first respondent All India Council for Technical Education ("AICTE" for short) dated 16.05.2012 and after setting aside the same seeks for a direction to grant approval for the Polytechnic run by them based on the application dated 09.02.2012.

2. Subsequently, the petitioner has filed an application in M.P.No.3 of 2012 to amend the prayer and that application was ordered on 21.06.2012. By the impugned communication, the third respondent viz., The Standing Appeal Committee rejected their application and the order reads as follows:-

In terms of the provisions under the All India Council for Technical Education (Grant of Approvals for Technical Institutions) Regulations 2011 notified by the Council vide notification number F-No.37-3/Legal/2011 dated 10.12.2010 and other notifications, as applicable and published from time to time, I am directed to convey the Rejection of Application for establishing a Technical Institution/ Campus bearing Application ID 1-755778292 for padmashreepolytechnic @ gmail.com, VATTAMALAI VILLAGE, DHARAPURAM ROAD, AVINASHIPALAYAM PUDUR (POST), for the detailed reasons as noted in the following reports, as applicable to this institute.

i) Scrutiny report,

ii) Re-Scrutiny report,

iii) Expert Committee visit report,

iv) Regional Committee report,

v) Reasons for rejection in the EC

vi) SAC Report

These reports containing deficiencies are attached/available on web portal at www.aicte-india.org on your login which may be down loaded and be treated as part of this letter of rejection.

Challenging the same writ petition came to be filed.

3. When the matter came up on 24.05.2012, this Court directed the learned counsel for the petitioner to serve notice on the respondents privately. Accordingly, notice has been served and on notice, Ms.A.L.Ganthimathi, learned Standing Counsel for AICTE appears. On behalf of respondents 1 and 2, a counter affidavit dated 25.08.2012 has also been filed.

4. The case of the petitioner was they intended to start a Polytechnic under the name and style of Padmashree Polytechnic at Vattamalai Village, Avinashipalayam, Pudur Post, Kangayam Taluk. They made an application on 09.02.2012 with all required details. On 13.02.2012, the petitioner was requested to appear before the second respondent viz.,Southern Regional Office on 15.02.2012 with all relevant original documents. After scrutinizing the documents, the Scrutiny Committee submitted its report on 15.02.2012 and noted several deficiencies.

5. On 21.02.2012, the respondent sent a communication informing the petitioner that an Expert Committee will visit the petitioner's institute on 25.02.2012. Accordingly, the Expert Committee visited the institute and submitted its report pointing out certain deficiencies. However on 02.03.2012, the respondents sent a letter to the petitioner informing that its application has been recommended to the Regional Committee for further processing. However, the first respondent rejected the petitioner's application and informed the same to the petitioner on 03.04.2012.

6. The petitioner, thereafter filed a statutory appeal before the third respondent Standing Appeal Committee after rectifying all deficiencies which were pointed out by the Scrutiny Committee and expert visiting committee of the respondents. On 19.04.2012, the petitioner was directed to appear before the 3rd respondent on 22.04.2012. Accordingly, the petitioner appeared before the 3rd respondent with relevant documents. On 30.04.2012, during the pendency of the appeal, the

petitioner has written a letter to the first respondent requesting them to re-visit/inspect the petitioner institute and to grant approval. Despite their request, without hearing the petitioner and without considering their request for re-inspecting the institute, the respondents rejected the petitioner's application on 15.05.2012.

7. The stand of the petitioner institute was they had complied with all conditions for grant of permission to establish the institute. Their request for re-visit has been unjustly rejected. They have to pay hefty fees of Rs.5 lakhs to make a fresh application.

8. In the counter affidavit filed on behalf of respondents 1 and 2, it was stated that before the Standing Appeal Committee, no documents were produced by the petitioner to show that the deficiencies have been rectified. The request of the petitioner by letter dated 30.04.2012 cannot be considered since hearing before the Appellate Committee was over as early as 22.04.2012. It is for the Standing Appellate Committee to recommend for re-visit. In the absence of recommendation for re-visit by the Standing Appeal Committee for re-visit by the Standing Appellate Committee, a re-visit cannot be made or cannot be claimed as a matter of right. It was further stated that all the institutions on the date of their application for approval should have the infrastructural facilities in a complete stage and deficiencies were not even rectified even at the time of Scrutiny by the Standing Appellate Committee. Further a body of experts had visited the institution and it was only as per their report, the respondent's Council has to take decision. Since the petitioner institution do not have sufficient infrastructure facilities to start a new polytechnic, their application was rejected.

9. It must be noted by a communication dated 02.03.2012, the petitioner institute was informed even after pointing out certain deficiencies by the Experts Committee, their application was recommended to Regional Committee for further processing. Therefore, it was not an outright rejection. Similarly, after the hearing by the Appellate Committee held on 22.04.2012, the petitioner sent a request letter dated 30.04.2012 stating that they have rectified all deficiencies noted by the Scrutiny Committee and Expert Committee and had submitted necessary

documents and photocopies for establishment of infrastructure facilities in the administrative area and amenities area available in the institution. In the present case, the Appellate Committee had discretion to sent an inspection committee to inspect the rectification of the deficiencies. But the appellate committee had noted that sufficient proof of rectifying deficiencies were not produced before the Committee. Admittedly, the petitioner had sent a letter dated 30.04.2012 informing them about the rectification of deficiencies. The committee had passed the order only on 15.05.2012 by which date, they had the copy of the request made by the petitioner institute. Therefore, long before the rejection, the petitioner had rectified the defects and had sought for an inspection by the Appellate Committee. Therefore in that context, the Committee could have exercised its discretion to sent a fresh inspection team.

10. This Court is not satisfied that the third respondent was correct in rejecting the request of the petitioner to send a fresh team to find out whether deficiencies have been rectified or not. Though it is not a matter of right that the committee should send a re-inspection team every time when they sought form but in the present case, it has been made clear by the petitioner trust that the deficiencies have been rectified and they are willing to face another inspection team sent by the appellate committee.

11. Under the said circumstances, this Court is of the opinion that the petitioner institute should have an opportunity of further showing the fulfilment of the requirements made by the AICTE. Accordingly, the writ petition stands allowed, the impugned order stands set aside. The third respondent is hereby directed to send a fresh committee and based upon the report of the Committee, shall consider the appeal presented by the petitioner and pass appropriate orders. This exercise shall be undertaken within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.