

## Shanmuga Polytechnic College Vs All India Council for Technical Education, Southern Regional Office, and Commissioner of Technical Education

**Court:** Madras High Court

**Date of Decision:** April 30, 2013

**Acts Referred:** All India Council for Technical Education Act, 1987 " Section 23  
University Grants Commission Act, 1956 " Section 3

**Citation:** (2013) 5 MLJ 129 : (2013) WritLR 669

**Hon'ble Judges:** R.K. Agrawal, Acting C.J.; N. Paul Vasanthkumar, J

**Bench:** Division Bench

**Advocate:** G. Rajagopalan, for G.R. Associates, for the Appellant; AR.L. Sundaresan, for Ms. AL. Gandhimathi, for the Respondent

**Final Decision:** Allowed

### Judgement

R.K. Agrawal, Actg. C.J. and N. Paul Vasanthkumar, J.

This writ appeal is filed against the order of the learned single Judge dated

19.11.2010, dismissing the writ petition in W.P. No. 22813 of 2010 filed by the Shanmugha Polytechnic College/appellant. The appellant herein

filed the above writ petition to quash the order dated 16.8.2010 passed by the second respondent viz., Southern Regional Office of the All India

Council for Technical Education (AICTE), Chennai, insofar as not approving the Diploma in Engineering and Communication Engineering courses

are concerned and direct the respondents to grant unconditional approval for Diploma Electronics and Communication Engineering courses.

2. The case of the appellant/writ petitioner before the learned single Judge are as follows:

(a) Vee See Bee Trust, which is an Educational and Charitable Trust, in order to cater the needs of the students of Thanjavur District, established a

Polytechnic by name Shanmugha Polytechnic at Thanjavur. Balaseva Educational and Charitable Trust, which is also an Educational Charitable

Trust, established an engineering College by name Shanmugha College of Engineering at Thirumalaisamudram, Thanjavur District. Both the

Engineering college and the Polytechnic were functioning in the same compound.

(b) The Engineering College was affiliated to the Bharathidasan University, Tiruchirapalli and approved by the AICTE. The Polytechnic was

approved by the AICTE as well as the Government of Tamil Nadu. The Engineering College was declared as Deemed to be University in the year

2001 under the name of "Shanmugha Arts and Science Technology and Research Academy" (SASTRA). The polytechnic continuously in

operation under the same name was renamed as Shanmugha Polytechnic College.

(c) According to the appellant, the Educational Agency of the SASTRA University and the Educational Agency of Shanmugha Polytechnic College

are sister Trusts and they are sharing the resources/infrastructures among themselves in accordance with the National Educational Policy as well as

AICTE norms and the AICTE norms nowhere prohibit sharing of facilities of the University with the nearby institution.

(d) In the year 2001, the first respondent/AICTE decided to entrust the approval of Diploma Engineering programmes to the State Government,

though there is no provision in the AICTE Act, and the State Government through the third respondent has been recognising the courses of

Shanmugha Polytechnic College.

(e) The second respondent/Southern Regional Office of AICTE was constituted as an approved authority on behalf of the AICTE and for the year

2009-2010, the second respondent imposed a condition that the three classrooms, computers, laboratory equipments cannot be shared by the

Shanmugha Polytechnic College and the same should be rectified and a compliance report is to be submitted. Against the said condition imposed,

the appellant preferred an appeal before the Chairman of the Regional Committee, who was designated as Appellate Authority and filed an appeal

on 11.12.2009 and the said appeal is yet to be disposed of.

(f) The third respondent sent a communication on 2.7.2010 alleging certain deficiencies on the same lines as that of second respondent, for which

the appellant sent a reply stating that as against the condition imposed, appeal was preferred in respect of sharing facilities and there is no shortage

of faculty members.

(g) The appellant also applied for extension of approval before the second respondent and admitted students to all branches in July, 2010, as the

admissions are to be closed for the first year before 9th July.

(h) On 16.8.2010 the second respondent passed the impugned order stating that they are in the process of constituting an Appeal Committee with

regard to the appeal filed by the appellant. The order dated 16.8.2010, not granting approval for ECE course, was challenged on the ground that

sharing of facilities of the Engineering College, which has now become a Deemed University, is in accordance with the National Policy of

Education and the same is permissible under the AICTE Act and Regulations; that the Act and Regulations nowhere prohibit sharing of the

facilities; and that, the University as well as the Polytechnic are in the same compound and sharing being followed from 1995, directing the

appellant to provide separate facility, is contrary to the National Policy of Education as well as against the provisions of the AICTE Act.

3. The said writ petition was resisted by the respondents 1 and 2 by filing counter affidavit contending that the AICTE approves the Technical

Institution for courses on the basis of norms and standards specified, and no course other than those specifically approved by the Council be run in

the same premises by sharing the same facilities as per the new regulations framed in the year 2010 and the appellant was specifically informed

while granting approval for the course of Diploma in Electronics and Communication Engineering for the year 2009-2010, to provide separate

infrastructural facilities as SASTRA University is not coming within the purview of AICTE. It is the specific contention of the respondents that

sharing of facilities in the SASTRA University by the appellant is impermissible.

4. The learned single Judge considered the issue and dismissed the writ petition, against which this writ appeal is filed.

5. Mr. G. Rajagopalan, learned Senior Counsel appearing for the appellant Polytechnic submitted that as sharing facilities with Technical Institutes

is permissible under the National Educational Policy as well as AICTE norms and the second respondent is not justified in directing the appellant to

provide for separate facilities for the continuance of approval of Diploma courses of appellant Polytechnic as the appellant is conducting

polytechnic courses by sharing of facilities with the SASTRA University, which is formerly known as Shanmugha College of Engineering. Both the

institutions are situated within the same campus, though established and administered by two sister Trusts and sharing of facilities is permitted from

1984 and as such the AICTE cannot now say that on the basis of sharing of facilities with the SASTRA University extension of approval for

Diploma in Electronics Communication Engineering cannot be granted for the year 2010-2011. The sharing of facilities having been permitted for

the past 25 years and the AICTE having already overruled the objections of the Regional Committee regarding unconditional approval of all

courses, the appellant remitted a sum of Rs. 4 crores with the Trust which is running SASTRA University for maintenance and use of the facilities

and Clause 9(a) quoted by the Regional committee of the AICTE in the application cannot have application, which cannot override the norms and

standards. The learned Senior Counsel further submitted that merely because the erstwhile Shanmugha College of Engineering became Deemed

University from 2001, which does not require any approval from the AICTE, the courses offered by the Shanmugha College of Engineering cannot

be treated as unapproved courses in the eye of AICTE, particularly when only based on the recommendation of the AICTE as well as UGC the

Shanmugha College of Engineering was granted Deemed University status by issuing notification u/s 3 of the UGC Act, 1956. It is also contended

by the learned Senior Counsel that the SASTRA University and TCS, a leading industry, have created a world class infrastructure, spending over

Rs. 20 crores and the SASTRA University has been declared as a Centre for relevance and excellence in advanced computing and information

processing. The consortium facilities are being used by the Polytechnic as well as SASTRA University and therefore the question of creation of

separate infrastructures for the Polytechnic does not arise.

6. Mr. AR. L. Sundaresan, learned senior Counsel appearing for the AICTE on the other hand relied on the Approval Process Hand Book issued

by the AICTE, particularly Clause 55.4 and submitted that as per Clause 55.4 no course other than those specifically approved by the Council, be

run in the same premises sharing the same facilities and the SASTRA University being not an approved institution of the AICTE after it was given

the Deemed University status, and only due to the said fact the second respondent insisted the appellant to create separate facilities for the

approval of the Polytechnic course and there is no illegality in the said order. The learned Senior Counsel further submitted that the said approval

guidelines having been framed under the powers conferred u/s 23 of the AICTE Act, 1987, the same is having statutory force and the appellant is

also bound by the said provision and unless the appellant creates separate infrastructural facilities for the polytechnic, the Diploma course offered

by the appellant cannot be approved.

7. We have considered the rival submissions made by the learned senior Counsel for the appellant as well as the learned Senior Counsel appearing

for the AICTE.

8. The point for consideration in this writ appeal is that the contention of the appellant that it is entitled to share the facilities of the SASTRA

University, which is conducting engineering courses, for the continuance of approval of Diploma Courses is sustainable.

9. It is an admitted fact that before confirmation of Deemed University status to the Shanmugha College of Engineering, the said college was

approved by the AICTE for conducting Engineering courses. It is also a fact that the said Engineering College was inspected by the AICTE and

recommended by the UGC and having satisfied with the excellence of education being provided in Shanmugha College of Engineering, the

Government of India declared the said Shanmugha College of Engineering as a Deemed University by issuing notification u/s 3 of the UGC Act,

1956, which is now called SASTRA Deemed University.

10. The appellant polytechnic is offering Diploma courses from the year 1984 and was granted approval for offering Diploma in Civil Engineering,

Electrical and Electronics engineering, and subsequently approval was granted to conduct courses in Automobile Engineering and Computer

Technology. The approval granted to various courses are being renewed from time to time.

11. The National Policy of Education 1986, paragraph 120 permits sharing and pooling of resources with University Departments and between

neighbouring University/colleges. The said paragraphs reads as follows:

With escalation in the cost of equipment, books and journals, a system of sharing and pooling of resources within University departments and

between neighbouring universities/colleges, particularly in metropolitan areas and large cities, should be worked out within the next year (1993-94)

by the UGC in consultation with the State Governments. To ensure better utilization of equipment costing Rs. 2 lakh or more, their use should be

monitored by introducing a system of ""Utility Audit"" based on log book entries indicating the number of hours per day such equipment is put to use

by faculty and students.

The AICTE also in the Norms and Standards issued in the year 1995, 1999 and in the Hand Book for Approval for 2008-2009 permits multi use

of facilities. The said provision reads as follows:

Multi-Use of facilities:

To make maximum use of available facilities (resources), sharing of resources among the institutions closely located should be encouraged. It goes

without saying that similar facilities should not be duplicated within one institution by different departments. Facilities existing in one department

should be freely available to another within the institution. Central facilities could be established for Teaching/research/consultancy work. It will be

desirable to have a consortium approach of having centralized laboratories of sophisticated instrumentation by mobilization from the group of

departments/institutions and share those facilities. This scheme can be adopted where the institutions can form themselves as a group to achieve

both optimization of resources and also overall fiscal economy.

12. As rightly contended by the learned senior Counsel for the appellant, AICTE norms nowhere prohibits sharing of facilities with nearby

institutions. Clause 55(4) of the approval process Hand Book issued in the year 2010-2011 relied on by the learned counsel for the AICTE only

states that no course other than those approved by the Council be run in the same premises, sharing the same facilities. It is not the case of the

AICTE that Shanmugha College of Engineering, which is now functioning as SASTRA University was never granted approval by the AICTE.

AICTE considered the academic excellence of Shanmugha College of Engineering and recommended for the grant of Deemed University status

and merely because the Central Government has granted status of Deemed University to the Shanmugha College of Engineering, the said

Shanmugha College now functioning as SASTRA University cannot be treated as an unapproved institution of AICTE. It is not the case of the

respondents that the SASTRA University is lacking any facilities and it is one among the listed 44 deemed Universities against whom case involving

allegation of non-availability of infrastructural facilities, is pending before the Honourable Supreme Court, i.e., VIPUL case.

13. The learned Senior Counsel for the appellant also submitted that for the purpose of granting continuance of approval of the Diploma courses,

the second respondent can very well inspect the Engineering courses offered in SASTRA University to find out as to whether for offering such

courses, infrastructural facilities are available as per the AICTE norms and in fact whether sharing of facilities is being done with the said University

by the appellant polytechnic with all infrastructural facilities.

14. It is well settled principle of law that UGC as well as AICTE must ensure co-ordinated development for promoting Technical education with

good standards. Bearing the said fact in mind, this Court is of the view that the contention of AICTE/second respondent that the sharing

arrangement made by the appellant with the Engineering courses offered by SASTRA Deemed University cannot be treated as a valid sharing of

facilities for continuance of approval of Diploma courses of the appellant Polytechnic, merely on the technical plea that as on today engineering

courses offered by SASTRA are not approved by the AICTE after grant of Deemed University status.

15. The AICTE being the approving authority, can very well inspect and ascertain as to whether the appellant is having infrastructural facilities for

continuing the Diploma courses by sharing of facilities with the SASTRA University and if the respondents 1 and 2 are not satisfied with the

availability of facilities, then only approval of any Diploma course can be denied to the appellant Polytechnic College, which is being run from the

year 1984. In the light of the above findings, we are not inclined to sustain the impugned order passed by the second respondent, which was

confirmed by the learned single Judge by dismissing the writ petition. The second respondent is directed to consider the approval of Polytechnic

courses offered by the appellant, without reference to the objection raised in the impugned order, within a period of six weeks from the date of

receipt of copy of this order. The writ appeal is allowed. No costs. Connected miscellaneous petition is closed.