

(2013) 11 DEL CK 0127

Delhi High Court

Case No: Writ Petition (C) No's. 4478 and 8372 of 2011, WP (C) No. 2812 of 2012 and WP (C) No. 3431 of 2013

Marut Nandan Educational
Society and Another

APPELLANT

Vs

All India Council for Technical
Education and Another

RESPONDENT

Date of Decision: Nov. 13, 2013

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 420
- Prevention of Corruption Act, 1988 - Section 13(1), 13(1)(d), 13(2)

Hon'ble Judges: V.K. Jain, J

Bench: Single Bench

Advocate: Ravi Gupta and Mr. Tanmaya Mehta, for the Appellant; Amitesh Kumar, for R-1, for the Respondent

Final Decision: Disposed Off

Judgement

V.K. Jain, J.

Petitioner No. 1, Marut Nandan Educational Society, is running an educational institution namely, Laxmi Devi Institute of Engineering & Technology. The said Institute is petitioner No. 2 in these petitions, and has been running/imparting several technical courses, such as B. Tech, M. Tech, MCA. For the academic year 2010-2011, no formal extension of approval was granted by AICTE, to the petitioners though the name of petitioner No. 2-Institute figured in the list of approved institutes, available on the website of AICTE. WP (C) No. 3155/2011 was then filed by the petitioners seeking a direction to AICTE to issue extension of approval for the academic year 2010-2011. Even before filing the said writ petition, the petitioners had granted admission to the students in various courses and they had also appeared in the first semester examination. The said petition was withdrawn on 24.10.2011. Vide order dated 20.5.2011, the Court also permitted the students of the

said courses to appear in their second semester examination. For the academic year 2011-2012, the name of petitioner No. 2-Institute did not figure in the list of approved institutes which led to filing of WP (C) No. 4478/2011, seeking a direction to AICTE to issue extension of approval for the said academic year.

Vide letter dated 3.6.2011, AICTE informed the petitioners that no approval had been granted to them in view of the case registered by the CBI against Shri Manoj Chachan, President of the Petitioner No. 1-Society and Mr. Sanjay Agarwal, who was the Administrator of the Petitioner No. 1-Institute. WP (C) No. 8372/2011 was then filed seeking quashing of the aforesaid communication dated 3.6.2011 and seeking grant of approval for the academic year 2010-2011.

For the academic year 2012-2013, the name of Petitioner No. 2-Institute did not figure in the list of institutions which were granted extension of approval for the said year and that led to filing of WP (C) No. 2812/2012, seeking quashing of the notification dated 31.3.2012 whereby it was inter alia stated that the extension of approval had not been given to those institutions that had been charge sheeted by the CBI or where approval was withdrawn by the AICTE.

For the academic year 2013-2014, the application of the petitioners for extension of approval for the said year is stated to have been rejected by AICTE. The petitioners preferred an appeal before the Standing Appeal Committee of AICTE. The said appeal came to be dismissed on 29.4.2013. WP (C) No. 3431/2013 has been filed seeking quashing of the communication dated 14.5.2013 and recommendation of the Appeal Committee dated 29.4.2013, besides seeking extension of approval for the academic year 2013-2014. Another prayer made in this writ petition was for a direction to AICTE for release and return of original FDR which the petitioners had submitted to it. However, during the course of arguments the said prayer was not pressed by the learned counsel for the petitioners.

In its counter-affidavit, the respondent-AICTE has stated that CBI registered an FIR being RC-0712009(E) 0005 dated 30.07.2009 against Shri S.P. Singh, then Regional Officer, AICTE, Chandigarh, Shri Manoj Kumar Chachan, Chairman, M/s. Chachan Education Welfare Society and others u/s 120B read with Section 420 of IPC and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988. Vide letter dated 24.12.2009, CBI sent a self-contained note with regard to approval of integrated campus obtained by M/s. Chachan Education and Welfare Society from AICTE by submitting forged/bogus documents and the said society also mortgaged the land of various institutions approved by AICTE. The self-contained note also disclosed financial transactions between Marut Nandan Education Society (petitioner No. 1) and M/s. Chachan Education and Welfare Society. It was also revealed during investigation conducted by CBI that a cheque No. 704830 for Rs. 5 crore was issued by petitioner No. 1-Society in favour of M/s. Chachan Education and Welfare Society and subsequently, other cheques issued by petitioner No. 1, were also deposited in the said account, but the entries were reversed after the said

cheques were dishonoured.

It is further stated in the counter-affidavit of AICTE that its Executive Committee in its 64th meeting held on 24.06.2000, decided that where CBI is investigating the matter or serious complaints have been received/forwarded by CVC, MHRD, regarding violation of norms and standards, etc. no extension of approval/increase in intake/additional courses, etc. shall be granted for the academic year 2010-11. It is further stated in the counter-affidavit that for the year 2010-11, the application of petitioner No. 2-institute was recommended for the purpose of extension of approval and subsequently, list of all the institutions recommended by the Scrutiny Committee was placed before the Executive Committee for grant of approval. The names of the institutions recommended for extension of approval were accordingly displayed on the website of AICTE on 30.06.2010 and after approval the names were displayed on 13.07.2010. The list of technical institutions granted extension of approval for the academic year 2010-2011 was sent to the Government of Rajasthan. But, despite the decision taken by the Executive Committee on 14.06.2010 not to grant extension of approval to the institutions in respect of which CBI was investigating the matter or serious complaints were received, the name of petitioner No. 2-institute could not be separated from the consolidated list of the institutions recommended for extension of approval. Subsequently, noticing the above mentioned inadvertent mistake, AICTE removed the name of petitioner No. 2 from the list of institutions, displayed on its website and vide communication dated 03.06.2011 informed petitioner No. 2 that keeping in view the above-referred FIR registered by CBI and upon subsequent filing of chargesheet against Shri Manoj Chachan and Mr. Sanjay Agarwal and also considering that Shri Manoj Chachan was also the Chairman of M/s. Chachan Education Welfare Society, besides being involved in controlling the operations of petitioner No. 1-Society, AICTE had not granted extension of approval for the academic year 2010-11 in respect of petitioner No. 2-institute. It is also stated in the counter-affidavit that AICTE had also received a complaint dated 26.07.2010 from one Santosh Kumar Gupta, seeking cancellation of recommendation granted to various colleges being run by M/s. Chachan Education Welfare Society.

CBI also informed AICTE that on the strength of cheque of Rs. 5 crore, issued by petitioner No. 1 in its favour, M/s. Chachan Education Welfare Society had produced before it the accounts of the said society, indicating sufficient funds available with it for grant of approvals. However, on investigation, it was found on the date the said cheque was issued, sufficient funds were not available in the account of petitioner No. 1-society and the purpose of issuing the aforesaid cheque of Rs. 5 crore was only to cheat AICTE.

2. In SLP(C) No. 19650/2013 Rajdhani Edu. Welf. Society Th Pres. & Anr. Vs. AICTE Thr. Sec.& Anr., the application of the petitioner before the Supreme Court for approval for the academic session 2013-14 was rejected solely on the ground that a

chargesheet has been filed by the CBI. This was done in view of provision in sub-clause (d) and (e) of clause 3.1 of AICTE Approval and Process Handbook 2013-14. Being aggrieved from such rejection, the petitioner filed a writ petition before the Rajasthan High Court, which, while granting time to the AICTE to file a reply, declined to grant any interim relief to the petitioner on account of delay on its part in approaching the Court. During the course of hearing, the petitioner relied upon a decision of Bombay High Court dated 29.06.2012 in W.P. (C) No. 5733/2012 in Jawaharlal Darda Education Society and Others v. AICTE and another taking a prima facie view that approval should not be withheld in case a chargesheet has been filed by CBI and that AICTE should consider the question of grant of approval of its own merit. Disposing of the special leave petition, the Apex Court made it clear that AICTE must look into the materials collected by the CBI in the investigation against a particular institution, but take decision on the merits of the proposal, in accordance with the Regulations and other norms, as fixed for approval.

3. The ratio of the above-referred order passed by the Apex Court is that an application seeking extension of approval cannot be rejected mechanically on the basis of registration of a case or filing of a chargesheet against an institute and/or its promoters/office bearers/managers etc. and AICTE is required to take its own decision on such an application, after taking into consideration the entire material which may be available with it and that would include the material collected by CBI or any other investigating agency against the institute and/or its promoters/office bearers/managers etc. and its own norms, Rules and Regulations. A simple rejection of approval, without adverting to the material, if any, available against the concerned institute and/or its promoters/office bearers/managers etc. and simply replying upon the FIR registered or chargesheet file by CBI or any other investigating agency, would be contrary to the view taken by the Apex Court in the aforesaid case.

4. The order dated 03.06.2011, whereby application of the petitioner for grant of approval for the year 2010-11 was rejected to the extent it is relevant reads as under:-

I am directed to refer to your application submitted online vide Id. Number 1-5279648 seeking extension of approval etc. for the academic year 2010-11 and to inform you that keeping in view of the FIR No. RC0712009E0005 dated 30.07.2009 registered by Central Bureau of Investigation (CBI) u/s 120B, r/w 420 IPC and Section 13(2) r/w 13(1) of PC Act, 1988 and substantive offences and upon subsequent filing of charge sheet by CBI against Shri Manoj Chachan and Shri Sanjay Agarwal, who was the Chairman of the Chachan Education and Welfare Society and Administrator in Laxmi Devi Institute of Engg. And Technology respectively and also keeping in view of the fact that Mr. Manoj Chachan is the Chairman of M/s. Chachan Education and Welfare Society, Alwar and is also involved and controlling the operations of M/s. Marut Nandan Education Society, the Council has not granted extension of

approval etc. for the academic year 2010-11 in respect of Laxmi Devi Institute of Engineering & Technology.

The above-referred order does not indicate independent application of mind by AICTE to the material available with it against the petitioners and/or their promoters/office bearers/managers, etc. Though the counter-affidavit filed by AICTE does refer to those averments, the impugned order does not indicate any application of mind by the Executive Committee of AICTE to those allegations and the material collected by CBI and/or available with AICTE with respect to those allegations.

5. It appears from the counter-affidavit filed by AICTE that though in view of policy decision taken by its Executive Committee and the Regulations framed by it, the petitioners were not granted extension of approval for the academic year 2011-12, no speaking order rejecting extension of approval for the above-referred year appears to have been passed and conveyed to the petitioner.

Vide notification dated 31.03.2012, AICTE notified all the institutions, who had applied for extension for approval for the year 2012-13, that such approval had not been granted to those institutions that had been chargesheeted by CBI. It was further stated that the extension of approval was kept pending inter alia for institutions where CBI FIRs were in the stage of processing. The institutions were advised to see the reasons for non-extension of approval on the website of AICTE.

Vide letter of objection dated 14.05.2013, AICTE informed the petitioner that extension of approval for the academic year 2013-2014 was not issued on account of CBI case filed against M/s. Chachan Education Welfare Society since the governing bodies of both the societies, i.e., petitioner No. 1 and M/s. Chachan Education Welfare Society, were same and charges had been framed against Shri Manoj Chachan and Mr. Sanjay Agarwal. It was further stated in the said communication that being a case of CBI chargesheet, the extension of approval for the year 2013-14 was not granted to the institute and letter of rejection dated 10.04.2013 was issued on portal. It was further stated in the said communication that pursuant to the order dated 22.04.2013, passed by this Court in W.P. (C) No. 2543 of 2013 permitting the petitioner to file an appeal, the matter was placed before Standing Appeal Committee (SAC) for decision and the said Committee had not recommended for extension of approval on account of its being a CBI chargesheeted case and the case being already pending in this Court. The application of the petitioners seeking extension of approval for the academic year 2013-14 was, therefore, disposed of, as rejected.

6. It would thus be seen that even while issuing the aforesaid communication dated 14.05.013, AICTE did not consider the application of the petitioners, taking into consideration the material available to it against the petitioners in the light of its own Rules and Regulations and straightaway rejected the extension of approval on

account of a chargesheet having been filed against Shri Manoj Chachan and Mr. Sanjay Agarwal. The impugned orders, therefore, need to be set aside with a direction to AICTE to pass an appropriate speaking order on the application of the petitioners seeking extension of approval for the academic years 2010-11, 2011-12, 2012-13 and 2013-14, in a time bound manner, and after taking into consideration such material as may be available with AICTE in this regard and that would include not only the material collected by CBI, but also such other material as may be independently available with AICTE. Ordered accordingly. A fresh speaking order shall be passed by AICTE, within eight weeks from today.

If AICTE decides to reject the applications, seeking extension of approval for one or more academic years, it shall also pass appropriate orders with respect to further studies of the students admitted by the petitioners in those years, either of their own or pursuant to the interim orders passed by this Court in various writ petitions. If the petitioners are aggrieved from a fresh order which AICTE will pass in terms of this direction, it shall be open to them to avail such remedies as are available to them in law.

All the writ petitions stand disposed of.