

(2015) 11 DEL CK 0282

Delhi High Court

Case No: W.P. (C) 4181/2014 and CM No. 8388/2014

Shabad Welfare
Society

APPELLANT

Vs

Union of India and
Others

RESPONDENT

Date of Decision: Nov. 19, 2015

Acts Referred:

- All India Council for Technical Education Act, 1987 - Section 10, 12, 23, 24, 3

Citation: (2015) 11 DEL CK 0282

Hon'ble Judges: G. Rohini, C.J. and Rajiv Sahai Endlaw, J.

Bench: Division Bench

Advocate: V. Krishnamurty, Senior Advocate and Anil Hooda, Advocate, for the Appellant;
Akshay Makhija, CGSC and Rohitendra Das, Advocate, for the Respondent

Final Decision: Disposed Off

Judgement

G. Rohini, C.J.

1. This petition as a PIL is filed alleging inaction on the part of AICTE in taking action against the Engineering Colleges conducting unapproved courses like B.Sc. and M.Sc. in spite of the fact that it had undertaken before this Court in W.P.(C) No. 4225/2012 to conduct in- depth inquiry into the matter.

2. The material available on record shows that the petitioner had earlier filed W.P.(C) No. 4225/2012 seeking a direction to the respondents to take appropriate action against those Engineering Colleges which are admitting students for the unauthorized B.Sc. and M.Sc. courses throughout the country without any approval from AICTE and to cancel the approval granted to all the said colleges which are running unapproved courses. The said writ petition was disposed of by a Division Bench of this Court by order dated 18.07.2012 recording the statement of the counsel for AICTE that the allegations would be examined

and an in-depth inquiry would be conducted in the matter. This Court also directed that the outcome of the investigation in the form of status report shall be filed in this Court with a copy to the petitioner. In pursuance thereof, the status report dated 13.02.2014 was filed by AICTE which shows that out of the total 49 institutions in the list submitted by the petitioner in W.P.(C) No. 4225/2012, the names of 2 institutions were repeated and so far as the remaining 47 institutions are concerned, after getting the inspections conducted through Expert Committee, the Regional Office of AICTE at Chennai found that 5 institutions were not conducting any unapproved courses. Therefore, show cause notices were issued to the remaining 42 institutions and the explanations received were considered by a duly constituted Standing Complaint Committee (SCC) headed by the Retired Judge of a High Court. After examining the documents, the Committee found that out of 42 institutions, 20 have closed the unapproved courses. Regarding 22 institutions which are found to have running the unapproved courses, the Standing Complaint Committee recommended that AICTE shall proceed against the said institutions both with regard to conducting unapproved courses as well as the other deficiencies by issuing separate notices. The recommendations of the Standing Complaint Committee were considered by the Executive Committee (EC) of AICTE in its 84th meeting held on 29.08.2013. The decision taken by the EC under Items No. 84.03.01 and 84.03.02 which are relevant for the purpose of the present case read as under:-

3. As could be seen, the decision taken by AICTE vide Item No. 84.03.01 was to permit the Engineering Colleges to conduct other educational courses (technical/non-technical) in the existing campus by using the surplus land subject to such courses/institutions having their own facilities to conduct such programmes without sharing the facilities of the already approved technical institutions.

4. The said decision is assailed in the present writ petition contending inter alia that granting permission to the institutions to use the existing campus for running other technical/non-technical courses is contrary to Clause 4.0 of Chapter-III of the Approval Process Hand Book of AICTE which is mandatory. It is also contended that the EC of AICTE has no authority to take any decision contrary to such mandatory requirement. It is alleged that the respondent No. 3, who is the Chairman of the Southern Regional Council of AICTE is also the Principal of PSG College of Technology, which is one of the 22 institutions that were found to be running unapproved courses, and that the impugned decision was taken by EC at the instance of the respondent No. 3.

5. Both respondents No. 2 and 3 filed detailed counter affidavits denying the allegations in the writ petition. It is explained in the counter affidavits that the Executive Council of AICTE is empowered under Sections 10 and 12 of the AICTE Act read with Clauses 4, 6, 10 and 11 of AICTE (Grant of Approvals for the Technical Educations) Regulations, 2012 to take all such steps as it may think fit for ensuring coordinated and integrated development of technical and management education and maintenance of standards. So far as the institutions that are running unapproved courses are concerned, it is explained that as per the decision of the EC vide Item No. 84.03.02 show cause notices were

issued to all the 22 institutions which were conducting unapproved courses apart from the 11 institutions which failed to satisfy the prescribed norms and standards. An Appellate Committee called Standing Appellate Committee (SAC) headed by a Retired Judge of the High Court was constituted for considering the explanations. The SAC met from 7th to 10th October, 2013 and after considering the affidavits filed by all the institutions, recommended to conduct inspections by Expert Visit Committee (EVC) before granting extension of approval for the Academic Year 2014-15. The SAC had also recommended withdrawal of approval in respect of one institution. The matter was again considered by the EC in the meeting held on 17.01.2014 and it was decided vide Item No. 37.01.01 that the approval process for the programmes other than stand-alone polytechnics not affiliated to Universities for the Academic Year 2014-15 shall be commenced as per the directives of the Ministry of Human Resource Development.

6. We have heard the learned counsel for both the parties.

7. Section 3 of the AICTE Act, 1987 enables the Central Government to establish a Council by the name of the All India Council for Technical Education. Section 10 of the Act provides that it shall be the duty of the Council to take all such steps as it may think fit for ensuring coordinated and integrated development of technical education and maintenance of standards and for the purposes of performing its functions under the Act. Section 12 of the Act provides that the Council shall constitute a Committee called the Executive Committee for discharging such functions as may be assigned to it by the Council. Section 23 of the Act empowers the Council to make Regulations not inconsistent with the provisions of the Act and the Rules generally to carry out the purposes of the Act. Such Regulations shall be laid before Parliament as provided under Section 24.

8. In exercise of the powers so conferred and in supersession of Regulations 2010, AICTE made the Regulations called AICTE (Grants of Approvals for Technical Institutions) Regulations, 2012. Clause 4.3 of the said Regulations specifically provides that the Council shall publish, from time to time, Approval Process Handbook detailing the procedure to process the applications of institutions. So far as the requirement of land is concerned, Clause 6 of the Regulations enables the promoter/proposed institution, after receipt of letter of approval, to mortgage the land for raising the resources for the purpose of development of the technical education institute situated on that land.

9. It is not in dispute that the Approval Process Handbooks are issued by the Council for every academic year. Though the provisions contained in the Approval Process Handbooks of 2010-11, 2011-12 and 2012-13 prohibited running of any course other than those specifically approved by the Council in the same premises sharing the same facilities, the Approval Process Handbook of 2013-14 does not contain any such provision. On the other hand, Clause 3.2 of Chapter II of the Handbook of 2013-14 which deals with grant of extension of approval to existing approved technical institutions reads as under:

"3.2 Grant of approvals is based on self disclosure of required facilities and infrastructure availability as submitted on line on AICTE Web Portal.

However an affidavit sworn before First class Judicial Magistrate or Notary or an Oath Commissioner that the Institute has required facilities and infrastructure as per the provisions of the Approval Process hand Book and in the absence of which the AICTE is liable to invoke the provisions, both civil and / or criminal as per the regulations in place is to be submitted."

10. Apparently, the impugned decision of the Executive Committee (EC) in its 84th Meeting held on 29.08.2013 to approve starting other educational courses in the surplus land as per the land use certificate given by the concerned authority subject to the conditions specified therein, is in conformity with provisions of the Approval Process Handbook for 2013-14 published by the Council. Hence there is no substance in the contention that the decision of the committee (EC) dated 29.08.2013 is contrary to the provisions of the Handbook of 2013-14. The assertion in the petition that Clause 4.0 of Handbook of 2013-14 prohibits conducting other courses in the same premises is factually incorrect. As noticed above there is no such prohibition in the Handbook of 2013-14.

11. The challenge to the decision of the Council not to restrain the institutes from running other courses in the same premises is equally without substance, since Council is the competent authority under Section 10 of AICTE Act to take the necessary decisions for ensuring coordinated and integrated development of technical education. The allegation in the petition that the decision of the Council was only for the purpose of circumventing the order of this Court dated 18.7.2012 is without any basis. This Court while disposing of W.P.(C) No. 4225/2012 by order dated 18.7.2012 had merely recorded the statement of AICTE that an in-depth inquiry would be conducted into the alleged admission of students for unauthorised courses without approval from AICTE. Admittedly, such inquiry has been conducted by AICTE and the status report filed before this Court shows that appropriate action has already been initiated against the erring institutes and the same is in progress. The allegation that the impugned decision was taken by EC at the instance of Respondent No. 3 is absolutely vague and without any basis. Interference by this Court is not warranted on the basis of such vague and unsubstantiated allegations.

12. For the aforesaid reasons though the relief as prayed for cannot be granted, we deem it appropriate to dispose of the writ petition with a direction to AICTE to continue the proceedings in terms of the recommendations of the Standing Appellate Committee and take appropriate action in accordance with law against the erring institutes, if not already taken.

13. Writ petition is accordingly disposed of.