

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of decision: 30th May, 2014

+

LPA 426/2014

**DR. VIJAY INSTITUTE OF
EDUCATION AND TECHNOLOGY**

..... Appellant

Through: Mr. Kirti Uppal, Sr. Adv. with Mr.
Chandrashekhar Singh, Mr. Aastha
Dhawan, Advs.

Versus

**ALL INDIA COUNCIL FOR
TECHNICAL EDUCATION**

..... Respondent

Through: Mr. Amitesh Kumar, Adv.

CORAM :-

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

C.M.No.9848/2014(exemptions)

1. Allowed subject to just exceptions.
2. The application is disposed of.

LPA No.426/2014

3. This intra-court appeal impugns the order dated 22.05.2014 of the learned Single Judge of this Court of while issuing notice of W.P.(C) No.3296/2014 preferred by the appellant, declining to pass any interim order at that stage observing:

“Since a number of serious shortcomings like absence of stock register of office equipments, lab equipments and lack of boys common room, girls common room, cafeteria, stationary store, class rooms etc. have been pointed by the expert team in its

inspection report, this Court is not inclined to pass any interim order at this stage.”

4. The writ petition from which this appeal arises was filed by the appellant impugning the communication dated 30.04.2014 of the respondent AICTE to the appellant rejecting the application of the appellant for setting up of new technical institute for the reasons mentioned therein and as noticed by the learned Single Judge and seeking a direction to the respondent AICTE to inspect the institute of the appellant in order to grant necessary approval for the academic year 2014-15. The writ petition was accompanied with the application for interim relief also, of a direction to the respondent AICTE to inspect the institute of the petitioner for the purposes of granting necessary approval for the academic year 2014-15.

5. The appellant on 28.02.2014 applied to the respondent AICTE for grant of approval for polytechnic college in the name and style of Dr. Vijay Institute of Education and Technology at village Bandaha Kala, near Markandey Ji, Post – Kaithi, Tehsil Sadar, District Varanasi, Uttar Pradesh. The application of the appellant was processed, in accordance with the Approval Process Handbook published by the respondent AICTE, first by the Scrutiny Committee of the respondent AICTE. Several deficiencies were found in the said application and the appellant was given an opportunity to make up the said deficiencies. However the deficiencies remained and yet another opportunity was granted to the appellant to make up the same but the appellant admittedly could not avail thereof “due to illness in his family”. The pleadings of the appellant are ambiguous and it appears that due to the appellant being unable to cross the first hurdle of clearance of the

application by the Scrutiny Committee, the stage for the college premises of the appellant to be inspected by the Expert Committee did not reach. The respondent AICTE vide letter dated 25th March, 2014 communicated to the appellant the rejection of his application. Though the appellant has filed a copy of the said letter as Annexure P-3 to the appeal but has not filed the enclosures thereto which are stated to contain the reasons for rejection.

6. Be that as it may, again in accordance with the procedure prescribed in the Approval Process Handbook and being aggrieved from the rejection of his application for approval, the appellant preferred an appeal to the Standing Appellate Committee of the respondent AICTE. The Appellate Committee again in accordance with prescribed procedure first put the said appeal before the Scrutiny Committee. The appellant appears to have satisfied the Scrutiny Committee of the Appellate Committee that it fulfilled all the pre-conditions for grant of approval. The Scrutiny Committee of the Appellate Committee accordingly directed inspection of the college premises of the appellant.

7. The said inspection took place on 7th April, 2014. However the appellant on that date did not allow the inspection to take place. After the inspecting team had in the format prescribed of such inspection *inter alia* filled up that the flooring and furnishing of the class rooms was incomplete, there were no fans and no light and no flooring in the tutorial room and several other deficiencies, the representative of the appellant advised the inspecting team to “leave the place urgently in view of some group clashes”. Accordingly, the inspecting team (described as EVC i.e. probably Expert Visiting Committee) “left the place without completing the visit”.

8. The report of the Expert Committee was considered by the appropriate authority of the respondent AICTE which vide communication dated 30th April, 2014 supra conveyed to the appellant the rejection of its appeal to the Standing Appellate Committee and thereby of rejection of its application for approval for the following reasons:-

1.	<i>No advertisement copy. Stock register or laboratory equipments (first year laboratories)* Not presented, Stock register of computer, system software, application software, printers? Not presented</i>
2.	<i>Stock register of office equipment* - Not presented, Availability of Language Laboratory (Mandatory as per AICTE norms) – Not presented. Availability of portable water supply – Not presented</i>
3.	<i>Sanction of electrical load by electric supply provider company – Not presented. Provision of backup power supply – Not presented. A certificate by an architect given details of sewage disposal system (physical verification of the same is to be done) – Not presented.</i>
4.	<i>Details and proof of telephone connections available at the proposal technical institute – Not presented. Availability of institute website – Not presented.</i>
5.	<i>Barrier free environment and toilets created for physically challenged (Ramp or working Lift etc.) – Not presented. Safety provisions including fire and other calamities – Not presented</i>
6.	<i>General Insurance provided for assets against fire, burglary and other calamities – not presented. All weather approach road – Not presented. Details and</i>

	<i>proof about medical facility and counselling arrangements – not presented</i>
7.	<i>Details of other institutions not presented. No video provided. Internet Bandwidth, Legal Application S/W, Legal System S/W, Language Laboratory – Not available</i>
8.	<i>Volumes, titles, National Journals, Library Management Software, Multi Media PC, E-Journal subscription / international journals – not applicable, stock register entry for volumes, titles, national journals, library management software, reading room capacity, multimedia PC, E-Journals/international journals not verified</i>
9.	<i>Principal / Director Office, Central Store, Maintenance room, Security cabin, Housekeeping, Exam Control Office, Office all inclusive – not available</i>
10.	<i>Boys common Room, Girls common Room, Cafeteria, Stationary Store, First Aid cum Sick Room, Class Rooms, Tutorial Room, Laboratories, Workshops, Drawing Halls – Not available</i>
11.	<i>Note:- Visit was interrupted by the college management due to some group clashes as per the information of institute representative. On their request EVC members left the campus without completing the inspection.”</i>

9. Aggrieved therefrom the writ petition from which this appeal arises, was filed.

10. The sole ground urged by the counsel for the appellant is that since the college premises of the appellant had not been fully inspected and since the time for grant of approval is still available in accordance with the order dated 9th May, 2014 of the Supreme Court in SLP (C) No.7277/2014 titled *Orissa Technical Colleges Association Vs. AICTE* and the Public Notice dated 10th May, 2014 published by the respondent AICTE in accordance therewith, the college premises of the appellant be directed to be visited again and the college of the appellant if found to fulfill all the conditions, be granted approval.

11. The counsel for the respondent AICTE appearing on advance notice states that in accordance with the order aforesaid of the Supreme Court, approvals have to be granted / rejected latest by 10th June, 2014. He further states that the respondent AICTE is having to process large number of applications and out of which in quite a few applications even the first inspections have not been done as yet. It is informed that the respondent AICTE is facing an acute shortage of persons to constitute Expert Committees for carrying out such inspections and it is not feasible for the respondent AICTE to have college premises of the appellant visited again.

12. Though the argument of the counsel for the appellant appears attractive but the practicalities of life cannot be lost sight of. It also cannot be lost sight of that the appellant has invoked the discretionary equitable jurisdiction under Article 226 of the Constitution of India. Else the All India

Council for Technical Education Act, 1987 and the Regulations framed thereunder attach a finality to the decision of the respondent AICTE and which as aforesaid is at two levels with an opportunity for hearing in the form of appeal before the Standing Appellate Committee being provided in the said procedure itself. We have in our judgment dated 29th May, 2014 in W.P.(C) No.3244/2014 titled ***Meenakshi College of Pharmacy & Research Centre Vs. All India Council for Technical Education*** negated the challenge to the Regulations 4&5 of the All India Council for Technical Education (Grant of Approval for Technical Institutions) Regulations, 2012 as *ultra vires* Sections 10 & 11 of the All India Council for Technical Education Act as well as Articles 14 & 19 of the Constitution of India. Need is thus not felt to reiterate the reasons given therein in this judgment.

13. We have enquired from the counsel for the appellant as to what is the proof of the “group clashes” on 7th April, 2014 i.e. the date of the visit by the Inspecting Committee to the college premises of the appellant and owing whereto the appellant did not allow the inspection to be completed and on which sole ground a second chance is being asked. We further enquired whether there is any FIR.

14. Not only does the counsel for the appellant admit that there is no FIR but even otherwise there is no proof of such group clashes. Though the counsel for the appellant faintly sought to argue that in fact the members of the inspecting team had of their own and without being asked by the appellant or its representative to leave, left the inspection incomplete but admittedly there is no pleading to the said effect. In fact in the writ petition as well as in the Memorandum of Appeal the reason given for the inspection

remaining incomplete on 7th April, 2014 is of such group clashes and of which as per the report which is not disputed, intimation and advise was given by the representative of the appellant, is reiterated.

15. The position, in our opinion admits of no ambiguity. The college premises of the appellant were not ready and did not fulfill the conditions, only on complying wherewith approval could be granted as on 7th April, 2014 i.e. the date of the inspection. The appellant thus did not allow the inspection to take place. It appears that the appellant, when on 28th February, 2014 applied for approval had just commenced the work of construction and / or was in the process of completing the construction and furbishing of the college premises. The appellant becomes eligible to apply for approval only when the college premises are ready. The appellant however appears to have moved with the intent that he would complete by the time the inspection takes place. It is for this reason only that the appellant did allow inspection to take place in the first round of scrutiny also and did not fill up the deficiencies in the application and did not avail the opportunity given therefor and continued to complete the construction and furbishing of the college premises. To gain further time the appellant filed appeal and at that stage filled up the deficiencies in the application and which led the Scrutiny Committee of the Appellate Committee to direct inspection. However it appears that the documents showed to the Scrutiny Committee of the Appellate Committee and reflecting that the college premises were ready were also incorrect. It is for this reason only that the appellant shied from giving inspection.

16. The appellant immediately after 7th April, 2014 did not ask for fresh inspection on the ground of peace having been restored. He allowed the Standing Appellate Committee of the respondent AICTE to issue the letter dated 30th April, 2014 of rejection. In the meanwhile the appellant continued the process of fulfilling the conditions for grant of approval. The writ petition also was got listed after 22 days on 22nd May, 2014. If the college premises of the appellant were laying ready, the appellant at that stage also, considering the time schedule would not have allowed 22 days to lapse.

17. The aforesaid conduct of the appellant of attempting to take advantage of the process and to compel and coerce the respondent AICTE to now give him “a second chance” when the appellant’s own hands are unclean disentitle the appellant to any equitable relief in the writ petition much less at an interim stage. We have no reason to disbelieve the statement of the counsel for the respondent AICTE being flooded with applications and finding it difficult to fulfill the time schedule before which the academic session begins. The direction of re-inspection as sought by the appellant would perhaps be at the cost of some other institute which has not even been inspected for the first time as yet.

18. The appellant has also referred us to *Parshvanath Charitable Trust Vs. All India Council for Technical Education* (2013) 3 SCC 385 stating that as per the said judgment the respondent AICTE is required to first give notice of the deficiencies found during the inspection and contends that the said procedure has not been followed. We have in *Meenakshi College of Pharmacy & Research Centre* supra held that the said directions are not

intended to substitute the procedure prescribed in the Regulations. We find no reason to take a different view.

19. We find no reason to give a “second chance” to the appellant particularly in appeal when no error is found in the discretion exercised by the learned Single Judge. The appeal is accordingly dismissed.

CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

MAY 30, 2014

gsr/pp