

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.1415 OF 2016

Rachna Sansad College of Applied Art
and Craft and another

... Petitioners

v/s

All India Council for Technical Education
and others

... Respondents

Mr R.A. Dada, Sr. Advocate with Mr Aniketh Poojari i/b M/s C.R.
Naidu and Co. for Petitioners.

Ms Meena Doshi for Respondent No.1.

Mr Anurag Gokhale, AGP for Respondent Nos.3 to 5.

Mr Abhishek Tripathi i/b Mr Rui Rodrigues for Respondent No.6.

**CORAM : B.R. GAVAI AND
B.P. COLABAWALLA JJ.
(VACATION COURT)**

DATE : 1ST JUNE, 2016.

P.C. :-

1. This is a third Petition in line wherein the Respondent No.1 - All India Council for Technical Education has refused to grant Extension of Approval to the Petitioner. As we go on shifting from one matter to another, we find that the approach of the Respondent No.1, which in the submission of Ms Meena Doshi, it is a statutory body with whose functioning the Court should not interfere, speaks of volumes.

2. In the present case, the Petitioner is running a College of Architecture as well as the College of Applied Art and Craft, in the same building at Prabhadevi. In the present case, we are concerned with the College of Applied Art and Craft inasmuch as there is no issue with regard to grant of Extension of Approval to the Architecture College in the present Petition. The Respondent No.1 has been granting approval to the Petitioner No.1 - College from the year 2001 onwards.

3. However, it appears that in last couple of years, the Respondent No.1 is insisting on Petitioner No.1 that they should shift to another premises inasmuch as the College of Architecture as well as the College of Applied Art and Craft cannot be permitted to run in the same premises. Elaborate arguments are advanced by Mr Dada, Sr. Advocate for Petitioner and Ms Doshi for Respondent No.1 in this Petition and also in Writ Petition (L) No.1300 of 2016, which was second in line, we would therefore not like to burden this order with the submissions which are almost identical in all the matters.

4. In the present case, in pursuance of the instructions given by the Respondent No.1, the Petitioner No.1 had in fact applied for shifting of Petitioner No.1 - College to another premises in Kurla. However, vide order dated 8th April 2016, the permission for shifting the College came to be rejected by the Respondent No.1. An Appeal carried against the said order also came to be rejected by the

Standing Complaints Scrutiny Committee of the AICTE.

5. Subsequently, the Extension of Approval came to be refused on the ground that the Petitioner No.1 - College and the College of Architecture are being run in the same premises.

6. On a specific query as to why the request for shifting the Petitioner No.1 to Kurla premises is concerned, Ms Doshi submitted that the requisite No Objection Certificates from the State Government and Bombay University were not obtained. She further submitted that the premises to which the Petitioner No.1 was sought to be transferred was not in accordance with the requisite norms. In so far as the contention of Ms Doshi that the premises at Kurla is not adequate as per the norms of the AICTE is concerned, there is nothing on record to show that. However, we find that the contention on both the counts are untenable. In so far as the NOCs are concerned, perusal of page 251 of the paper-book which is an extract of proceedings of Standing Appellate Committee would reveal that all the requisite documents that were sought to be submitted by the Petitioner No.1 were not accepted by the Standing Appellate Committee. A statutory body, which is enjoined with such an important power is not expected to function in such a manner. In an affidavit, a specific statement is made that no NOCs were submitted to the Authority. The document relied by the Petitioners is signed by the three members of the Standing appellate Committee.

When a statutory body exercises its powers, it is expected that it should exercise powers in an independent and unbiased manner. We find that the conduct of the Respondent No.1 in making a statement on an affidavit which is totally contrary to the material on record is highly deplorable. It could thus be seen that on one hand, on an affidavit, a statement is made that the Petitioner No.1 has not submitted requisite documents with regard to the premises to which the Petitioner No.1 wants to shift his College and on the other hand, the contemporaneous document which is signed by three Officers of the Respondent No.1 Authority shows that though the documents were sought to be submitted, they were not accepted by the Authority. At the cost of repetition, we find that the conduct of the Respondent No.1 is totally deplorable.

7. On one hand, the Respondent No.1 refused to grant permission to shift to the alternate premises and on the other hand, it has come with the stand that two Colleges cannot be run in the same building. To say the least, the stand taken by the Respondent No.1 is self-contradictory.

8. With due respect to Ms Doshi, learned counsel for Respondent No.1, who submitted that the Court should not come in the way of Statutory Authority performing statutory powers, we ask a question to ourselves as to whether in such circumstances when the statutory body acts in an arbitrary and self-contradictory

manner, should we not exercise our powers under Article 226 of the Constitution.

9. It is further to be noted that apart from the Petitioner No.1 - College, there is only one College at Mumbai i.e. J.J. School of Arts which is run by the State Government. We find that if the interim relief as prayed for is not granted, the students who are desirous of taking education in such a specialized field, would be deprived of their right. Apart from that vast number of teaching and non-teaching staff will be prejudiced, inasmuch they will have to face unemployment on the round of closure of College.

10. In that view of the matter, an exceptional case is made out by the Petitioners. There shall be ad-interim relief in terms of prayer clauses (b) and (c).

(B.P. COLABAWALLA J.)

(B.R. GAVAI J.)