

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 12041 of 2018**

=====

S.J. THAKKAR PHARMACY COLLEGE

Versus

THE ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

=====

Appearance:

MALAV M MULANI(8844) for the PETITIONER(s) No. 1

MR DIGANT M POPAT(5385) for the PETITIONER(s) No. 1

MRS NISHA M PARIKH(2397) for the RESPONDENT(s) No. 1

NOTICE SERVED BY DS(5) for the RESPONDENT(s) No. 2

=====

**CORAM: HONOURABLE MS JUSTICE SONIA GOKANI****Date : 21/08/2018****ORAL ORDER**

1. Present petition is preferred by the petitioner under Articles 14, 19 (1) (g) and 226 of the Constitution of India challenging the validity of the order dated 11.12.2017 passed by the respondent No.1- the All India Council of Technical Education by which the petitioner college has been placed under "No Admission" for academic year 2018-19. The challenge is also made to the order passed by the respondent No.1 dated 23.02.2018, whereby the respondent No.1 has recommended scrutiny

of 2.36 acres of land out of 5.25 acres on which the petitioner college is running.

2. The petitioner college is imparting education in the stream of pharmacy at the level of graduation and post-graduation on the pattern of self-financing leading to educational qualification of B.Pharm and M.Pharma. The petitioner is affiliated to the Gujarat Technical University. It is run and managed by the Public Trust, which is registered under the Provisions of Bombay Public Trust Act. According to the petitioner, it has become functional w.e.f. 2004-05 with a requisite approval from the respondent No.1 with intake facility of 60 students per annum for graduation. Even post graduation level of course was permitted with intake 10 students per annum from the academic year 2009-10. The petitioner has continued to function relentlessly and unhampered for all these years upto the academic year 2017-18 with a

request approval from respondent No.1 on each academic year.

3. When the extension application was moved for the academic year 2018-19 by the petitioner college to the respondent No.1, it had applied for intake facility of 60 student per annum at graduation level and at post graduation level for 06 students.

4. Surprise inspection was carried out for ascertaining infrastructure facility through the committee of the experts, known as Expert Visiting Committee. A report was submitted to the respondent No.1 and deficiencies were pointed out in all numbering 27 which are enlisted at paragraph 9 of the petition. Opportunity was given by the respondent to the college to appear before the respondent No.1 for offering explanation and the compliance had been made, according to the petitioner college in all respects. It is the say of the petitioner that it appeared before the

Standing Hearing Committee of All India Council for Technical Education on 09.11.2017. The order, however, came to be passed on the basis of the recommendation of the said committee by Director, Approval Bureau. The same also came to be challenged before the Standing Appellate Committee. The meeting which was held on 15.02.2018 on the basis of the recommendations to the Director, Approval Bureau for the purpose of taking necessary decisions. The Standing Appellate Authority has decided the further scrutiny, this has aggrieved the petitioner, according to him this is impermissible. The "No Admission" report has been given on 13.04.2018 by the respondent No.1.

5. Learned advocate, Mr.Digant Popat appearing for the petitioner has urged and challenged the actions on the part of the authorities on more than one grounds. It is his say that the order passed by the respondent No.1 is

violative of the rights available to the petitioner college. He has also further urged that the approach adopted by Standing Appellate Committee is legally not sustainable. Even if, it was justified in law going in to aspect of deficiency of area of tutorial room, the approach adopted by is also not sustainable. It is also urged that visit verification was also not justifiable. One of the major grounds which has been raised is of mortgage of the property and it is urged by the learned advocate that the petitioner college is running on the land on the basis of gift deed made by Shri Jashubhai Thakkar to the petitioner trust executing the gift deed on 10.10.2003. It has continued to operate on 2.36 acres and therefore, the Standing Appellate committee's direction of recommending the scrutiny of the land is not permitted. It is further his say that the issue of the faculty member is also not an issue at all. Deficiency of leaving of the

college by four faculty members has been disproportionately highlighted, however, that has been cured eventually by filling up the post.

6. Learned advocate, Mrs.Nisha Parikh appearing for the respondent No.1 has made her submission maintaining that she needed to file a detailed reply to the said petition. She confirms that the admission process is on and the second round is starting from 24.08.2018. She has also confirmed that if there are no more students, the entire process may get terminated at the second round itself. She has attempted to point out to this Court that wherever the deficiency has been found by the authority in the administration of college and in providing infrastructural features it has led to passing of the order of "No Admission" by the respondent No.1 committee. She has also taken this Court through various documents to

indicate that the apex bodies are interested in maintaining higher standard of education and therefore, the deficiencies which have been pointed out are to be taken seriously and they cannot be brushed aside by an institute.

7. Having heard learned advocates on both the sides and also considering the request for the reply to be filed by the respondent No.1 and also bearing in mind that on 14.08.2018, the Court had directed to file the reply, which has not been done till date, with the admission process of the second round having continued, request for interim relief deserves to be considered. Noticing the fact that major deficiencies like of non maintaining of 2.36 acres of the land and non availability of the faculty members are as *prima facie* pointed out by the petitioner college from the record are already corrected, it is directed to stay the effect

of the impugned order of "No Admission" and further direct to permit admissions to the students for the academic year 2018-19 in the second round starting from 24.08.2018, subject of course to the condition that, it will be made known by the institute to all concerned that this admission shall be subject to the final outcome of this petition. This shall also be the part of the admission letter, which will be given to the students details of pending litigation and will also be conspicuously placed on the notice board and all such places so that in future, this non disclosure does not effect any equity in favour of anyone.

8. Let the reply of the respondent No.1 be filed within a period of two weeks.

The matter is kept on September 04, 2018.

Direct Service is permitted, **TODAY.**

**(MS SONIA GOKANI, J)**