

FARAD CONTINUATION SHEET NO.
 IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.1696 OF 2015
WITH
WRIT PETITION NO.1698 OF 2015
WRIT PETITION NO.1751 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.Arvind Deshmukh, Mr.N.B.Khandare, advocates for the petitioners.
 Mr.K.S.Patil, advocate for petitioner in W.P.No.4116/2015.
 Mr.S.V.Adwant, advocate for the Respondent No.1.
 Mr.G.K.Naik Thigle, Addl. Govt. Pleader for the State.

CORAM : S.V.GANGAPURWALA & V.L.ACHLIYA, JJ.
Date : 18.02.2015.

PER COURT :

1. Heard learned counsel for petitioners and Mr.Adwant, learned counsel for AICTE-Respondent.
2. Learned counsel for petitioners submit :
 - a) All India Council for Technical Education is allowed to grant approval pursuant to the orders passed by the Apex Court in Interim Application No.9/2014 vide order dated 15.12.2014. The said order is preceded by order dated 17.4.2014, allowing the Respondent to proceed for extending approval for the academic

year 2014-15 in accordance with approval process hand book of 2013-14.

b) The approval process hand book for the year 2013-14 as was applicable for the year 2014-15 did not prescribe the applicant institutions to get the NBA accreditation, however, the public notice inviting applications for approval process 2015-16 provides for valid NBA accreditation.

c) The approval process hand book for 2015-16 is published in January 2015 and applications are invited from 24.1.2015 till 20.2.2015. No sufficient time is given.

d) The notification dated 29.1.2014 which makes accreditation compulsory is only applicable to institutions which have completed six years or their two batches have passed out. The consequences are also provided i.e. to the extent of non-grant of financial benefit.

e) In view of the interim orders passed by the Apex Court in Interim Application No.9/2014, the approval process on behalf of the Respondent can be only pursuant to the approval process hand book 2013-14. The Regulations notified on 29th January 2014 of AICTE are not tabled before the Parliament.

f) No sufficient time is given for the petitioners to get NBA accreditation.

3. Mr.Adwant, learned counsel for the Respondent submits :

a) The Interim Application has been allowed by the Apex

Court in its totality. The AICTE has power to frame the Rules for admission and to have its own approval process hand book.

b) NBA accreditation is necessary and mandatory as per the Regulation 2014 which is published on 29.1.2014 much in advance. The whole purpose of NBA accreditation is to confirm the quality of education imparted by the said institutions and the same is the prima dona consideration. The notification itself states that institutions which have not completed six years or two batches have not passed are not eligible to apply.

c) When the Regulation mandates that the institute should get accredited by accreditation agency and if the institutes do not get accredited, it is failure on the part of the institutes and they can not take the advantage of their own wrong.

d) Even as per Section 10 of the All India Council for Technical Education Act, 1987, more particularly, Section 10(1)(u), it is the duty of the Council to set up a National Board of Accreditation to periodically conduct evaluation of Technical Institutions or progress on the basis of guidelines, norms and standards.

4. Deviation from the said Rules can not be permitted as is held by the Apex Court in a case of **“National Council for Teacher Education and another Vs. Venus Public Education Society and others”** reported in **(2013) 1 Supreme Court Cases**

223, so also in a case of “**All India Council for Technical Education Vs. Surinder Kumar Dhawan and others**” reported in **(2009) 11 Supreme Court Cases 726**.

5. The Rules, Regulations and the approval process hand book framed by the academicians can not be allowed to be deviated and the Court would not substitute its own wisdom for the same.

6. All the aforesaid contentions of the learned counsel for respective parties require consideration and will have to be decided finally. 20.2.2015 is the last date for submission of the applications. Today is practically the last day for hearing the matters, we are not inclined to extend the last date laid down for the submission of the applications.

7. Considering the above, we pass the following order which certainly would always be subject to the final and further order passed in the Writ Petitions.

i) The Respondents shall not refuse to accept applications (provisionally) of the petitioners (as per list appended to the petitions) only on the ground that they have failed to get NBA accreditation. This certainly would not create any right in favour of the petitioners. The Respondents may process the said applications, however, shall not pass any final order on the said applications until further orders of this Court in the Writ Petitions.

ii) Mere acceptance of the applications by the Respondents

would not create any equity or right in favour of the petitioners. The parties if they so choose may seek clarification from the Apex Court. This order is by way of only interim arrangement.

iii) At this stage Mr.Patil, learned counsel submits that the petitioner had filed Writ Petition No.4116/2015 at the Principal seat at Bombay. In the said Writ Petition the order is passed to hear the said Writ Petition along with present Writ Petition No.1696/2015 and other connected Writ Petitions at Aurangabad. We accept the said statement made by the learned counsel. Accepting the statement made by the learned counsel and hearing Mr.Adwant, learned counsel for the Respondent and on going through the copy of the petition submitted across the Bar as papers have not yet been transferred from Bombay to this Court. Going through the prayers in the W.P.No.4116/2015 filed at Bombay, the same are similar as in W.P.No.1696/2015 with connected Writ Petitions. The interim order passed in W.P.No.1696/2015 with other connected Writ petitions shall also operate to the extent of Petitioner in said Writ Petition No.4116/2015 filed at Bombay and transferred to Aurangabad.

8. Place the Writ Petitions for final disposal on 25.2.2015.

9. Authenticated copy be given.

(V . L . ACHLIYA , J .)

(S . V . GANGAPURWALA , J .)

Dt..18.02.2015.
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Bombay High Court