

WPMS No. 1429 of 2020

**Hon'ble Sharad Kumar Sharma, J.**

(Via Video Conferencing)

Mr. Arvind Vashistha, Senior Advocate, assisted by Ms. Monika Pant, Advocate for the petitioner.

Mr. Yogesh Kumar Sharma, Advocate for respondent no. 1.

Mr. J.S. Bisht, Advocate, holding brief of Mr. Vikas Pande, Advocate for respondent no. 2.

The petitioner is a Deemed University, as per Section 3 of the University Grants Commission Act. It is contended that the University is being funded & maintained by the Government of India. As per the pleading of the writ petition, the petitioner was granted the status of a Deemed University on 19.06.1962 and a Certificate of Accreditation was issued on 16.01.1995.

Be that as it may. The grievance of the petitioner precisely, which has been raised in the present writ petition, is as against the impugned order dated 13.06.2020 passed by the respondent no. 1, whereby the petitioner's application for grant of approval for running the M.C.A. Programme Courses, as per the All India Council for Technical Education (Grant of Approval for Technical Institutions) Regulations, 2020, as notified on 04.02.2020, has been rejected and thereby, for the reasons assigned therein, the respondent no. 1 has declined to grant an approval to the proposed course, which the petitioner intended to run for the Academic Year 2020-21.

The Senior Counsel for the petitioner submits that since the issue pertains to the academics, the observation made in the impugned order, by rejecting the application on the pretext that it would be open for the petitioner to apply afresh in the next Academic Year, would be prejudicing the rights of the petitioner for the reason being that he

contends that he had been running the course since 1993.

This fact of the claim raised by the petitioner that he is running a course since 1993 is a fact, which is disputed by the counsel for the respondents. He submits that the application submitted by the petitioner for running the M.C.A. Programme Courses for the Academic Year 2020-21 pertains to altogether a different course for the Women Category candidates and, hence, it has to be considered under the Regulations of 2020, which has been notified on 04.02.2020.

The Senior Counsel for the petitioner submits that the rejection order happens to be in violation of the provisions contained under Clause 6 of the Regulations, which entails the scrutinization of the application, after fulfilling the certain norms and conditions provided therein.

What the petitioner contends is that; though, under Clause 7 an Appeal is provided before the Standing Appellate Committee; but, as per its Clause 7.1, it is mandated by the Executive Committee, who is entrusted with the responsibility to consider the application for the grant of approval under the Regulations of 2020, was suppose to decide the same within the specified parameters and the time frame, as provided in Clause 7.1, which is quoted hereunder:

**“7.1** An Institution/Applicant, if aggrieved by the decision of Executive Committee shall have the right to appeal once to the Council, within 7 days from the date of uploading of LoR. All the appeals submitted by the Applicants/Institutions shall be placed before the Standing Appellate Committee. The final decision of the Council shall be uploaded on or before 30<sup>th</sup> April of the Calendar Year.”

As per Clause 7.1, the decision was to be taken by the Executive Committee and was to be uploaded within seven days from the date of

the decision taken of rejecting or granting the approval for running the new course.

Since it was not uploaded within seven days, the petitioner's right of Appeal, as contemplated under Clause 7.1, before the Standing Appellate Committee, would be adversely affected for the reason being that, even the time frame provided by the Standing Appellate Committee to take a final decision, the cutoff provided therein is till 30<sup>th</sup> April and since the said time period has lapsed, the petitioner would be deprived of availing the appellate remedy.

Be that as it may. Owing to the peculiar circumstances of this present case, because admittedly, the decision of rejecting the application of the petitioner for the grant of approval to the new M.C.A. Programme Course, as applied by him for the Academic Year 2020-21, has been rejected by the impugned order dated 30.06.2020, which happens to be much beyond the cutoff provided under the Regulations, particularly, as contained under Clause 7.1, the petitioner cannot be left remediless as against the wrong, which he contends to have been done against him. As such, the latitude provided under Clause 1, is being slightly diluted as far as exclusively for the case of the petitioner is concerned only, that the petitioner would file an Appeal before the Standing Appellate Committee as per Clause 7.1 of the Regulations of 2020.

The petitioner has to file an Appeal within a period of two weeks from the receipt of the certified copy of this order. The Standing Appellate Committee will decide the Appeal within a period of four weeks thereafter from the date of service of certified copy of this order.

The embargo of the time frame, provided under Clause 7.1, would not create any impediment before the Standing Appellate Committee in taking the decision on the Appeal

to be submitted by the petitioner, as against the impugned order dated 30.06.2020.

Subject to the aforesaid observation, the writ petition is being disposed of with the following directions:

- (i) The petitioner to file an Appeal within a period of two weeks from the date of receipt of the certified copy of this order.
- (ii) If the Appeal is preferred within the aforesaid period, the Standing Appellate Committee will decide the same within a period of four weeks thereafter.
- (iii) The Standing Appellate Committee will not draw the embargo of Clause 7.1 of the lapse of time period for deciding the Appeal, as provided under it.
- (iv) The Appeal would be exclusively decided on its own merit, in accordance with law.

Subject to the aforesaid observation, the writ petition is disposed of with liberty open to the petitioner to avail his appropriate appellate remedy, as provided under the Regulations of 2020.

Let a certified copy of this order be issued today itself.

**(Sharad Kumar Sharma, J.)**

31.08.2020

*Arpan*