

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

WRIT MISC APPLICATIO No. 55 of 2006

SURESH KUMAR KHEMKA
V/S
J.N.V.UNIVERSITY, JODHPUR & ORS.

Mr. BV THANVI & Smt.LALIT MOHINI, for the appellant /
petitioner

Date of Order : 8.1.2008

HON'BLE SHRI N P GUPTA, J.
HON'BLE SHRI MOHAMMAD RAFIQ, J.

ORDER

This is a P.I.L. initiated on letter of the students' Union, communicating that the Architecture Department was established 3 years ago in M.B.M. Engineering College at Jodhpur. Since then the administration has failed to maintain the minimum standards of education, as per the norms of CoA, consequently, the students are suffering, due to non-availability of adequate and appropriate teaching faculty, library facilities, computer, labs & other infrastructural facilities. Then it is alleged, that due to bitter conditions prevailing, this session has been declared a zero session, and the IV year batch has been migrated to MREC, Jaipur. Thus, the department has reached to a stage of being closed down, which would prove unfavorable for the remaining two batches

of II year & III year, as well as for the other students, who want to choose Architecture, as their carrier. Thus, it was prayed that necessary and quick steps be taken regarding the issue. Thereupon, notices were issued, and vide order dated 19.7.2002, University was directed to include the Architectural Faculty of the University, for students, who have cleared RPET 2002, for preparation of counseling, which was to commence on 23rd July 2002. Then on 26.9.2002, it was pointed out to the Court, by the counsel appearing for Council of Architecture, that University should not be allowed to continue the classes in the Course of B. Arch, as the University has not been able to attain the required academic standard in this area, and therefore, the courses cannot be allowed to run. Thereupon, University was directed to continue its efforts, in the direction of improving the academic standard of B. Arch Courses. Inspection report was placed before this Court, which was considered, and it was expected, that the University should make endeavor to come up with the requisite standards, instead of contesting the power of the Council of Architecture to prescribe the standards. Then different orders were passed from time to time. However, on 21.5.2003 again, aspects in which the Architecture Department of University was found wanting, were pointed out to this Court, and this Court directed the University to complete the recruitment process for the department of Architecture by 15.8.2003, and 200 titles were also allowed to be added

in the library by 15.8.2003. Then requirement of building was noticed to have been made available. Then on 24.5.2004 it was noticed, that it has been reported by the counsel for the respondent, that the University has notified in newspaper that Architecture Department as a separate Faculty has been closed, and merged with the existing Faculty of Engineering i.e. M.B.M. Engineering College, and in such circumstances, the University was directed to furnish specific information about this statement, and also to furnish details, as to what steps have been taken in the interest of those students, who have been admitted by it in the Architecture Department, prior to this merger. Then on 8.7.2004, it was directed that all concerned, including the Government of Rajasthan, should see to it, that the Institution is not made defunct, rather it should be energised, so that it can impart quality education to the students. Then again, certain specific deficiencies of the working/inability of the University, for imparting education in conformity with the minimum standards of education were pointed out, and vide order dated 19.4.2005, the University was directed to satisfy this Court, if the deficiencies have been removed. Then again on 26.7.2005, the counsel for the University was directed to furnish information about the notices received from the Central Council of Engineers, pointing out the aspects, in which University was found lacking. Then on 13.9.2005, noticing the apprehension of closing down the Faculty of

Architecture, without prior permission of the Court, this Court directed, that the Faculty of Architecture should not be closed by University without any prior permission of the Court. Since then the matter is pending.

With this fact situation, now an interim application has been filed on 25.5.2006, praying for modifying the order dated 13.9.2005, and restraining the respondent No.1, University from making any admission to B. Arch Course, until it satisfies the conditions of minimum standards, prescribed by the Minimum Standards of Architectural Education Registration, 1983.

In this sequence, what we find is, that there has been one more litigation initiated by one Manoj Singh, by way of S.B. Civil Writ Petition No.6560/2005, and therein the prayer for interim stay was rejected by the learned Single Bench vide order dated 1.3.2007. That writ petition prayed for a direction to the Council of Architecture to decide the application dated 3.12.2004, and make registration of the petitioner therein, as an Architect, in accordance with the provisions of the Act of 1972. It was also prayed therein, that the petitioner may be declared entitled for the registration as an Architect under the Act of 1972. This order dated 1.3.2007, dismissing the stay petition was challenged by the petitioner therein, by filing D.B. S.A.W. No.292/2007, which has been decided by

the Division Bench, vide judgment dated 4.12.2007, and as appears from page 2 of that judgment, that considering the observations made by the Division Bench, in the order dated 30.8.2007, the Division Bench heard the counsel for the parties on the merits of writ petition itself, to decide the same, and then the writ petition was allowed, inter-alia holding, that University having been established under a statute, the degree granted by it does entitle the degree-holder to registration.

Various aspects about the actual actions taken by the Council of Architecture, and its powers etc., have been considered in the judgment in detail.

In our view, in view of the various observations made in the said judgment by the Division Bench, in the judgment dated 4.12.2007, and in view of the fact, that the letter addressed to this Court, on which notices have been issued in this petition, is as old as 10.1.2001, and since it is clear by now, that the University does not have requisite infrastructure, and it is informed by University, that the Faculty has been merged with the Engineering College, an incongruous situation has come about, by virtue of the order dated 19.3.2005, whereby the University has been directed not to close the University without prior permission of the Court.

In such circumstances, in our view, until and unless, the requisite infrastructure is provided by the University, as required by the Council, it cannot be allowed to run the Faculty, and continue to produce the sub-standard product. Even the last inspection report dated 4.4.2006, which is a report of inspection conducted by the Council through its Expert Committee, has pointedly reported, that since inception, Department of Architecture has been in set up of Engineering Departments, headed by a Professor of Civil Engineering, in absence of regular full-time Faculty, and independent identity of department, no vision seems to be developed. Likewise, it has also been noticed, that planning and monitoring of the departmental curricular, and extra-curricular activities, have been the main concerns, and that little support has been extended by University in improving the infrastructure, and meeting the sound/stable academic base, to develop a long term policy, by recruiting the regular Faculty and Staff. Then various other aspects, point-wise, have also been considered in this report, and practically on all aspects, leaving apart insignificant once, the University has been found wanting. Significantly, consequent upon this inspection, the Registrar of the Council has also communicated to the University, to put the department under "No Admissions", for the conduct of 5 years full-time Bachelor of Architecture (B.Arch.) degree programme for the Academic Sessions 2006-07, in the larger interest of the students'

community.

In our view, in view of the above, the P.I.L. is required to be simply disposed of, in terms of the communication of the Council, produced alongwith this Interim Application No.55/206, as Annex.A2 dated 9.5.2006, making it clear, that the University will not start giving admissions, unless it fulfills all the requisite parameters.

(MOHAMMAD RAFIQ),J.

(N P GUPTA),J.

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