

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22ND DAY OF NOVEMBER 2012

BEFORE

THE HON'BLE MR. JUSTICE HULUVADI G.RAMESH

WRIT PETITION NO.23792/2012 (EDN-RES)

C/W

WRIT PETITION NO.44264/2011(EDN-RES)

IN WP NO.23792/2012

BETWEEN:

BMS EDUCATIONAL TRUST,
BULL TEMPLE ROAD,
BANGALORE – 560 019.
REPRESENTED BY ITS DONOR TRUSTEE
SMT. RAGININ NARAYAN. ...PETITIONER

(BY SRI.H.SRINIVASA RAO, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS
PRINICIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHER EDUCATION,
6TH FLOOR, M.S.BUILDING,
DR. B.R. AMBEDKAR VEEDHI,
BANGALORE – 560 001.

2. ALL INDIA COUNCIL FOR TECHNICAL EDUCATION,
(A STATUTORY BODY UNDER MINISTRY OF HRD, GOVERNMENT OF INDIA),
7TH FLOOR, CHANDRALOK BUILDING, JANPATH,
NEW DELHI – 110 001.
REPRESENTED BY ITS DIRECTOR.

3. COUNCIL OF ARCHITECTURE,
INDIA HABITAT CENTRE, CORE 6A,
1ST FLOOR, LODHI ROAD,
NEW DELHI 110 003.
REPRESENTED BY
ITS REGISTRAR.RESPONDENTS

(BY SRI.P.S. DINESH KUMAR, ADV FOR R2
SRI. R. OM KUMAR, AGA FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DTD. 19.4.12 PASSED BY R2 VIDE ANNEX-F DEMANDING PENALTY FOR EXCESS INTAKE OF TWO STUDENTS IN B.ARCH. COURSE FOR THE YEAR 2011-12.

IN WP NO.44264/2011

BETWEEN:

BMS SCHOOL OF ARCHITECTURE,
POST BOX NO.6448, BMSIT CAMPUS,
DODDABALLAPUR MAIN ROAD,
AVALAHALLI, YELAHANKA,
BANGALORE – 560 064.
REPRESENTED BY ITS DIRECTOR. ...PETITIONER

(BY SRI.H.SRINIVASA RAO, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS
PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHER EDUCATION,
6TH FLOOR, M.S.BUILDING,
DR. B.R. AMBEDKAR VEEDHI,
BANGALORE – 560 001.
2. VISVESVARAYA TECHNOLOGICAL UNIVERSITY,
“JNANA SANGAMA”,
BELGAUM – 590 018,
KARNATAKA,
REPRESENTED BY ITS REGISTRAR.
3. ALL INDIA COUNCIL FOR TECHNICAL
EDUCATION,
(A STATUTORY BODY UNDER MINISTRY OF HRD,
GOVERNMENT OF INDIA),
7TH FLOOR, CHANDRALOK BUILDING, JANPATH,
NEW DELHI – 110 001.
REPRESENTED BY ITS DIRECTOR.
4. COUNCIL OF ARCHITECTURE,
INDIA HABITAT CENTRE, CORE 6A,
1ST FLOOR, LODHI ROAD,
NEW DELHI 110 003.
REPRESENTED BY ITS REGISTRAR.
5. AKANKSH SREEDHAR MORAB
6. ARUSH PATI
7. EKTA CHOPRA
8. HARSHITA.V.REDDY
9. MANJU AKASH.J.K
10. MUYEEZA AFZAL
11. NAVYA.M.R.

12. NIKITA CHAVAN
13. NISHAD.V.KARNAD
14. SAHANA M.BHAT
15. SAVITHA.M
16. SMRITI K
17. SUKRUTHA.N.S
18. ANUSHA.K
19. KAVYA SRINIVAS
20. MOHD. IBRAHIM
21. SHRUTHI NATH.N
22. SIDDHARTH RABBI
23. B.ARJUN SRI
24. KUTSHO.U THERIE
25. SUMODHINI.V.
26. POOJA V
27. SYED SHARIK ULLA
28. ABHAY ARYA

ALL THE ABOVE STUDENTS STUDYING III SEMESTER

29. AISHWARYA UDAY
30. ANUPAMA MANJUNATH
31. CHAITRALAKSHMI.R
32. CLERIN ALEX
33. DIVYA SARA JACOB
34. HANNAH JOHN
35. HARITHA RAJAN
36. KUNDHAVI NAGARAJ PALAVALLI
37. MAHIMA J
38. MANASA.H.A
39. NANDA.B.S
40. NUPUR ROYCHAUDHURY
41. PALLAVI S.NARAYAN
42. PRAGATHI PRASSAD.S
43. RASHMI REDDY.R
44. RIA C.HEGDE
45. RITIKA SANJEEV

46. S.SHARANYA
47. SAMATA KIRAN HEGDE
48. SANJANA P.HARISH
49. VARNA V.VENKATESH
50. VIDYASHREE UNNIKRISHNAN
51. AISHWARYA DEONANI
52. AMINA GOUSIA
53. AMRUTA.V
54. APPORVA S.HEGDE
55. KOMAL NARENDRA
56. MEGHANA.G.R
57. MITHILA.K.P
58. NISHKALA.B
59. POOJA HARUMALANI
60. POOJITHA.M.P
61. PRANOTI.V
62. RASHMI.Y
63. RUPINI.E
64. SHARANYA R REDDY
65. VARALIKA RAJ SINGH
66. ADITI MALAVIKA.V
67. AFREEN ASIFA ASHRAF
68. ASHWINI.V
69. MONISHA.N
70. NIKITA.R
71. NIVEDITHA SHIVAJKUMAR
72. RANJITHA.H.B
73. RIJUTA PATGIRI
74. SANJANA A.SAI
75. SHIKHA SWAROOP
76. SHRUTHI NAIDU.E.K
77. SONU.M
78. SUVIKSHA.S.R
79. AKASH.V
80. BHARGAV BHAT.U.R
81. CHANDHAN.R.K
82. MAHESH.N.R

83. MANEESH R.BHAT
84. MOHAMMAD SOUHAN.B.A
85. NAGARJUN.M
86. SATHISH.M
87. SIDDHARTHA VALLURI
88. SOURABH NAVANI
89. VARUN.Y
90. AMAN ULLAH
91. AMEESH M KAREKAR
92. DEEPAK AGNIHOTRI
93. HARSHITH.L.R
94. KARTHIK.G
95. RAEES BACKER
96. SIDDARTH DUTTA
97. ARSH BANSAL
98. ARVIND RAJGOPAL
99. CEPHAS BHASKAR
100. GADEPALLY ROHIT
101. MOHAMMED OWAZE ANSARI
102. MOHIT MAKHIJA
103. NIHAL KIRAN REDDY
104. SUDESH REDDY N.
105. YASHAS.R

ALL THE ABOVE STUDENTS STUDYING I SEMESTER

AND C/O BMS SCHOOL OF ARCHITECTURE,
POST BOX NO.6448,
BMSIT CAMPUS,
DODDABALLAPUR MAIN ROAD,
AVALAHALLI, YELAHANKA,
BANGALORE -- 560 064.

....RESPONDENTS

(BY SRI. R. OM KUMAR, AGA FOR R1
SRI. B.B. PATIL, ADVOCATE FOR R2
SRI. P.S. DINESH KUMAR, ADV. FOR R3

SRI. SIDDHARTH .B. MUCHANDI & CHINMAY.J.
MRIJI, ADV., FOR R4
SRI. ABHIJEETH HARNAHALLI, ADV., FOR R5-105)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R1 & R2 TO RECOGNIZE & ACCEPT THE APPROVAL GRANTED BY R4 FOR RUNNING THE COLLEGE OF ARCHITECTURE IN PETITIONER-INSTITUTION & GRANT AFFILIATION ACCORDINGLY.

THESE WRIT PETITIONS COMING ON FOR ORDERS THIS DAY, THE COURT PASSED THE FOLLOWING:

ORDER

These petitions are filed seeking for writ of mandamus directing the respondents to recognize and accept the approval granted by respondent No.4 for running the college of Architecture by granting affiliation.

2. In these petitions, the management as well as the students have prayed for recognition of their application and admissions under the Council of Architecture.

3. The State has directed the petitioner to obtain accorded approval from AICTE instead of seeking approval from Council of Architecture insofar as recognition of college and admission of students. The petitioner-institution is an institution established exclusively to cater to the subject of Architecture, as such the approval ought to have been obtained from the Council of Architecture and therefore there would be no requirement to obtain approval from AICTE. Further the Council of Architecture is the final authority for the purpose of fixing the norms and regulating the standard of architectural education in India.

4. It is also the submission of the learned counsel for the petitioner that Architecture is not a branch of engineering/technology and the same is covered under the Architects Act, 1972 and the Architecture Course is a five years Course and Bachelor of Engineering/B.Tech is only four years course, which is under the control of

AICTE. It is also his submission that, for admission and eligibility to Architecture course, respondent Nos.1 and 2 are following the norms of Council of Architecture, established under the Architects Act, 1972 and not AICTE. The Council of Architecture is the statutory body responsible to regulate architectural education and profession and therefore, they have sought for quashing of the impugned orders passed by respondent Nos.1 and 2 as per Annexures- A and B and to allow the petitions.

5. Per contra, the learned counsel for AICTE submitted that the matter is pending before the Apex Court and still the matter is not finally concluded. Hence, prays to dismiss the petition.

6. Heard the learned counsel for the petitioner, learned counsel for AICTE and learned Government Advocate.

7. The learned counsel appearing for the petitioner relying upon the decisions of the Bombay High Court reported in **2012 (4) AIR Bom R 371** and in **2012 (114) Bom.L.R.2508** between **Kum.Khayti Girish Purnima Kulkarni v. College of Architecture** contends that, in similarly situated facts and circumstances, the Bombay High Court has held that, Council of Architecture exercises power under the provisions contained in the Architects Act, 1972, in the matter prescribing and regulating the norms and standards of architectural institutions and submitted that, there is no stay granted by the Supreme Court against the order of the Bombay High Court, accordingly, he has sought for to allow the petitions.

8. In para 15 of the Judgment of Bombay High Court cited supra it is held that, though the matter is pending before the Apex Court, there is no interim order

being passed and the Council of Architecture exercises control under Architects Act, 1972 and not the AITCE.

9. In that view of the matter, these petitions are allowed by upholding the contentions of the petitioner to recognize and accept the approval granted by Council of Architecture. Accordingly, approval of the Council of Architecture is held sufficient and it is not necessary that the petitioners have to seek the approval from AITCE. Further, it is made clear that AITCE has no role to play with regard to the matter of admission and other aspects, in so far architecture course. As it is clearly discussed in the decision of the Bombay High Court upholding the powers of Council of Architecture under Architects Act, 1972.

Accordingly, the petitions are allowed.

**Sd/-
JUDGE**

KSR