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The 5 years long legal tussle between the All India Council for Technical Education (AICTE) and the US-based CFA Institute, over the conduct of CFA examinations in India without AICTE approval, is finally nearing conclusion. At the hearing held on April 17, 2012 in the Delhi High Court, the AICTE declared that its executive committee had concluded that the existing AICTE regulations do not apply to the CFA program, thus drawing the curtains on this long drawn legal battle.

Contention of CFA

The dispute dates back to 2007, when CFA Institute challenged the order issued by AICTE barring CFA Institute from holding examinations in India without AICTE's approval. AICTE had directed CFA to cease its operation in respect of conduct of CFA programme in India with immediate effect.

The CFA Institute challenged the jurisdiction of AICTE and claimed that CFA is not a University or an Institution; it does not conduct any classes of education by any means whatsoever. The CFA Institute maintained that its examinations lay outside the purview of the AICTE's jurisdiction, as CFA is not an 'institute', it does not have any class rooms or faculty and the program was intended for self-study. It also does not issue any degree or diploma and does not mandate any course of study. Candidates aspiring for CFA examination train themselves and appear in test held by the Institute. It is claimed that the Regulations for Entry and Operation of Foreign Universities/Institutions and Imparting Technical Education in India ("Foreign Institution Regulations"), apply to only those institutions which operate in India. The CFA does not operate in India.

Contention of AICTE

The AICTE countered facts stated by CFA and also the allegation that it lacked jurisdiction over CFA. It stressed on the primacy of AICTE as a regulatory body of technical education and submitted that the Foreign Institution Regulations cannot be stated to apply only to brick and mortar institutes conducting technical education programs.

High Court's Findings and Decisions

The Court addressed the resolution of two issues and questions viz. (i) Whether the CFA is involved or engaged in emerging technical education; (ii) Whether the provisions of the AICTE Act and the Foreign Institution Regulations are applicable obligation of CFA.

On issue no. (i) the Court had held that the CFA is involved in imparting education. Although CFA does not claim to award degrees and diplomas, yet the successful candidate is awarded a Charter. He or she can declare to have qualified and obtained that Charter and seek employment; he can even seek improvement in qualifications in certain universities.

On whether CFA Programme is a technical education, it held that the definition of technical education includes management. The Court therefore found that the CFA is engaged in imparting technical education and that its charter,

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though not described as a degree or diploma, is nevertheless descriptive of the candidate attaining an academic standard, entitling him to admission to further courses, and better prospects of employment in investment business.

The matter was challenged by CFA before the Division Bench of Delhi High Court and in May 2011, AICTE offered to re-examine the issue through its three member executive committee. With AICTE's declaration that the existing AICTE regulations do not apply to the CFA program, the Hon'ble Court has reserved its judgment in the matter. However, the judgment is expected to be in consonance with AICTE's declaration and clarify some critical issues with respect to the AICTE's jurisdiction and its reach over technical institutions in India. With more than 20,400 exam registrations in India for the CFA program in 2011, the judgment is also expected to bring relief to the CFA Institute which can now offer Indian test centres the same advanced schedule, and with the same certainty, as its other test centres worldwide.

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