



W.P.No.6827 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.11.2023

Pronounced on: 22.11.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

WP.No.6827 of 2023
& WMP.No.6933 of 2023

Gnanodhaya Teacher Training Institute,
No.1/60, Polwells Road,
St.Thomas Mount,
Chennai-600 016
Rep. By its Correspondent
Dr.C.Joseph Mohan
S/o.D.S.Chelliah

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
School Education (ERT) Department,
Fort St. George, Secretariat,
Chennai 600 009.
- 2.The Director,
State Council of Education Research and Training,
DPI Campus, College Road,
Subba Road Avenue,
Chennai-600 006.



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3. The Principal,
District Institute of Education and Training,
Kaliyampoondi,
Kanchipuram – 603 402

4. The Director,
National Council for Teacher Education,
Wing II, Hans Bhawan 1,
Bhadur Shaw Zafar Marg,
New Delhi 110 002.

5. The Regional Director,
The Southern Regional Committee,
National Council for Teacher Education,
1st Floor, CSD Building, HMT Post,
Bangalore 560 013.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India raying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the 1st respondent in G.O.Ms.No.87, school Education Department dated 28.05.2019 in so far as in Paragraph 4(2) is concerned and the subsequent order issued by the 2nd respondent in Na.Ka.No.529/E1/2022 dated 06.05.2022 and to quash the same and consequently directing the Respondents to permit the Petitioner Institute to make admission of students for the academic session 2022-2023 and 2023-



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2024 in D.T.Ed. Course, as per the recognition order issued by the 5th respondent in F.TN-Ele-14/SRO/NCTE/2000-2001/923 dated 10.07.2000.

For Petitioner : Mr.J.Jayamalan

For Respondents : Mr.R.Neelakandan,
Additional Advocate General
Assisted by
Ms.M.Keerthika (R1 to R3)
Government Advocate
Mr.Su.Srinivasan, Senior Standing Counsel
Assisted by
Mr.R.Thirunavukkarasu (for R4)
R5 – Not ready notice

ORDER

I have by way of common order dated 20.11.2023 in WP.Nos.23289 of 2021 and batch allowed the writ petitions filed by self-financing Institutions challenging G.O.Ms.No.87, School Education Department dated 28.05.2019, specifically, paragraph 4(2) thereof. The only distinction between the writ petitions in that batch and the present writ petition is that the present writ petitioner is an aided institution.

2. That order is extracted below in the interests of clarity and completion:

All petitioners in this batch are private, self-financing Teacher Training Institutes (referred to herein as 'TTI', 'Institutes' or



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Institutions'). The institutes are governed by the provisions of the National Council for Teacher Education Act, 1993 under which the National Council for Teacher Education (NCTE) was established. This was with a view to achieving co-ordinated development of the educational system for the teachers and for setting and maintaining proper norms and standards in that sphere.

2.The issue that arises in these writ petitions is as regards the role of the State in the functioning of the institutions. The challenge in all writ petitions is to specific clauses in G.O.Ms.No.87 School Education (ERT) Department dated 28.05.2019, being paragraphs 2(vii) and (viii) and Clause 4(ii).

3. The sum and substance of the aforesaid clauses is that institutions conducting Diploma courses in elementary education must maintain student strength of 30% of the strength sanctioned by the first respondent i.e. NCTE. In the event that the strength dips below 30% the institutions have been barred from admitting students for that academic year with steps to be initiated for closure of the said institutions consequentially. The relevant portion of said G.O. is as follows:

‘சுருக்கம்

பள்ளிக் கல்வி(ERT)த்துறை

அரசாணை (நிலை) எண்.87

நாள்: 28.05.2019

ஆணை:-

.....

2. மேலே மூன்றாவதாகப் படிக்கப்பட்ட கடிதங்களில், 2019-2020-ம் கல்வியாண்டிற்கு தொடக்கக் கல்வி பட்டயப் படிப்பு மாணவர் சேர்க்கைக்கு அனுமதி கோரி பின்வரும் விவரங்களை மாநிலக் கல்வியியல் ஆராய்ச்சி மற்றும் பயிற்சி நிறுவன இயக்குநர் தெரிவித்துள்ளார்.

.....

(vii) மாநிலக் கல்வியியல் ஆராய்ச்சி மற்றும் பயிற்சி நிறுவன இயக்ககத்தை பொறுத்தமட்டில், தென் மண்டல தேசிய ஆசிரியர் கல்வி குழுமத்தால் நிர்ணயம் செய்யப்படும் மாணவர்களின் எண்ணிக்கை அடிப்படையிலேயே (அதாவது 40, 50, 80, 100 எண்ணிக்கை) மாணவர் சேர்க்கை செய்யப்படுகின்றனர். எனவே, குறைந்தபட்ச மாணவர் சேர்க்கை என்பதை, அனுமதிக்கப்பட்ட மாணவர் எண்ணிக்கையில் 30 விழுக்காடு மாணவர்கள் சேர்க்கை இருந்தால் மட்டுமே



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அவ்வாறான அரசு நிதி உதவி பெறும் ஆசிரியர் பயிற்சி நிறுவனங்கள் மற்றும் சுயநிதி ஆசிரியர் பயிற்சி நிறுவனங்களை தொடர்ந்து செயல்பட அனுமதிக்கலாம்.

(viii) மேலும், 30 விழுக்காட்டிற்கு குறைவாக மாணவர் சேர்க்கை உள்ள அரசு நிதி உதவி பெறும்/சுயநிதி ஆசிரியர் பயிற்சி நிறுவனங்களை 2019-2020-ம் கல்வியாண்டு மட்டும் மாணவர் சேர்க்கைக்கு அனுமதித்தும், 2020-2021-ம் கல்வியாண்டு மாணவர் சேர்க்கைக்கு அனுமதிக்கக்கூடாது என்றும், இரண்டாமாண்டில் பயிலும் மாணவர்கள் பயிற்சிபினை முடித்தவுடன் அரசு உதவிபெறும் ஆசிரியர் பயிற்சி நிறுவனங்களுக்கான மானியத்தை நிறுத்தவும், அத்தகைய அரசு நிதி உதவி பெறும் மற்றும் சுயநிதி ஆசிரியர் பயிற்சி நிறுவனங்களை மூடுவதற்கும், அவற்றின் அங்கீகாரத்தை இரத்து செய்யவும் நடவடிக்கை மேற்கொள்ளலாம்.

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4.

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(ii) அரசு நிதி உதவி பெறும் ஆசிரியர் பயிற்சி நிறுவனங்கள் மற்றும் சுயநிதி ஆசிரியர் பயிற்சி நிறுவனங்கள் 2019-2020-ம் கல்வியாண்டு முதல் தேசிய ஆசிரியர் கல்விக் குழுமத்தால் அனுமதிக்கப்பட்ட மொத்த மாணவர் எண்ணிக்கையில் 30% மாணவர் சேர்க்கை பெற்றிருந்தால் தொடர்ந்து நடத்துவதற்கும், 30 விழுக்காட்டிற்கு குறைவாக மாணவர் சேர்க்கை உள்ள நிறுவனங்களை 2019-2020-ம் கல்வியாண்டு மட்டும் மாணவர் சேர்க்கைக்கு அனுமதித்தும், 2020-2021-ம் கல்வியாண்டு முதல் மாணவர் சேர்க்கைக்கு அனுமதிக்கக் கூடாது. அத்தகைய அரசு நிதி உதவி பெறும் மற்றும் சுயநிதி ஆசிரியர் பயிற்சி நிறுவனங்களில் இரண்டாமாண்டு பயிலும் மாணவர்கள் பயிற்சிபினை முடித்தவுடன் அரசு உதவிபெறும் ஆசிரியர் பயிற்சி நிறுவனங்களுக்கான மானியத்தை நிறுத்தவும், அரசு நிதி உதவி பெறும் மற்றும் சுயநிதி ஆசிரியர் பயிற்சி நிறுவனங்களை மூடுவதற்கும், அவற்றின் அங்கீகாரத்தை இரத்து செய்யவும் நடவடிக்கை மேற்கொள்ளலாம்.

....

Sd/-

அரசு முதன்மைச் செயலாளர்.'

4.Learned counsel for the petitioners submit that the institutions are solely governed by the provisions of the NCTE Act and the National Council for Teacher Education (recognition norms and procedure) Regulations, 2014. Under the Act, the State has a limited role to play, and if at all the State believes that any intervention is required in the functioning of a TTI, a recommendation may be made to the NCTE for its attention and



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appropriate action. There ends the matter. Thus, the State has thus far exceeded the jurisdiction vested in it by passing the Government Order to the extent to which it has been impugned in these writ petitions.

5. For this purpose, they draw attention to Section 17 where the Regional Committee of the NCTE can, on its own motion or on a representation received from any person, initiate action to withdraw the recognition of an institution for reasons to be recording in writing. The GO, to the extent to which it proposes closure of an institution upon reduction of sanctioned strength, has usurped the functions of the NCTE and is hence, according to the petitioner's, liable to be quashed.

6. Reliance is placed on the judgment of the Hon'ble Supreme Court in State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others reported in [(2006) 9 SCC 1] and State of Rajasthan v. LBS.B.ED. College and Others reported in [(2016) 16 SCC 110].

7. Mr. R. Neelakandan, learned Additional Advocate General, who appears for Ms. Keerthika, learned Government Advocate for the State defends the G.O. in full pointing out that the purport of the impugned Clauses in the G.O, is only to save public money and resources. He draws attention to situations where TTI's are functioning with minimum capacity only when compared to the sanctioned strength. In such circumstances, the State is forced to expend huge resources, which is not in the interests of the general public.

8. There is no merit in this contention factually for the reason that the petitioners are self-financing institutions who are not dependant on the State for any grant/aid. Thus, there is no prejudice caused to the State or its resources by virtue of the TTI's admitting students less than the sanctioned strength or not functioning to full capacity.

9. Learned AAG then draws attention to the orders of recognition that have been passed by the NCTE which contain a stipulation that the permission is itself subject to fulfilment of all requirements as may be prescribed by regulatory bodies like the State Government. Thus, according to him, the NCTE has itself



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recognised the authority that vests in the State to regulate the functioning of the TTI's. The order of recognition also makes it clear that contravention by the TTI of any of the conditions would lead to withdrawal of the permission granted. He would thus argue that the State is well in its power to have issued the impugned orders.

10. In testing the validity or propriety of the impugned clauses in the G.O. one would be guided by the statute under which such powers have been provided. The preamble of the NCTE Act provides for the establishment of the NCTE at four locations, for achieving coordinated development of the teacher education system in the country. The purpose of the enactment is to set and maintain high standards and uniform norms in the teacher education system.

11. Entry 66 of List I of Schedule VII deals with the coordination and determination of standards in institutions for higher education or research, scientific and technical institutions. The field for such regulation as aforesaid is thus fully and completely occupied by the NCTE Act and any move by the State to encroach upon that arena would have to be curtailed. The mere fact that the permission letter refers to the State Government would not change this position.

12. This very question had come up for consideration in the case of Sant Dnyaneshwar (supra) where the challenge was to a policy decision by the State of Maharashtra not to grant a no-objection certificate, for commencing of an institution offering B.Ed. courses. In that context and after an exhaustive consideration of the relevant enactment and regulations, the Bench held that the policy decision of the Government was unlawful and set it aside.

13. In a more recent decision in the case of LBS.B.ED. College and others (supra), the Bench dealt with the role of the State Government in the scheme of the NCTE Act and regulations. They say in that context, that the role of the State is limited. While the State may certainly make recommendations to the NCTE, and latter would take the same into consideration, the final authority in regard to matters relating to commencement and regulation of the institutions vests with the NCTE alone.



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14. The respondents rely upon a decision in *D.V.D. Teacher Training Institute v. The Regional Director, National Council for Teacher Education, southern Regional Committee, G-7, Sector-10, Dwaraka, Delhi-110 075* and another in WP(MD)No.14749 of 2020 dated 04.03.2021. That writ petition had been filed challenging an order passed by the Director of the State Council for Education Research and Training and seeking a consequential direction to him to approve the admission of all eligible students in the petitioner TTI for academic year 2020-21 based on the recognition granted by NCTE. The writ petition came to be dismissed.

15. The principal contention that was taken by the petitioner in that matter is similar to the one taken before me now, that the State has no jurisdiction to intervene in the functioning of the TTI, particularly in ordering enclosure of the same. That submission did not appeal to the learned Judge, who, at paragraph 20 of the order, observes that the State does have authority to regulate the institution as long as the exercise of such power was not repugnant to the power exercised by the Central authority or to the terms of the recognition order itself. The judgment in *Sant Dnyaneshwar (supra)* has not been cited or brought to the attention of the learned Judge.

16. That apart, what was challenged in that order was not the Government Order itself, but a direction based on that order. For the aforesaid reasons, the ratio of the order in *DVD Teacher Training Institute* does not appeal to me.

17. In light of this discussion, particularly the judgments of the Supreme Court discussed above, the undisputed legal position is that the impugned portions of G.O.Ms.No.87 dated 28.05.2019 run counter to the constitutional mandate. The regulation of TTI is a field occupied by the NCTE Act and Regulations and the role of the State is merely, as held in the case of *LBS.B.ED. College*, a formal one.

18. In light of the discussion as above, the offending portions of Government Order No.87 dated 28.05.2019 are quashed and these writ petitions are allowed. No costs. Connected miscellaneous petitions are closed.



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3. The additional question that arises in this case, is as to whether the discussion and conclusions in the above order, would apply in the case of aided institutions as well. In the case of aided institutions, I do confess that one is tempted, in the interests of preservation of public money and resources, to hold that there must be a larger role that is given to the State in the management of Teacher training Institutes. This is all the more in a situation where the State continues to pump in significant resources in the face of diminishing admissions in those Institutes.

4. However, the mandate of the National Council for Technical Education Act is clear, and the legal position that obtains, admits of no distinction between private and aided colleges. The law is the same in both cases. Hence, it is for the State to explore other options in order to achieve a more robust deployment of the resources in those situations where the admissions are very few.

5. One of the suggestions made is that the faculty in such institutes could be earmarked as 'surplus' and their services transferred to other fully functional institutes. The State could also consider withdrawal of grant-in-aid to institutions that are not sought after/fully functional or could consider a merger



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of two or more institutions in order to optimise student strength and State resources. These are only some of the measures that come to mind.

6.In light of the discussion as above, the offending portions of Government Order No.87 dated 28.05.2019 are quashed and this writ petition is allowed. No costs. Connected miscellaneous petition is closed.

22.11.2023

vs

Index : Yes

Speaking Order

Neutral citation:Yes

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DR.ANITA SUMANTH,J.

VS

Pre-delivery order in

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