

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 26263 of 2010 (G)

PETITIONER(S):

**SREE VIVEKANANDA EDUCATIONAL AND
CHARITABLE TRUST, AKKIKKAVU PO, THRISSUR DISTRICT
REPRESENTED BY ITS CHAIRMAN T.R.SHANMUGHAN
S/O.LATE K.GOVINDAN NAIR, AGED 71 YEARS, RESIDING AT
K.G.NIVAS, ANAKKARA POST, PALAKKAD DISTRICT.**

**BY ADVS.SRI.P.K.SURESH KUMAR
SRI.SANTHEEP ANKARATH**

RESPONDENT(S):

- 1. NATIONAL COUNCIL FOR TEACHER
EDUCATION, REPRESENTED BY ITS MEMBER SECRETARY
HANS BHAVAN, WING-11, I
BAHADUR SHAH ZAFAR MARG, (NEAR ITO)
NEW DELHI-110 002.**
- 2. THE REGIONAL DIRECTOR,NATIONAL COUNCIL
FOR TEACHER EDUCATION, SOUTHERN REGIONAL COMMITTEE
1ST FLOOR, CSD BUILDING, HMT POST
BANAGALORE-560031**
- 3. THE DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM-1.**

**R,R1 & 2 BY ADV. SRI.V.M.KURIAN, SC, SRC-NCTE
R BY GOVERNMENT PLEADER**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-01-2015 ALONG WITH WPC. 26263/2010, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE COPY OF ORDER DATED 23/02/2005 ISSUED BY THE 1ST RESPONDENT.
- EXT.P2: TRUE COPY OF NORMS AND STANDARDS FOR SECONDARY EDUCATION PROGRAMME LEADING TO B.ED. COURSE ISSUED BY THE 1ST RESPONDENT.
- EXT.P3: TRUE COPY OF APPROVED BUILDING PLAN OF SREE VIVEKANANDA TEACHERS EDUCATION CENTRE.
- EXT.P4: TRUE COPY OF ORDER DATED 16.11.2006 ISSUED BY THE 1ST RESPONDENT.
- EXT.P5: TRUE COPY OF NEW NORMS AND STANDARDS FOR ELEMENTARY TEACHER EDUCATION PROGRAMME ISSUED BY THE 1ST RESPONDENT.
- EXT.P6: TRUE COPY OF ORDER NO.F.SRO/NCTE/2009-2010/18698 DATED 4.5.2010 ISSUED BY THE 2ND RESPONDENT.
- EXT.P7: TRUE COPY OF ORDER NO.F.NO.89-458/2010-APPEAL DATED 13.8.2010 ISSUED BY THE 1ST RESPONDENT.
- EXT.P8: TRUE COPY OF CERTIFICATE DATED 22.7.2010 ISSUED BY SECRETARY, PORKULAM GRAMA PANCHAYATH.
- EXT.P9: TRUE COPY OF NORMS AND STANDARDS FOR SECONDARY TEACHER EDUCATION PROGRAMME (B.ED) OF RESPONDENTS FOR THE YEAR 2005-06.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

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W.P.(C). Nos. 26263 of 2010

& 2084 of 2015

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Dated this the 22nd day of January, 2015

JUDGMENT

The issue involved in both these cases pertain mainly with regard to the rights and liberties to the petitioner to run an educational institution, imparting training the students, particularly by way of B.Ed and by way of TTC. Withdrawal of the recognition for not having the requisite built up area is under challenge in WP(C) 26263/2010. The case of the petitioner in the other case is that the petitioner, in the due course, has decided to stop running of the TTC course and if the petitioner is to be permitted to run B.Ed course alone, the petitioner's institution is having the requisite traits even as per the new norms, copy of which has been produced as Ext.P9 in the letter case. The prayer is to consider the request made in this regard, with liberty to dispense with TTC course. It is

also stated that the petitioner is continuing both the courses now, by virtue of the interim orders passed by this Court on 19.08.2010. The sequence of events as described in WP(C) 26263/2010 reveals that the petitioner, who is an educational trust, was granted sanction to conduct a B.Ed degree course as per Ext.P1 dated 23.02.2005. This was in tune with the relevant norms stipulated by the NCTE and as per Ext.P2 norms then in existence, there had to be a built up area of 1500 sq. mtr. In the case of the petitioner, they were having a built up area of 1669.92 Sq. Mtr., as evident from Ext.P3 approved plan. It was accordingly (after inspection and assessing the credentials of the petitioner), that Ext.P1 sanction was given. Petitioner was running the course accordingly.

2. While so, in order to cater to the need of others, who wanted to pursue the course in TTC, it was also

intended to be started on making necessary application in this regard and considering the eligibility of the petitioner, Ext.P4 sanction was given on 16.11.2006. No special condition was incorporated in this regard. However, the norms came to be changed in the year 2009 as per Ext.P5 dated 31.08.2009, by virtue of which, if an institution wanted to run both the courses, ie., B.Ed and TTC (subsequently renamed as Diploma in Elementary Education), there had to be a minimum of 2500 Sq. Mtr., of built up area. It is stated that the requirement to be satisfied, if at all any, in the case of existing institution, was never brought to the notice of the petitioner. There was an inspection on 22.03.2010 pursuant to the complaints raised by somebody in respect of some other institutions and during the course of such inspection, the authorities concerned effected a measurement of the class rooms (excluding other areas) and worked out the

figures and submitted a report to the concerned respondent. Based on the said report, without giving any chance to explain, Ext.P6 order dated 4.05.2010 was passed by the 2nd respondent, whereby the recognition was cancelled for the B.Ed Course. Being aggrieved of the said order, the petitioner preferred an appeal before the 1st respondent, wherein interference was declined and the appeal was rejected as per Ext.P7 dated 13.08.2010. These two orders, Exts.P6 and P7 are under challenge in these writ petitions, specifically contending that cancellation of recognition in respect of B.Ed course is not correct, in so far as the petitioner was having the requisite built up area as disclosed from Ext.P3 (based on which Ext.P1 was given) and further, in view of the completion certificate issued by the local authority vide Ext.P8 dated 22.07.2010.

3. When the matter came up for consideration

before this Court, an interim order was passed on 19.08.2010, whereby the impugned order was stayed and direction was given to concerned respondent to allot the students to B.Ed course. It is stated that, pursuant to such order, the petitioner is enjoying the benefit and students are being admitted and they are continuing their studies.

4. The things took a different turn when the norms got changed further, by issuing new norms in the year 2014, copy of which has been produced as Ext.P9 in WP (C) 2084/2015. Pursuant to the said norms, the respondents issued Ext.P6 notice as to the requirement to be satisfied for running the concerned courses, adhering to the standards with regard to the built up area as well. The course span of B.Ed. also stands increased from 'one' year to 'two' years. In response to P6, the petitioner has submitted the necessary affidavit, projecting the profile of

the petitioner along with a covering letter dated 16.01.2015. It is stated that the petitioner is ready to satisfy all the requirements as per the new norms for enabling them to run the course B.Ed. The petitioner has also simultaneously made it clear vide Ext.P8 dated the same day, that by virtue of the change in circumstance and such other reasons, they are no more interested in continuing the 'TTC course' and that appropriate steps may be taken to have it put an end to. Seeking for giving appropriate direction in this regard, the petitioner has approached this Court again, by filing the second writ petition ie., 2084/2015.

5. The factual sequence was explained, with reference to the relevant norms, by Sri. P.K. Suresh Kumar, the learned senior counsel appearing for the petitioner, while the version of the respondent was explained by Sri. V.M. Kurian, the learned Standing

Counsel for the respondent, with reference to the statement filed in the former case.

6. The learned Standing Counsel points out that the petitioner was not having the minimum requirements to run the B.Ed course, as the minimum built up area is 1500 Sq.Mtr., whereas the petitioner is having only a lesser extent as evident from the report submitted by the concerned committee who conducted the inspection.

7. The factual points noted by the Committee were never objected to, and the petitioner has also counter signed the said report, showing his presence and awareness. It is asserted that the petitioner was not having the requisite extent of 1500 sq.mtr., at the time of granting the sanction and that Ext.P3 is not a completion certificate but an approved plan. The learned counsel adds that, several show cause notices were issued to the petitioner earlier in this regard, as mentioned in

paragraph 9 of the statement and it was only thereafter, that the proceedings were finalized by passing Ext.P6. As such, there is no infringement of the principles of natural justice as well.

8. The learned senior counsel for the petitioner points out that the version now put forth from the part of the respondents is far from the track of truth and that, show cause notice issued to the petitioner was never with reference to the built up area, but with reference to some other complaints raised from different corners, which is discernible from Ext.P6 order itself. The relevant portion as contained Ext.P6 order issued by the 2nd respondent reads as follows.

A complaint is received alleging lack of facilities as per NCTE norms and standards against Sree Vivekananda Teacher Education Center, Thrissur, Kerala which was placed before SRC in its 175th meeting held on 13-14 May, 2009. The Committee decided to issue show cause Notice under Section 17 of NCTE Act. Accordingly, Notice was issued to the institution on 4.6.2009 followed by reminder on

27.8.2009 for the following reasons:-

- The Manager of the institution who is a retired Assistant Educational Officer is acting as Principal for the last six months. He is not qualified to be the Principal. All the academic activities are controlled by the Manager.
- The equipment's in the laboratories verified by the inspection team at the time giving recognition to the institution have been shifted. No additional books were purchased to the Library. Huge amount from students is collecting by the Management in the name of record fee, excursion fee, PTA fund and fee for uniform in addition to the special fee and tuition fee. The fee except tuition fee and special fee are collecting without issuing receipt. PTA is not functioning in this institution even though the PTA fund is collected.

The institution has submitted its reply on 10.9.2009. SRC considered the reply of the institution and decided to cause inspection under Section 17 of NCTE Act after payment of fees of Rs.40,000/- for TTC and B.Ed course. The institution has submitted payment of fees of Rs.40,000/-. Inspection under Section 17 was conducted to the institution on 22.3.2010.

The Committee considered the visiting team report of the institution and all the relevant information available and decided to withdraw the approval for B.Ed programme w.e.f. 2010-11 and to continue the TTC programme for which only the

available built-up area is adequate.”

9. From the above, it is clear that the show cause notice stated as issued to the petitioner was not with reference to the inadequacy in the built up area, but on certain other grounds, which are stated as replied as well. It is true that, pursuant to the said complaint, an inspection was conducted and it was during the course of such inspection that the deficiency with regard to the alleged lack of space was noted by the Committee, who submitted a report, leading to Ext.P6. Even otherwise, it cannot be presumed that the petitioner was not having the adequate space of 1500 Sq.Mtr., at the time of granting sanction vide Ext.P1, for the plain reason that the said sanction was given after conducting inspection and there was no dispute for the respondents that the petitioner was not satisfying the requirement and that recognition could not have been issued.

10. The question is whether the petitioner was having any right to conduct both the courses together without satisfying the norms, which were in existence at the relevant time. The materials produced before this Court, particularly Ext.P8, show the total plinth area of the building as 2192.53 sq. mtr. True, this document was not produced before the concerned authority at the relevant time, but it cannot be disputed that the petitioner did have the basic requirement of 1500 Sq.Mtr., as covered by Ext.P3, based on which, Ext.P1 sanction was issued. By virtue of the new norms, ie., Ext.P9 in WP(C) 2084/2015, the minimum requirement is 1500 Sq.Mtrs., for an additional intake of fifty students, for which it shall possess additional land of 500 sqm.

11. The learned senior counsel for the petitioner points out that the petitioner stands by the pleadings and documents produced to the effect that the petitioner no

more intends to continue the 'TTC' course and that the relief sought for be confined only with reference to the eligibility to run the 'B.Ed' course. This Court finds that no prior notice was issued to the petitioner before issuance of Ext.P6. This is more so, when the alleged show cause notice stated as issued to the petitioner is with reference to some other circumstance and not with reference to the built up area. By virtue of the interception of the impugned orders, as per the interim order dated 19.08.2010, the petitioner is continuing to run the courses.

12. If at all the petitioner is not entitled to conduct both the courses together, in respect of which course the recognition shall be cancelled, is the next question. Since TTC was permitted to be conducted only in the year 2006 and since the petitioner was having the requisite grades and credentials at the time of granting the

sanction/recognition vide Ext.P1 for running the B.Ed Course, the first point to be considered is whether the petitioner is having the eligibility to run the B.Ed course, in the light of the turn of events and the limited extent of relief now pressed before this Court, intending to stop the TTC course. In response to the submission made by the learned Standing Counsel for the respondent submits that the new norms are not applicable to the case of the petitioner, as the same is applicable only to the existing institutions and that the petitioner is not an existing institution, by virtue of the recognition already having withdrawn. The learned Government Pleader points out that, pursuant to the interim order of stay passed by this Court, separately in respect of both the interim reliefs sought for, that is, with regard to the stay of impugned orders and also with regard to the positive direction to allot students to the B.Ed course, necessary instructions

have already been issued to the LBS institute, who is pursuing the exercise of selection and steps to allot candidates and that students are being allotted adding that there is no break so far. Even otherwise, when the impugned orders are intercepted by this Court, by virtue of the interim stay, it cannot be said that the petitioner institution is not an existing institution, to whom Ext.P9 is not applicable. The contention raised by the respondents in this regard stands repelled.

13. After hearing both the sides, this Court finds that the actual built up area as on date requires to be ascertained, so as to consider whether the petitioner is eligible to run the B.Ed course in conformity with the revised guidelines, ie., Ext.P9 in WP(C) No.2081/2015. So as to ascertain the factual particulars in this regard, an instruction in this regard an inspection is necessary. Accordingly, the respondents are directed to depute

competent authority/team to conduct the inspection in this regard, with prior notice to the petitioner and after inspection, a copy of the report shall also be made available to the petitioner to point out the discrepancies, if any. After getting the measurements and report, the matter shall be re-considered and eligibility of the petitioner to continue the B.Ed course shall be considered after affording an opportunity of hearing to the petitioner in this regard. The proceedings as above shall be finalised at the earliest, at any rate within a period of two months from the date of receipt of a copy of this judgment. The impugned orders stand set aside so as to facilitate such exercise.

The writ petition is disposed of accordingly.

Sd/-

P.R. RAMACHANDRA MENON
JUDGE

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