

THE HON'BLE SRI JUSTICE A.V. SESA SAI

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**WRIT PETITION Nos.40275, 40059, 40376, 38608, 40420, 40421,
40422, 40440, 40454, 40575, 40683, 40710, 40787, 40820, 40882,
40903, 40908, 40911, 40927, 40978, 40986, 40995, 41059, 41112,
41263, 41298, 41299, 35991, 36920, 36928, 37189, 37836, 37837,
37857, 37881, 37898, 37901, 37946, 38021, 38608, 40892, 40521,
40567, 40570, 40592, 40666, 40698, 40708, 40713, 40719, 40720,
40936, 41030, 40387, 40918, 40954, 40958, 9006, 8175, 13797,
15082, 36106, 40834, 40315, 40859 and 33943 of 2014
and W.P.Nos.248, 542, 577 of 2015**

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COMMON ORDER:

In the present batch of writ petitions challenge is to the action of the respondents in not ratifying the spot admissions made into the first year D.Ed. Course for the academic year 2013-14.

According to the petitioners, they were granted recognition by the National Council for Teacher Education (for short, 'the NCTE') to run two years D.Ed. Course from 2005 onwards and subsequently the State Government granted affiliation for the academic year 2013-14 in their favour and the admissions were made in the petitioners' colleges by way of counselling and the students were allotted by the Commissioner and Director of School Education. Further case of the petitioners is that the petitioners' colleges admitted certain students against the unfilled seats by way of paper notification on spot admission basis after informing the respondents and the students have undergone one year of instruction and put in more than 220 days of attendance and paid the examination fee and the Director of Government Examinations received the examination fee also.

Complaining that the respondents did not issue hall tickets to the students, admitted by way of spot admissions, without assigning any reasons aside issuing same to the other students admitted through the process of counselling and assailing the said action as arbitrary, illegal and violative of Article 14 of the Constitution of India

and the alleging inaction on the part of the respondents in considering their representations for ratification, the present batch of writ petitions came to be filed.

Heard Sri S.Satyam Reddy, learned Senior Counsel and other counsel on record, and the learned Government Pleader for School Education appearing for the respondents.

It is contended by the learned Senior Counsel and other advocates on record, appearing for the petitioners that the impugned action on the part of the respondents is illegal, arbitrary and unreasonable and violative of Article 14 of the Constitution of India and there is no justification on the part of the respondents in not granting approval for the spot admissions made by the petitioners. The learned Senior Counsel further contended that in respect of the other courses in other colleges the respondents granted approval for the similarly situated institutions. It is the further contention of the learned Senior Counsel Sri S.Satyam Reddy that all the institutions have recognition from the respective competent authorities as such the impugned action is liable to be set aside. It is further contended that identically situated candidates from the State of Telangana got the ratification.

On the contrary, it is submitted by the learned Government Pleader that there is no illegality nor infirmity in the action of the respondents and that without obtaining any permission from the respondents, the petitioners herein resorted to spot admissions. It is further submitted by the learned Government Pleader that it is obligatory on the part of the petitioners also to adhere to the Andhra Pradesh Elementary Teacher Training Institutes/District Institutes of Education and Training (Regulation of Admissions into Diploma in Elementary Education Course through Common Entrance Test) Rules, 2013 (for short, 'the Rules') published vide G.O.Ms.No.63 of Education (PE-PROGS.II) Department dated 28.10.2013. It is also

submitted by the learned Government Pleader that in fact the request of the petitioners herein was considered by the Commissioner & Director of School Education and the same was rejected vide proceedings Rc.No.01/A/AP/SCERT/2014-34 dated 04.09.2014. In support of his contentions and submissions, the learned Government Pleader places reliance on the judgments in (1) **Adarsh Shiksha Mahavidyalaya and others v. Subhash Rahangdale & others**^[1] and (2) **Nageshwaramma v. State of A.P. and another**^[2], the orders of the Division Bench of this Court in W.A. No.462/2015 & batch dated 23.07.2015, and the order of this Court in W.P.No.25947/2015 & batch dated 21.08.2015.

The State Government framed the Rules, and published the same vide G.O.Ms.No.63 of Education (PE-PROGS.II) Department dated 28.10.2013. Rule 6 of the said Rules deals with the procedure of admissions for all the seats in Government DIETs and for Category 'A' seats in respect of Private unaided Elementary Teacher Training Institutions. The rules which are germane for the purpose of resolving the issue in this batch of writ petitions are Rule 6(xii) to 6(xvi) of the said Rules. In this batch of writ petitions, even according to the petitioners herein, they proceeded with the admissions on their own without there being any intervention of the Convenor, which is mandatory as per Rule 6(xii) of the Rules. It is also brought to the notice of this Court that in response to the representations submitted by the petitioners herein in W.P.M.P.No.7362/2014 in W.P.No.5923/2014, the Commissioner and Director of School Education, Andhra Pradesh, Hyderabad, vide Rc.No.01/A/AP/SCERT/2014-34 dated 04.09.2014 rejected the request made for ratification. In this context, it may be appropriate to refer to the judgments of the Hon'ble Apex Court and this Court, cited

by the learned Government Pleader.

In the case of **Adarsh Shiksha Mahavidyalaya's** case (Supra 1) at paragraph Nos.80 and 87 the Hon'ble Apex Court held as under:

80. The next issue which requires examination is, whether the private institutions could have made admissions dehors the entrance examination conducted by the State Government. The High Court has answered this question in the negative by relying upon the admission procedure contained in Para 3.3 of Appendix I, which contains the Norms and Standards for Secondary Teachers Education Programme. The appellants have not questioned the vires of the admission procedure. Therefore, they cannot contend that they were entitled to admit students dehors the list prepared on the basis of entrance examination conducted under the directions of the State Government.

87. As a sequel to the above discussion, we hold that the impugned orders do not suffer from any legal infirmity warranting interference by this Court. We also reiterate that:

- (i) The Regional Committees established under Section 20 of the 1993 Act are duty-bound to ensure that no private institution offering or intending to offer a course or training in teacher education is granted recognition unless it satisfies the conditions specified in Section 14(3) (a) of the 1993 Act and Regulations 7 and 8 of the Regulations. Likewise, no recognised institution intending to start any new course or training in teacher education shall be granted permission unless it satisfies the conditions specified in Section 15(3)(a) of the 1993 Act and the relevant Regulations.
- (ii) The State Government/UT Administration, to whom a copy of the application made by an institution for grant of recognition is sent in terms of Regulation 7(2) of the Regulations, is under an obligation to make its recommendations within the time specified in Regulation 7(3) of the Regulations.
- (iii) While granting recognition, the Regional Committees are required to give due weightage to the recommendations made by the State Government/UT Administration and keep in view the observations made by this Court in *St. Johns Teachers Training Institute v. National Council for Teacher Education* and *National Council for Teacher Education v. Shri Shyam Shiksha Prashikshan Sansthan*, which have been extracted in the earlier part of this judgment.
- (iv) The recognition granted by the Regional Committees under Section 14(3)(a) of the 1993 Act read with Regulations 7 and 8 of the Regulations and permission granted under Section 15(3)(a) read with the relevant Regulations shall operate prospectively i.e., from the date of communication of the order of recognition or permission, as the case may be.
- (v) The recognition can be refused by the Regional Committee under Section 14(3)(b), in the first instance, when an application for recognition is made by an institution. Likewise, permission can be refused under Section 15(3)(b).
- (vi) If the recognition is refused under Section 14(3)(b) after affording reasonable opportunity to the applicant to make a written representation, the institution concerned is required to discontinue the course or training from the end of the academic session next following the date of receipt of the order.

- (vii) Once the recognition is granted, the same can be withdrawn only under Section 17(1) if there is a contravention of the provisions of the Act or the Rules, or the Regulations, or orders made therein, or any condition subject to which recognition was granted under Section 14(3) (a) or permission was granted under Section 15(3)(a).
- (viii) The withdrawal of recognition becomes effective from the end of the academic session next following the date of communication of the order of withdrawal.
- (ix) Once the recognition is withdrawn under Section 17(1), the institution concerned is required to discontinue the course or training in teacher education and the examining body is obliged to cancel the affiliation. The effect of withdrawal of the recognition is that the qualification in teacher education obtained pursuant to the course or training undertaken at such institution is not to be treated as valid qualification for the purpose of employment under the Central Government, any State Government or University or in any educational body aided by the Central or the State Government.
- (x) In view of the mandate of Section 16, no examining body, as defined in Section 2(d) of the 1993 Act, shall grant affiliation unless the applicant has obtained recognition from the Regional Committee under Section 14 or permission for starting a new course or training under Section 15.
- (xi) While granting affiliation, the examining body shall be free to demand rigorous compliance with the conditions contained in the statute like the University Act or the State Education Board Act under which it was established or the guidelines/norms which may have been laid down by the examining body concerned.
- (xii) No institution shall admit any student to a teacher training course or programme unless it has obtained recognition under Section 14 or permission under Section 15, as the case may be.
- (xiii) While making admissions, every recognised institution is duty-bound to strictly adhere to Paras 3.1 to 3.3 of the Norms and Standards for Secondary/Pre-School Teacher Education Programme contained in Appendix-1 to the Regulations.
- (xiv) If any institution admits any student in violation of the Norms and Standards laid down by NCTE, then the Regional Committee shall initiate action for withdrawal of the recognition of such institution and pass appropriate order after complying with the rules of natural justice.
- (xv) The students admitted by unrecognised institution and institutions which are not affiliated to any examining body are not entitled to appear in the examination conducted by the examining body or any other authorised agency.
- (xvi) The students admitted by the recognised institutions otherwise than through the entrance/eligibility test conducted in accordance with the admission procedure contained in Para 3.3 of Appendix 1 to the Regulations are also not entitled to appear in the examination conducted by the examining body or any other authorised agency.
- (xvii) NCTE shall issue direction for mandatory inspection of recognised institutions on periodical basis and all the Regional Committees are duty-bound to take action in accordance with those directions.
- (xviii) In future, the High Courts shall not entertain prayer for interim relief by unrecognised institutions and the institutions which have not been

granted affiliation by the examining body and/or the students admitted by such institutions for permission to appear in the examination or for declaration of the result of examination. This would also apply to the recognised institutions if they admit students otherwise than in accordance with the procedure contained in Appendix 1 of the Regulations.

In the case of **Nageshwaramma's** case (Supra 2) at paragraph No.3, the Apex Court held as under:

3. We are unable to agree with the submission of Shri Garg. The position before the, enactment of the Andhra Pradesh Education Act, 1982 was that the executive instructions contained in G.O.M.S. No.169 dated February 19, 1975 held the field and governed the situation. True, after the commencement of the Act no private institution could be established except in accordance with the provisions of the Act and the rules made thereunder. Permission had to be granted and recognition accorded in the manner prescribed by the rules. When rules were not made, there certainly was a void. But we are not in this case really concerned with the question as to what the way out was for those who wanted to obtain the necessary permission to establish an institute and were forced to face a blank wall. We are, here, concerned with the case of those persons who established Teacher Training Institutes without obtaining the permission of the Government and then sought the permission of the Government. Their applications proceeded as if G.O.M.S No.169 was applicable. They invited the Government to consider the applications submitted by them and also obtained a rule of the High Court that their applications should be considered by the Government. Having obtained a rule from the High Court that their applications for the grant of permission should be considered by the Government, they cannot now be allowed to turn round and say that it was not open to the Government to reject their applications for permission after consideration. In the case of those who never submitted any application, the Government was under no obligation to consider the question whether they should be granted permission to establish the institutions, and if in obedience to the directions of the High Court, the Government considered the question whether they should be granted permission, the Government cannot be found fault with for refusing to grant permission after such consideration. In either case we are unable to hold that the Government acted illegally in refusing to grant permission. Sri E. Manohar, learned Additional Advocate-General invited our attention to the orders of the Government refusing to grant permission. A perusal of the several orders placed before us shows that in every case the Government bore in mind the principles mentioned in S.20(3)(a), (b), (c), (d) and (e) of the Andhra Pradesh Education Act, 1982. In all the cases reports were obtained from the District Education Officers and the orders of the Government were based on those reports. In some cases there were earlier reports by some Deputy Education Officers who recommended the grant of permission to some of the institutions. But on further scrutiny it was found that the information contained in the reports was not altogether and in some cases far from correct. In some of those cases fresh reports were obtained from the District Education-Officers and those reports revealed the true but disheartening situation that the private institutions unauthorisedly established were invariably ill-housed, ill-staffed and ill-equipped. We are satisfied that the orders of the Government refusing permission to the several petitioners to establish Teacher Training Institutes are not tainted by any illegality. One of the writ petitions before us (Writ Petition No.12697 of 1985) was filed by a student claiming to have undergone training in one of the privately managed institutes. It was argued that the students of the institute in which she had undergone training were permitted in previous years to appear at the Government examination and as in previous years she may be allowed to appear at the examination this year. A similar request was made by Shri Garg that the students who have undergone training for the one year course in these private institutions may be allowed to appear at the examination notwithstanding the fact that permission might not be accorded to them. We are unable to accede to these

requests. These institutions were established and the students were admitted into these institutes despite a series of press notes issued by the Government. If by a fiat of the Court we direct the Government to permit them to appear at the examination we will practically be encouraging and condoning the establishment of unauthorised institutions. It is not appropriate that the jurisdiction of the Court either under Art. 32 of the Constitution or Art. 226 should be frittered away for such a purpose. The Teachers Training Institutes are meant to teach children of impressionable age and we cannot let loose on the innocent and unwary children, teachers who have not received proper and adequate training. True they will be required to pass the examination but that may not be enough. Training for a certain minimum period in a properly organised and equipped Training Institute is probably essential before a teacher may be duly launched. We have no hesitation in dismissing the writ petitions with costs.

In a decision of the Division Bench of this Court in W.A.No.462/2015 and batch, by placing reliance on the judgments of the Hon'ble Apex Court while dealing with the institutions without recognition and affiliation and who were not named in the common admission process and who conducted on their own, the Division Bench, at the operative portion, held as under:

"We observe that if the students who are admitted for the academic year 2013-14 without approval, approach the concerned institutions for refund of fees/incidental charges paid by them for admission etc., the management of the institutions shall refund the entire fees/incidental charges, collected by them from the students with interest at 6% per annum within three months from the date request for refund is made. Consequently, pending miscellaneous applications shall also stand closed. No costs"

In the order in W.P. No.25947/2015 & Batch dated 21.08.2015, while dealing with the admissions beyond the prescribed intake and when distinction was sought to be made, this Court held as under:

"I am unable to make a distinction merely because the facts can be distinguished on the ground of excess intake. Excess intake even in the face of a communication in September, 2014, by the concerned University is glaring irregularity committed by the institutions. This Court should not come to the aid of such students, who were admitted without verifying the antecedents or the regularity of such admission in the institutions. It is not known under what circumstances the petitioners, who are from outside the State, are lured to take admission beyond the permitted intake. This is a clear case of commercialisation and this Court should not come to aid in such a situation.

"In the circumstances, all these Writ Petitions are dismissed. It is left open to the concerned authority to take appropriate criminal action, if it is possible to take, in accordance with law against the institutions for admitting the students beyond their intake and putting the students' life in jeopardy. The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs."

In the instant case also, the petitioners' institutions in deviation

to the statutory rules i.e., the Rules, notified vide G.O.Ms.No.63 of Education (PE-PROGS.II) Department dated 28.10.2013, proceeded with the spot admissions and admitted the students.

In view of the law laid down in the above referred judgments and the principles and parameters laid down therein, this Court is not inclined to grant any order in the present batch of writ petitions. It is further made clear, keeping in view the interests of the students, that in future if the institutions want to approach this Court for redressal of grievances concerning the students, the concerned students shall also be shown as parties to the writ petition.

Accordingly, these writ petitions are dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE A.V. SETHA SAI

04.09.2015

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THE HON'BLE SRI JUSTICE A.V. SESA SAI

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Date: 04.09.2015

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[\[1\]](#) (2012) 2 SCC 425

[\[2\]](#) AIR 1986 SCC 1188