

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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WRIT PETITION Nos.14255 and 17765 of 2015

Between:

The Satya Academy of Technical Education.

....Petitioner

and

The State of Andhra Pradesh, Rep.by
its Principal Secretary, Department of
Health, Medial and Family Welfare,
Secretariat, Hyderabad, and others.

....Respondents

DATE OF JUDGMENT PRONOUNCED: 28.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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|----|---|----------------|
| 1. | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/ No |
| 2. | Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/ No |
| 3. | Whether His Lordship wishes to
see the fair copy of the Judgment? | Yes/ No |

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION Nos.14255 and 17765 of 2015

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COMMON ORDER:

Heard the learned Counsel for the petitioner, learned Government
Pleader for the first respondent and learned Standing Counsel appearing
for respondent Nos.2 and 3 in W.P.No.14255 of 2015.

Both these Writ Petitions are being disposed of with the consent of
the learned Counsel appearing for the parties, since they relate to the
same petitioner and arise out of the same cause of action.

These two Writ Petitions are filed by the petitioner society which is running three colleges, namely, Nursing, Physiotherapy and B.Sc. (MLT). The Government of Andhra Pradesh issued G.O.Ms.Nos.656 and 657 dated 07.11.2003, permitting the petitioner to establish a college of Physiotherapy and college of Medical Laboratory and Technology for B.Sc (MLT) course respectively. The Government of Andhra Pradesh also issued G.O.Ms.No.358, dated 30.09.2004, permitting the petitioner to run a college for Nursing in B.Sc (Nursing) course with an intake capacity of 40 students. After due inspection by the concerned authorities, the petitioner started running the said colleges. It appears that the second respondent-University in W.P.No.14255 of 2015 received complaints against the college, based on which, a confidential enquiry was conducted and a report was obtained on 19.06.2012. Based on the said report, a show cause notice was issued on 27.08.2012 and the petitioner submitted its explanation on 15.09.2012. The Executive Council of the University deliberated over the matter and on the basis of the decisions taken by it, enquiry was ordered against the institutions and the Enquiry Committee submitted its report on 17.12.2012. The colleges were also inspected and an inspection report was obtained on 25.09.2013. Thereafter, again, certain complaints were received from the students from the three colleges and those complaints were enquired into and the enquiry report was obtained on 10.04.2014. Based on the said inspection reports and enquiry reports, another show cause notice was issued to the petitioner on 23.05.2014 and after receiving the explanation on 21.06.2014, the Executive Council of the University took a decision on 13.02.2015 to disaffiliate the colleges for the academic year 2014-2015. Accordingly, the Vice Chancellor passed an order on 31.03.2015 and the order of the Vice Chancellor was communicated to the petitioner by the Registrar of the University on the same day. Challenging the same, W.P.No.14255 of 2015 is filed.

This Court while adjourning the matter on 07.05.2015 ordered

status quo to be maintained and the said order was extended from time to time and ultimately, the Writ Petition came up for disposal after filing of the counter affidavit by the respondent University.

It appears that a communication was sent to the Government by the Registrar of the respondent University, based on which, G.O.Ms.No.57, Health, Medical & Family Welfare (C2) Department, dated 10.06.2015 was issued cancelling the Essentiality Certificates issued to the petitioner for conducting the three courses by the petitioner society. Challenging the same, the petitioner filed W.P.No.17765 of 2015.

Learned Counsel for the petitioner submits that no proper enquiry was conducted by the University and the decision taken by the University is arbitrary. He further submits that the Government cancelled the Essentiality Certificates even without issuing any notice. Learned Standing Counsel for the respondent University brought to the notice of this Court the various reports of the Enquiry Committee and the Inspection Committee and submitted that the decision was taken after due deliberations only. Learned Government Pleader submits that the cancellation of Essentiality Certificates is only a consequential action to disaffiliate the courses by the respondent University.

This Court carefully perused the order of disaffiliation passed on 31.03.2015 by the University as well as the cancellation of Essentiality Certificates in G.O.Ms.No.57, Health, Medical & Family Welfare (C2) Department, dated 10.06.2015.

At the initial stage this Court entertained a doubt with regard to the common order passed by the University disaffiliating the three courses run by three colleges, though under the same management. When this Court perused the impugned order dated 31.03.2015, it disclosed that many of the allegations are common. But the issue of affiliation has to be considered in respect of each college as per the regulations of the

University. No specific charges were framed against the respective colleges and the impugned order was passed after pointing out the irregularities committed by the colleges and indicating the explanation furnished by the colleges. In a case of disaffiliation under the regulations framed by the University, the allegations in respect of each college should be specific, in order to give an opportunity to the college to rebut those allegations. The framing of allegations and reply by the affected college enables this Court to review the decision properly. Since this Court found the absence of specific charges in respect of each college, this Court is inclined to set aside the impugned order dated 31.03.2015 without going into the merits of the case in detail.

This Court also perused G.O.Ms.No.57, Health, Medical & Family Welfare (C2) Department, dated 10.06.2015, which is almost a replica of the order of the University dated 31.03.2015. The Government appears to have passed the said order without giving any notice, merely based on the report submitted by the respondent University. The order of permissions granted in G.O.Ms.Nos.656 and 657, dated 07.11.2003 contain the safeguard of fifteen days notice for showing cause against cancellation of permission and it reads as follows:

“The permission granted in para(2) above is liable for cancellation whenever the Government/NTR University of Health Sciences, Vijayawada forms the opinion, based on an inspection report that the aforementioned Educational Society is not running the college in the best interests of the students or any irregularity is committed or violates any of rules and regulations after giving 15 days notice to the Educational Society to show cause, against the proposed cancellation and pass appropriate orders after considering the explanation, if any, offered by the Society against the show cause notice.”

No notice was issued by the Government at the time of cancellation of Essentiality Certificates.

In the circumstances, the impugned order in proceedings No.6905/A5/Nsg/04 dated 31.03.2015 passed by the respondent University, and G.O.Ms.No.57, Health, Medical & Family Welfare (C2)

Department, dated 10.06.2015, are set aside, but, giving liberty to the respondent University to issue a fresh show cause notice with specific charges in respect of each college specifically alleging the grounds of irregularities and serve the same on the respective colleges within a period of fifteen days from the date of receipt of a copy of this order. It is open to the respective colleges to submit their explanation within a period of fifteen days from the date of receipt of the show cause notice, and, after receipt of explanation within the time specified, the respondent University shall consider the explanation with the available material on record and pass a final order in respect of each college within thirty days thereafter.

Independent of the above procedure, the first respondent shall issue appropriate show cause notice to the petitioner, who is running three colleges, if the first respondent wants to cancel the Essentiality Certificates, and give sufficient time to the petitioner for submitting its explanation. After considering the explanation, the first respondent shall take an independent decision by considering the explanation as well as the report of the University and pass appropriate orders thereon.

Both the Writ Petitions are allowed subject to the course of action indicated above. The *status quo* order granted by this Court on 07.05.2015 shall continue till the date of passing of final orders by the University and the Government. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

28.07.2015

Note: Issue C.C in one week.

B/o.

vs