

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.25381 of 2015

ORDER:

The prayer of the petitioners, an educational society and the institution run by it, is in the following terms:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble Court be pleased to issue writ order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the respondent No.5 in not declaring the results of the students of 1st year D.El.Ed. Course of the petitioner No.2 institution, who appeared for the examinations during the academic year 2013-3014 as being illegal, arbitrary, unconstitutional and detrimental to the fundamental rights of the students of the college and consequently direct the respondent No.5 to forthwith declare the results and issue certificates to the students of the petitioner No.2 institution and pass such other order or orders as this Hon’ble Court deem fit and proper in the interests of justice.”

It is not in dispute that the 2nd petitioner –college has the requisite recognition from the National Council for Teacher Education (NCTE). Insofar as the affiliation is concerned, it had affiliation from the State Council of Educational Research and Training, Andhra Pradesh, Hyderabad, for the academic year 2012-2013 and also for the academic year 2014-2015. It however had no affiliation for the academic year 2013-2014. Aggrieved by such denial of affiliation, the 2nd petitioner – college filed W.P.No.2432 of 2014, wherein interim order dated 18.06.2014 was granted by this Court directing the authorities to take into account and consideration the re-inspection report and pass appropriate orders on the renewal of affiliation within a time frame. Admittedly, this order has not been complied with.

However, without having the required affiliation, it appears that the 2nd

petitioner – college made spot admissions in violation of the prescribed procedure. The students so admitted were permitted to sit for the first year examination by virtue of the interim order granted by this Court to the 2nd petitioner – college in W.P.No.33024 of 2014 on 10.11.2014. By way of this writ petition, the petitioner – society and the educational institution run by it seek to assail the action of the Director of Government Examinations, State Council of Educational Research and Training, Andhra Pradesh, Hyderabad, the 5th respondent, in not declaring the results of the first year examination undertaken by such students.

It is now brought to the notice of this Court that the Director of Government Examinations, Andhra Pradesh, Hyderabad, issued proceedings dated 22.11.2015, whereby ratification of spot admissions made by the managements of as many as 111 private D.El.Ed. colleges was effected. This ratification was done by collecting a fine of Rs.2,000/- per each student so admitted from the management of the college concerned. No doubt, there is a distinction insofar as the 2nd petitioner – college is concerned when compared to the 111 colleges covered by the aforesaid proceedings as the 2nd petitioner – college did not have affiliation during the academic year 2013-2014 when the students in question were admitted.

However, it is the settled position of law that once the NCTE grants recognition, it is not open to the affiliating authority to refuse affiliation on any ground which falls within the domain of the NCTE. In the light of the law laid down by the Supreme Court in **State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya** and **Maa Vaishno Devi Mahila Mahavidyala v. State of Uttar Pradesh**, it is not open to the affiliating authority to look into the issue of infrastructure available in the college as this aspect would fall entirely within the domain of the NCTE under the National Council for Teacher Education Act, 1993. That being so, the refusal or affiliation by the 3rd respondent to the 2nd petitioner – college was itself without jurisdiction and despite the interim order granted by this Court to look into that aspect of the matter, no steps were taken. Thus, in a sense, the 2nd petitioner – college would also stand on par with the 111 colleges covered by the proceedings dated 22.11.2015 by the Director of Government Examinations,

Andhra Pradesh, Hyderabad.

In that view of the matter, the petitioners are permitted to make an application to the Director of Government Examinations, Hyderabad, the 5th respondent, pointing out the aforestated facts and claim parity with the 111 colleges covered by the proceedings dated 22.11.2015. Upon due consideration of the claim put forth by the petitioners, the Director of Government Examinations shall pass appropriate reasoned orders in the matter. This exercise shall be completed expeditiously and in any event not later than two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date:02.12.2015

Note: Furnish C.C. in two days.

(B/o)

GJ