

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL Nos. 797, 801, 802 AND 803 OF 2015

24-08-2015

WRIT APPEAL No. 797 of 2015

Between:

Nibetita Pradhan and others

... Appellants

And

The State of Andhra Pradesh, rep., by its Principal Secretary, School
Education Department, Secretariat, Hyderabad and others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
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WRIT APPEAL Nos. 797, 801, 802 AND 803 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard Sri A. Satya Prasad, learned Senior Counsel for the appellants; learned Government Pleader for Higher Education for respondent No.1 and learned Standing Counsel for respondent Nos.2 and 3.

These writ appeals are directed against the order dated 21-08-2015 passed in Writ Petition No.25947 of 2015 and connected petitions, whereby writ petitions have been dismissed. The appellants had filed writ petitions seeking direction to respondent Nos.2 and 3 to issue hall tickets and allow them to appear for B.Ed annual examinations.

It is not in dispute that all the appellants were admitted in the respective colleges of education for the academic year 2014-2015 beyond the permitted intake. All the colleges were granted approval by the National Council for Teacher Education (for short 'NCTE') and affiliation by Nagarjuna University permitting the colleges to admit 100 students in each of the institutions. Contrary to the strength sanctioned by authorities, every single college admitted 40 to 50 students over and above the intake and that seems to be the reason why examination hall tickets were refused by the university to the appellant – students.

The learned single Judge having placed reliance upon the judgments of the Supreme Court in ***Vishnu Traders v. State of Haryana***^[1] and ***State of Uttar Pradesh v. Hirendra Pal Singh***^[2] and an order of this Court dated 23-07-2015 in Writ Appeal No.462 of 2015 and batch, dismissed the writ petitions.

Apart from the judgments of the Supreme Court, we have perused the order passed by this Bench dated 23-07-2015, in particular, the following paragraph thereof, which reads thus:

“In **Adarsh Shiksha Mahavidyalaya and Others** **vs. Subhash Rahandgale and Others**^[3], the Supreme Court, in the concluding paragraph, made certain observations. For our purpose, the following observations made in sub-paragraphs (xii) and (xviii) of paragraph-87, are relevant, which read thus:

“(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.

(xviii) In future, the High Courts shall not entertain prayer for interim relief by unrecognized 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 recognized institutions if they admit students otherwise than in accordance with the procedure contained in Appendix-1 of the Regulations.”

(emphasis supplied)

Similarly, in **Maa Vaishno Devi Mahila Mahavidyalaya vs. State of Uttar Pradesh & others**^[4], the Supreme Court in paragraphs 87.3 and 87.4, made the following observations, which are relevant for our purpose:

87.3 The recognition and affiliation granted as per the above Schedule shall be applicable for the current academic year. For example, recognition granted upto 3.3.2013 and affiliation granted upto 10.5.2013 shall be effective for the academic year 2013-2014, i.e., the courses starting from 1-4-2013. For the academic year 2013-14, no recognition shall be issued after 3-3-2013 and no affiliation shall be granted after 10-5-2013, Any affiliation

or recognition granted after the above cut off dates shall only be valid for the academic year 2014-2015.

87.4 We make it clear that no Authority/person/Council /Committee shall be entitled to vary the Schedule for any reason whatsoever. Any non-compliance shall amount to violating the orders of the Court.

Our attention was also invited to the judgment of the Supreme Court in **N.M. Nageshwaramma & others vs State Of Andhra Pradesh and another**^[5], wherein, almost, similar submissions were advanced. The Supreme Court dealt with those submissions in the following manner:

“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 Article 32 of the Constitution or Article 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.”

Sri A. Satya Prasad, learned Senior Counsel appearing for the appellants invited our attention to two orders passed by a learned single Judge in WPMP No. 34030 of 2015 in Writ Petition No. 26192 of 2015 and in WPMP No. 31948 of 2015 in Writ Petition No. 24602 of 2015 and contended that in case of similarly placed students, learned single Judge passed an interim order and allowed them to appear for examinations subject to outcome of those petitions and in view thereof, learned single Judge to maintain consistency ought to have passed similar order in these writ petitions as well.

We are unable to accept the submission of the learned Senior Counsel for the appellants for more than one reason. In those two writ petitions, the learned single Judge simply passed interim orders and did not dispose of the writ petitions on merits. Whereas, by the impugned order in these proceedings, another learned single Judge disposed of all the writ petitions on merits. More over, learned Senior Counsel appearing for the appellants did not appear in the other two writ petitions and, therefore, we are unable to accept his submission that the facts of these cases are similar. As a matter of fact, learned Standing Counsel appearing for the respondent/University contends that the facts in these appeals and the facts in those writ petitions are not similar and no parallel can be drawn. It is further urged that interim order cannot be treated as a binding precedent, without repetition or much debate. We express our agreement with the reasoning of learned Single Judge and the contention raised by the respondent/University. In the circumstances, we do not find any reason to interfere with the order passed by learned single Judge in view of the admitted fact that admission of the appellants was not approved by the respondent – University.

The appeals are dismissed.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

24-08-2015

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[\[1\]](#) 1995 Supp (1) SCC 461

[\[2\]](#) (2011) 5 SCC 305

[\[3\]](#) (2012) 2 Supreme Court Cases 425

[\[4\]](#) (2013) 2 Supreme Court Cases 617

[\[5\]](#) AIR 1986 SC 1188