

CWP Nos.12478 & 12482 of 2015 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

(1) **CWP No.12478 of 2015 (O&M)**  
**Date of decision:03.08.2015**

Hakeem Harbans Singh New Era College of Education ...Petitioner

Versus

State of Haryana and others ...Respondents

(2) **CWP No.12482 of 2015 (O&M)**  
**Date of decision:03.08.2015**

Guru Har Krishan College of Education ...Petitioner

Versus

State of Haryana and others ...Respondents

**CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain**

Present: Mr. Rahul Sharma-I, Advocate,  
for the petitioner(s).

Mr. D.K.Mittal, DAG, Haryana.

Ms. Avnika Gupta, Advocate, for  
Mr. Vinod S. Bhardwaj, Advocate, for respondent no.4/NCTE.

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**Rakesh Kumar Jain, J.**

This order shall dispose of two petitions bearing CWP Nos.12478 and 12482 of 2015 as both are inter-connected. However, for the sake of convenience, the facts are being extracted from CWP No.12478 of 2015.

The petitioner has challenged validity of the letter dated 09.06.2015 (Annexure P-5) by which it has been informed that the State

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Government has decided not to recommend any fresh opening/recognition or increase in intake capacity of any D.Ed. institute in the State of Haryana for the years 2013-14, 2014-15, 2015-16 and 2016-17.

The petitioner is a Sikh Minority institution. It is alleged that the National Council for Teacher Education (hereinafter referred to as the “NCTE”) invited applications vide public notice dated 26.11.2012 for recognition of teacher education courses, including additional intake/increase in seats of the existing recognized institutes for the academic session 2014-15, specifically laying down the restrictions upon various States/UTs and the courses. However, it did not include the State of Haryana and announced categorically that the restriction would not apply in case of minority educational institutions established under Article 30 of the Constitution of India. The NCTE issued a public notice imposing a ban for recognition of the D.El.Ed course in the State of Haryana for the academic session 2016-17 with a specific stipulation that the said ban/restriction will not apply to the case of the minority educational institutions.

The petitioner is alleged to have applied for recognition of an additional intake of 50 students for imparting teacher education i.e. D.El.Ed. course. The NCTE, in its 233<sup>rd</sup> meeting held on 18.02.2015, decided that the applications received from the minority institutions of the State of Haryana, which were under process, be processed further for grant of recognition for B.Ed. and D.El.Ed. courses and accordingly, the NCTE passed an order of recognition on 03.03.2015 in respect of the petitioner(s) in both the cases, the relevant portion of which is as under:-

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“3. NOW, THEREFORE, in exercise of the powers vested under Section 14(3)(a)/15(3)(a) of the NCTE Act, 1993, the Northern Regional Committee hereby grants recognition to the following Institutions for conducting Teacher Education Course with an annual intake mentioned against their names from the academic session 2015-2016 under clause 7(16) of NCTE (Recognition Norms & Procedure) Regulations, 2014, subject to fulfillment of the conditions mentioned below:-

| S. No. | File No.        | Name of the Institution                                                                                                                                                               | Course   | Duration | App-<br>roved<br>annual<br>intake      | Name of the<br>Affiliating Body                                                                                          |
|--------|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| 1      | NRCAPP<br>-2858 | Guru Har Krishan College of Education, Plot No.-23, Street No.-Indri Road, Village-Raitkhana, Post Office-Udana, Tehsil/Taluka-Indri, Town/City-Karnal, Distt. Karnal-132117, Haryana | D.El.Ed. | 2 years  | 50<br>(1<br>units)<br>(add.<br>Intake) | State Council of Education research and Training (SCERT), Opposite Panchayat Bhawan, Sohna Road, Gurgaon-122011, Haryana |
| 2      | NRCAPP<br>-7020 | Hakeem Harbans Singh New Era College of Education, Plot Number-3/1, 23, Khasara No.-207, Village-Sant Nagar, Post Office-Sant Nagar, Tehsil/Taluka-Rania, Dist.-Sirsa,HR-125075       | D.El.Ed. | 2 years  | 50<br>(1<br>units)<br>(add.<br>Intake) | State Council of Education research and Training (SCERT), Opposite Panchayat Bhawan, Sohna Road, Gurgaon-122011, Haryana |

The petitioner is aggrieved that the respondent-State has imposed a ban on the fresh opening/recognition or increase in intake capacity of D.Ed. course for the relevant sessions, whereas the recommendation of the State of Haryana has already been considered and ignored by the Northern Regional Committee of the NCTE in its 238<sup>th</sup>

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meeting held between 20-31 May, 2015, the relevant portion of which is as under:-

**“Agenda Item No.238.3: Consideration of cases from Haryana for D.El.Ed. course**

The matter regarding processing of applications from the State of Haryana for grant of recognition/permission for the academic session 2015-16 was considered by the Northern Regional Committee. The Committee decided that the letter dated 04.05.2015 sent by Director Secondary Education, Haryana, Panchkula, has been received very late and several cases from Haryana have already been dealt with on the basis of letter received on 16.01.2015. This letter should therefore be ignored. Every Government is expected to decide its policy in advance for the following academic year as it creates discrimination if the policy changes take place frequently. Based on this letter, the processing of pending applications for 2015-16 cannot be stopped midway. The State Govt. should have communicated its decision well in time and only once for a particular year.

In view of this, the Committee decided that all the applications from the State of Haryana for D.El.Ed. course be processed as per the earlier letter dated 16.01.2015. The Committee also decided that the applications submitted by the institutions with court order only and pertaining to D.El.Ed. course be processed. The same line of action should be taken for other states which should be advised that their policy for a particular year should be conveyed to the NRC well in advance. Any policy change midway will not be

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considered.”

Counsel for the petitioner has submitted that the issue involved in this case is no more *res integra* as it has already been decided by the Supreme Court in the case of **State of Maharashtra vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others**, (2006) 9 Supreme Court Cases 1.

On the other hand, counsel for the respondent-State has argued that it is the prerogative of the State to impose a restriction regarding fresh opening/recognition or increase in intake capacity of the D.El.Ed. institutions in the State because it has been assigned an important task of development and improvement of teacher's education and is, thus, vitally interested in education, especially in professional courses. It is further submitted that the State Government is to assess and appreciate the extent of requirement of trained manpower and supply of trained teachers keeping in view the requirements, change of occupation and demand of such teachers.

In support of his submissions, he has relied upon a decision of the Supreme Court in the case of **T.M.A. Pai Foundation & Ors. Etc. Etc. vs. State of Karnataka & Ors. Etc. Etc.**, 2003(1) S.C.T. 236 and has contended that the increase in intake capacity of the students can be considered when there is a need of the minority institution to admit minority students and until and unless the said data is provided by the petitioner-institute, permission for increase in intake capacity cannot be granted.

I have heard learned counsel for the parties and examined the available record.

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The issue involved in this case is as to whether the State Government can restrict the opening of fresh institutions imparting D.El.Ed. course or grant of recognition or increase in intake capacity of such existing institutions, which are otherwise also established as the minority institutions, despite the fact that the NCTE has already taken a decision in favour of the institutions?

The answer to this question is not far fetched to reach because a similar question was involved in **State of Maharashtra's case (supra)**, in which the State of Maharashtra had taken a policy decision not to grant NOC to any institution for starting new B.Ed. college. A decision was also taken to bring it to the notice of the NCTE that there is no need for new B.Ed. trained manpower and hence, the NCTE should not directly consider any application for grant of permission to start B.Ed. college. In the present case as well, the impugned letter/order suggests that recommendations have been made by the State Government to the NCTE not to allow opening of fresh D.El.Ed. institute or increase in the intake capacity of such existing institutions because of the reason that the State does not require such trained manpower because of lack of employment.

In the cited case, the NCTE took the decision to grant permission, as has been shown in the present case as well when this aspect was discussed by the Northern Regional Committee of the NCTE in its 238<sup>th</sup> meeting held between 20-31 May, 2015, on the ground that the State has been late, whereas several cases have already been dealt with and hence, the letter of the State dated 04.05.2015 has to be ignored. In the cited case, the

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High Court held that the NCTE is the appropriate authority to take a decision for the opening of new colleges and the State of Government or the University cannot act contrary to the decision of the NCTE. It was also observed that the contention of the State Government is only to supply data and material to the NCTE to enable it to take a decision, but the State had no power to decide, by way of a policy decision, not to grant permission to open new B.Ed. college for a particular period. It was finally concluded that the ultimate authority lies with the NCTE and it cannot be deprived off to take appropriate decision under the National Council for Teacher Education Act, 1993 irrespective of absence of no-objection certificate by the State Government/Union Territory. It was held that absence or non-production of NOC by the institution, therefore, was immaterial and irrelevant so far as the power of NCTE is concerned.

Learned counsel for the respondents has also failed to argue on the issue of the right of the minority institution which has been highlighted by the petitioner while submitting that even in the public notice issued on 26.11.2012, no restriction was imposed by the NCTE in case of minority educational institutions.

Thus, in view of the aforesaid discussion, both the writ petitions are hereby allowed and the letters/orders dated 09.06.2015/12.05.2015, affecting rights of the petitioner(s) in both the cases, are hereby declared as illegal and set aside.

August 03, 2015  
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**(Rakesh Kumar Jain)**  
**Judge**