

CWP No.12504 of 2015

[1]

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

**CWP No.12504 of 2015
Date of decision:10.07.2015**

Shiva Education Society, Kassan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. J.P.Dhull, Advocate,
for the petitioner.

Mr. RKS Brar, Addl. A.G., Haryana.

Mr. D.K.Khanna, Advocate,
for respondents No.3 and 4.

Rakesh Kumar Jain, J.

The petitioner-society is running a college in the name of Shiv Shankar College of Education, VPO Jakholi, Tehsil and District Kaithal. On 20.08.2008, the Northern Regional Committee of the National Council for Teacher Education, exercising its powers under Section 14(3)(a) of the National Council for Teacher Education Act, 1993 (hereinafter referred to as the "Act"), granted recognition/permission to the college of the Society for conducting D.Ed. course of elementary level of two year duration with an annual intake of 50 students from the academic session 2008-2009 under Clause 7(11) of the NCTE Regulation, 2007 (hereinafter referred to as

CWP No.12504 of 2015

[2]

“Regulation”), notified on 10.12.2007, subject to certain conditions.

According to the petitioner, it received a show cause notice issued by respondent No.3 on 11.03.2014 regarding withdrawal of affiliation, in which it was mentioned that the institute of the society was inspected on 29.01.2014 by the committee constituted by the Haryana School Education Board, Bhiwani (hereinafter referred to as the “Board”) , during which it was found that 28 out of 48 students and 30 out of 50 students were present for the 1st semester and 3rd semester respectively, from which it transpired that admissions have been given by the society to the non-attending students and it has, thus, violated Rule 8(b) of the Affiliation Rules. The petitioner was asked to reply to the show cause notice within 15 days as to why its affiliation be not withdrawn. The petitioner submitted its reply dated 21.03.2014 to respondent No.3 in which it was averred that since final practical exams were going on w.e.f. 27th & 28th January and 1st February, therefore, the students were busy in its preparation and the final Board Examination for the 1st semester and 3rd semester were fixed in February 2014, as such, some students were on leave for the preparation of examinations. Respondent No.3, vide its letter dated 10.12.2014, informed the petitioner that after the inspection on 29.01.2014, another inspection was carried out on 08.07.2014 but this time also, the same situation was found and as a result thereof, the affiliation of the college of the society was suspended for one year for the first semester for the year 2015. The petitioner was also informed that the students for the 1st semester in the year 2015 should not be given admission in the college.

CWP No.12504 of 2015

[3]

The petitioner wrote a letter to respondent No.3, which is available as Annexure P-7 on record, in which the petitioner requested that they may be granted affiliation to re-start the college as they would not repeat such mistakes in future and prayed that some lesser penalty may be imposed. However, the said representation made by the petitioner was rejected on 20.03.2015 and order was conveyed to the petitioner by respondent No.3 on 29.05.2015.

Counsel for the petitioner has submitted that though the show cause notice was given by respondent No.3 regarding inspection dated 29.01.2014, to which the petitioner had also filed reply, but no show cause notice was given in regard to the second inspection dated 08.07.2014, therefore, respondent No.3 has violated the principle of natural justice. It is also submitted that the petitioner has been discriminated by respondent No.3 as in case of some other institutes, the respondents had imposed penalty of ₹1,00,000/- instead of suspending the affiliation for one year.

After notice, reply has been filed on behalf of respondents No.3 and 4 in which it is averred that the Chairman of respondent No.3-Board had received a complaint dated 29.08.2013 from the student, namely, Priya Sharma on e-mail about the undesirable activities committed by the College. The matter was referred to the monitoring and vigilance cell of the Board who, after examining the complaint, suggested that the complaint may be got inquired through the committee of the Board. Accordingly, the Board constituted the committee consisting of Shri Dhanpat Singh, Assistant Secretary, Sh. Rajpal Singh Gulia and Principal DIET, Kaithal (a Govt.

CWP No.12504 of 2015

[4]

Institution outside the purview of the Board). The said Committee inspected the college on 29.01.2014 and submitted its report, as per which the Shiv Shankar College of Education was found functioning in the Adarsh Senior Secondary School and was not having its own building. The total students in the 1st semester present at that time were 28 out of 48 and in the 3rd semester, there were 30 students out of 50. On the basis thereof, the committee recommended for action against the petitioner-college. Respondent No.3, before taking any action, issued show cause notice in terms of Regulation 8(b) of the affiliation regulations, to which reply was filed by the petitioner. The Board still thought of having another inspection to ascertain the factual position and constituted a new committee of 3 members consisting of Sh. Balwan Singh Panwar, Assistant Secretary, Sh. Mool Chand, Superintendent and Principal DIET, Birhi Kalan, who inspected the college on 08.07.2014 and submitted its report dated 05.08.2014, as per which the same irregularities were found, which were found by the earlier committee on 29.01.2014. After having been doubly sure about the irregularities committed by the petitioner-college, in violation of the Rules and Regulations, respondent No.3-Board approved the action on 26.11.2014 of suspension of the affiliation of the petitioner-college for a period of one year. The respondent-Board has further averred that the order under Regulation 8(b) of the Affiliation Regulation is appealable under Clause 10, but no such appeal has been filed by the petitioner who has straightway filed the present writ petition against the order of the Board, which is not maintainable. It is further submitted that the petitioner could

CWP No.12504 of 2015

[5]

not have been visited with lesser penalty as the order of suspension of affiliation for one year was passed on 10.12.2014 and at that time, there was no provision in the Regulation to impose lesser penalty, which came into being on 13.01.2015 and could not have been applied retrospectively.

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

The very fact that the petitioner itself had represented to respondent no.3, admitting its mistake vide Annexure P-7 and requested for lesser penalty, duly proved the case of respondent No.3 about the irregularities having been committed by the petitioner-college who could not be allowed to take the plea that opportunity of hearing was not granted, which in fact was granted when the show cause notice was issued by respondent No.3 to the petitioner and in order to ascertain the true facts, respondent No.3 had even constituted the second committee of 3 different members who also reported about the irregularities committed by the petitioner. Thus, the argument raised by the petitioner that respondent No.3 has violated the principle of natural justice as no show cause notice was given in respect of the second inspection is without any basis and cannot be accepted.

As regards the imposition of lesser penalty, respondent No.3 has rightly stated that the order of penalty of suspension of affiliation for one year was passed on 10.12.2014, whereas the provisions for imposition of penalty came into existence on 13.01.2015, which could not have been applied retrospectively. The petitioner cannot take the advantage of the

CWP No.12504 of 2015

[6]

order passed in case of another institute, which has been attached as Annexure P-9, to plead discrimination and violation of Article 14 of the Constitution of India.

In view of the aforesaid discussion, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

July 10, 2015
vinod*

(Rakesh Kumar Jain)
Judge