

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 18th August, 2015

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W.P.(C) No. 7497/2015

SAINATH COLLEGE OF EDUCATION

..... Petitioner

Through: Mr. Sanjay Sharawat, Adv.

versus

**NATIONAL COUNCIL FOR TEACHER EDUCATION
AND ORS**

..... Respondents

Through: Mr. Gautam Narayan, ASC (GNCTD)
for R-2.

Ms. Latika Chaudhary for Ms. Avnish
Ahlawat, Adv. for R-3.

AND

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W.P.(C) No. 7508/2015

OJAS COLLEGE OF EDUCATION

..... Petitioner

Through: Mr. Sanjay Sharawat, Adv.

versus

**NATIONAL COUNCIL FOR TEACHER EDUCATION
AND ORS**

..... Respondents

Through: Mr. Gautam Narayan, ASC (GNCTD)
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Ms. Latika Chaudhary for Ms. Avnish
Ahlawat, Adv. for R-3.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. The grievance of the petitioner Institutes in both the petitions is that though they applied well within time for grant of recognition for commencing imparting education in D.El.Ed. course / programme in the

year 2015-16 but the respondent no.1 National Council for Teacher Education (NCTE) caused delay at each and every stage and now has finally taken a decision taken in the meeting held from 20th to 22nd July, 2015 though held the petitioner Institutes entitled to recognition but owing to the last date prescribed by the Supreme Court of 3rd March extended in this year till 31st May, 2015 in *Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P* (2013) 2 SCC 617 for grant of recognition having expired, have granted recognition to the petitioner Institutes not from the Academic Session 2015-16 but w.e.f. the Academic Session 2016-17.

2. These petitions have been filed seeking directions, (i) for an inquiry against the Chairperson, Member Secretary and Regional Director of the respondent no.1 NCTE as well as against the Director of the respondent no.3 State Council of Educational Research & Training (SCERT) in terms of paras 87.4 and 91.2 of *Maa Vaishno Devi Mahila Mahavidyalaya* supra; (ii) for grant of recognition to the petitioner Institutes for the Academic Session 2015-16 instead of Academic Session 2016-17; (iii) to the respondent no.3 SCERT to grant affiliation to the petitioner Institutes for D.El.Ed. course for Academic Session 2015-16; and, (iv) to the respondent no.3 SCERT to include the name of the petitioner Institutes in the

counselling and to permit the petitioner Institutes to admit students to the Academic Session 2015-16 in the D.El.Ed. course.

3. The petitions came up first before this Court on 7th August, 2015 when notice thereof was issued.

4. Though no replies have been filed by either of the respondents but the counsel for the respondent no.1 NCTE states that the NCTE has no objection to conducting an inquiry into the allegations of delays and the same will be done.

5. The counsel for the petitioner Institutes, the counsel for the respondent no.1 NCTE and the counsel for the respondent no.3 SCERT have been heard.

6. The counsel for the petitioner Institutes states that the respondent no.2 Government of National Capital Territory of Delhi (GNCTD) would have no role in the facts of these cases.

7. I have enquired from the counsels as to which authority would be the appropriate authority to conduct the inquiry.

8. The counsel for the petitioner Institutes and the counsel for the respondent no.1 NCTE state that the inquiry into the allegations against the

officials of the respondent no.1 NCTE would have to be conducted by the Ministry of Human Resource Development (MHRD), Government of India. The counsel for the petitioner Institutes states that the inquiry vis-a-vis respondent no.3 SCERT would have to be conducted by the respondent no.2 GNCTD.

9. Accordingly, a direction is issued to the Secretary, MHRD and to the Secretary of the GNCTD to conduct an inquiry into the allegations made in these petitions of delays caused by the respondents no.1 NCTE and respondent no.3 SCERT respectively in the matter of evaluating the applications of the petitioner Institutes for grant of recognition for imparting education in D.El.Ed. course. A copy of this order be served by the counsel for the respondent no.1 NCTE on the Secretary, MHRD. The counsel for the respondent no.2 GNCTD to ensure compliance of the order.

10. The petitioner Institutes, if so desire, would be at liberty to within 15 days hereof make a representation with further particulars to the authorities aforesaid entrusted with the enquiry, detailing the delays at each and every stage and the violation if any of the schedule laid down in *Maa Vaishno Devi Mahila Mahavidyalaya* supra.

11. This Court is inundated with petitions in such matters. The authorities entrusted with the inquiry to also attempt to identify the causes of the delay if any in dealing with the applications and to issue necessary directions to alleviate the same in future years so that the applications for recognition for all programmes of the respondent no.1 NCTE are considered in a time bound manner and outcome thereof is announced with sufficient time available to the aggrieved applicants to avail remedies thereagainst.

12. The counsel for the petitioners with respect to the other relief claimed, of grant of recognition for the current academic year, has contended that:-

- (i) the scheduled laid down in *Maa Vaishno Devi Mahila Mahavidyalaya* is only of the time to be followed for grant of recognition and grant of affiliation and no time has been fixed for the commencement of the academic session or for counselling or for admission as has been done in the case of Medical Council of India, Dental Council of India, All India Council For Technical Education etc. Thus, once it is found that the respondent no.1 NCTE and the respondent no.3 SCERT are to blame for the delays, there is no impediment to the Court

granting recognition / affiliation beyond the stipulated date as long as the last date prescribed for admission has not lapsed;

- (ii) attention in this regard is invited to the Note under the Schedule for Admission to D.El.Ed. course in the Prospectus published by the respondent no.3 SCERT and which is as under:-

“Note:

In case of availability of vacant seats after 3rd list of admission in Self Financing (Pvt.) Recognized Institute Affiliated to SCERT, next wait list in rank-wise, category-wise, for admission, will be declared and uploaded on the website on the notified dates to be announced on 25.08.2015. For updated details please see SCERT website regularly i.e. www.scertdelhiadmission.org Regarding final closure of admission, date will be notified on the website www.scertdelhiadmission.org as per the status/situation of vacancy. After notified date of closure of admission, all admissions shall be summarily closed even if any seats are vacant, keeping in view the compulsory number of working days (200 days) prescribed in NCTE Act/Regulation.

Candidates are advised to continuously check website www.scertdelhiadmission.org getting current information till completion of admission process.”

On the basis thereof it is contended that counselling is still underway and this Court can direct the respondent no.1 and the

respondent no.3 NCTE & SCERT to grant recognition and affiliation for the current academic year (it is pointed out that the respondent no.3 SCERT has already approved list of faculty of both the petitioner Institutes) and permit the petitioner Institutes to admit students;

(iii) that some other institutions similarly situated as the petitioner Institutes had directly filed the petitions in the Supreme Court in this regard but the said petitions were disposed of directing the High Court to be approached; it thus follows that the Supreme Court did not find any impediment to the High Courts directing recognition and affiliation beyond the dates prescribed in *Maa Vaishno Devi Mahila Mahavidyalaya*;

(iv) that some of the other High Courts also have granted recognitions after the prescribed date. Reliance in this regard is placed on *Joseph Sriharsha Mary Indraja Educational Society Vs. The National Council for Teacher Education* MANU/AP/3415/2013 and the SLP No.27026/2014 arising wherefrom was disposed of on 26th September, 2014;

- (v) that approximately 24000 students had sought admission to the D.El.Ed. course in the institutes in Delhi from the respondent no.3 SCERT and the seats available in the D.El.Ed. course are only 2140; there is no justification for refusing so many students admission when the petitioner Institutes have been found entitled thereto and have been denied recognition for the current academic year only for the reason of the date having lapsed; and,
- (vi) that the petitioner Institutes would suffer financial burden of keeping the infrastructure and faculty ready for the Academic Session 2016-17 and ought to be allowed to admit students.

13. The counsel for the respondent no.3 SCERT has invited attention to the Schedule for Admission in the Prospectus aforesaid which prescribes the date, (i) from 29th June, 2015 to 14th July, 2015 for making applications for admission; (ii) of 29th June, 2015 for declaration of the 1st list of candidates for admission; (iii) of 6th August, 2015 for declaration of 2nd list of candidates for admission; (iv) of 14th August, 2015 for declaration of the 3rd list of candidates for admission; and, (v) of 3rd August, 2015 for commencement of the Academic Session 2015-16. It is further contended

that the date of 25th August, 2015 for declaring the next waiting list for admission is only for the vacant seats available after the 3rd list of admission and not for fresh admissions. It is thus contended that the reliance by the petitioner Institutes on the said date is misconceived. She has further stated that the Andhra Pradesh High Court in the judgment relied upon by the counsel for the petitioner Institutes granted the order because the counselling had not started till then. (I may in this regard notice that the Supreme Court disposed of the SLP supra observing that the impugned order had only directed consideration by the respondents and which consideration was accepted to be in accordance with law and thus no interference was called for).

14. I have considered the aforesaid contentions.

15. Admittedly, after the grant of recognition, the petitioner Institutes are required to obtain affiliation from the respondent no.3 SCERT and which the petitioner Institutes till date do not have. I have enquired the procedure entailed in the grant of affiliation. The counsel for the petitioner Institutes states that no procedure in this regard has been prescribed. He has however contended that the inspection, if any, required by the respondent no.3 SCERT is a matter of one day only.

16. The counsel for the respondent no.3 SCERT states that she has no instructions in this regard.

17. Though the schedule laid down in *Maa Vaishno Devi Mahila Mahavidyalaya* supra undoubtedly does not give the final date for admission or for commencement of the academic session after prescribing 10th May of each year as the final date for grant of affiliation for the relevant academic year but the context in which the said schedule came to be prescribed was the delay in commencement of the academic year owing to the delays in grant of recognition and affiliation. Thus, merely because the Supreme Court has not prescribed the dates for admission or the dates for commencement of the academic session would not be a ground for this Court to pass an order which would have the effect of delaying the academic session which has already commenced on 3rd August, 2015.

18. There is thus no merit in the argument of the counsel for the petitioner Institutes on the basis of the Note aforesaid appended to the Schedule for Admission prescribed by the respondent no.3 SCERT, which the counsel for the respondent no.3 SCERT rightly pointed out is only with respect to the vacant seats. Else, by the time the petitioner Institutes came before this

Court, the academic session as aforesaid had already commenced on 3rd August, 2015.

19. It has been repeatedly held by the Courts, as noticed by the Division Bench of this Court in *Rajeev Kumar Vs. Union of India* MANU/DE/1752/2014 that merely because seats are remaining vacant is no ground to indefinitely delay the commencement of the academic session and to hold repeated rounds of counseling and make mid-term admissions. Thus on the basis of the said argument also this Court cannot direct admission at this stage.

20. Owing to the urgency expressed, the petitions are being disposed of without awaiting the counter affidavits. At this stage, it cannot also conclusively be said whether there were any delays on the part of the respondent no.1 NCTE and respondent no.3 SCERT and/or whether the delays even if any, are attributable solely to the said Bodies. Without a conclusive finding on the said aspect being reached and for which as aforesaid an inquiry has been ordered, it would not be appropriate to on mere allegation of delay grant recognition and affiliation or order grant thereof after the stipulated date. The petitioner Institutes are thus not entitled

to the relief claimed of recognition and affiliation for the current academic year.

21. These petitions are disposed of with the hope that the respondent no.1 NCTE and the respondent no.3 SCERT in the ensuing years will act within the confines of the schedule laid down by the Supreme Court and give ample time to the aggrieved applicants to avail of the remedies available in law.

22. The inquiries ordered above be completed on or before 31st January, 2016 and copies of reports thereof be furnished to the counsel of the petitioners.

No costs.

Copy of this order be given *dasti* under signature of Court Master.

RAJIV SAHAI ENDLAW, J.

AUGUST 18, 2015

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