

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016

(Orders reserved on 24.08.2016)

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Contempt Petition No.1497 of 2016 and Sub.A.(OS).243 of 2016
and
W.P.No.23770 of 2016 and W.M.P.Nos.20358 to 20360 of 2016

Rosammal Memorial Minority
College of Education (Women),
Rep. by its Correspondent A.A.J.Ashokar,
85/2C, Poopalarayerpuram,
Tuticorin-628 001.

.. Petitioner in Cont.P.1497 of 2016 and
W.P.No.23770 of 2016

Vs.

Dr.S.Kalaichelvan,
Registrar,
Tamil Nadu Teachers Education University,
Gangaiamman Koil Street,
Karapakkam,
Chennai-600 0097.

.. Respondent in Cont.P.No.1497 of 2016

Tamil Nadu Teachers Education University,
Rep. by its Registrar,
Gangaiamman Koil Street,
Karapakkam,
Chennai-600 0097.

.. Respondent in W.P.No.23770 of 2016

Contempt Petition filed under Section 11 of the
Contempt of Courts Act, to punish the respondent for
disobedience of the order dated 04.02.2016 in W.P.No.4232
of 2016.

Writ Petition filed under Article 226 of the
Constitution of India, praying for issuance of Writ of
Certiorari and Mandamus after calling for the records from
the respondent relating to the proceedings dated 24.06.2016

bearing Reference No.TNTEU/R/CC/2016/913 asking the petitioner once again to obtain recognition from the National Council for Teacher Education (NCTE) as per "New National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014, quash the same and consequently direct the respondent to process the petitioner's application dated 08.08.2014, grant affiliation for the B.Ed. Course to the petitioner-institution based on the recognition already granted by NCTE on 03.03.2014, pursuant to the judgment of this Court, dated 13.12.2013 in Writ Appeal No.1138 of 2012.

For Petitioner in both Cont.P. and W.P : Mr.N.G.R.Prasad
for M/s.Row and Reddy

For Respondent: Mr.K.Venkatramani, Addl. Advocate General-VII, for Mr.U.Venkatesan

COMMON ORDER

Since the issue involved in the Contempt Petition and the Writ Petition, is inter-related to each other, they are disposed of by this common order.

2. Contempt Petition No.1497 of 2016 is filed by the petitioner-institution to punish the respondent for disobedience of the order of this Court, dated 04.02.2016 in W.P.No.4232 of 2016.

3. Writ Petition No.23770 of 2016 is filed for issuance of Writ of Certiorarified Mandamus after calling for the records from the respondent relating to the proceedings dated 24.06.2016 bearing Reference No.TNTEU/R/CC/2016/913 asking the petitioner once again to

<https://hcservices.ecourts.gov.in/hcservices> obtain recognition from the National Council for Teacher Education (NCTE) as per "New National Council for Teacher

Education (Recognition Norms and Procedure) Regulations, 2014, quash the same and consequently direct the respondent to process the petitioner's application dated 08.08.2014, grant affiliation for the B.Ed. Course to the petitioner-institution based on the recognition already granted by NCTE on 03.03.2014, pursuant to the judgment of this Court, dated 13.12.2013 in Writ Appeal No.1138 of 2012.

4. Brief facts which are necessary to dispose of both the petitions are as follows:

(a) The petitioner-institution is running Diploma in Teacher Training Course for women since 1983 and has been granted permanent recognition for imparting the said Course.

(b) While so, the petitioner-institution sought recognition to start one year B.Ed. Course for the Academic Year 2012-13 from the NCTE, but the NCTE rejected the request of the petitioner-institution. Challenging the same, the petitioner-institution filed W.P.No.20419 of 2011, which was dismissed on 04.06.2012, against which, W.A.No.1138 of 2012 was filed and by judgment dated 13.12.2013, a Division Bench of this Court set aside the order of dismissal passed by the learned single Judge in the said W.P.No.20419 of 2011 and directed the NCTE to consider and pass orders on the application of the petitioner-institution within a period of two weeks from the date of receipt of a copy of the judgment for the purpose of grant of recognition to the petitioner-institution for starting B.Ed. one year course from the

academic year 2014-2015.

(c) Pursuant to the said judgment of the Division Bench, the NCTE granted recognition to the petitioner-institution on 03.03.2014 for imparting B.Ed. course with annual intake of 100 students. One of the condition stipulated therein is that the petitioner-institution should get affiliation from the examining body for making admission to the course. Hence, the petitioner-institution submitted application dated 08.08.2014 to the respondent-Tamil Nadu Teachers Education University (examining body), seeking affiliation. Though the respondent-University received such application way back even on 08.08.2014 itself, they had not processed the petitioner's application for affiliation.

(d) Hence, the petitioner-institution filed W.P.No.4232 of 2016 and this Court, by order dated 04.02.2016, directed the respondent-University to consider the representation/application of the petitioner, dated 08.08.2014 seeking affiliation to their college, by affording an opportunity of personal hearing to the petitioner-institution and pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of the order. Since the said order dated 04.02.2016 passed in W.P.No.4232 of 2016 had not been complied with, the present Contempt Petition in Cont.P.No.1497 of 2016 has been filed by the petitioner-institution.

(e) When the Contempt Petition came up for hearing on 08.06.2016, the respondent-University took two weeks' time to ascertain the position as on the said date. On 22.06.2016, when the Contempt Petition came up for hearing, again it was adjourned to 27.06.2016 for respondent-University's reply. When the Contempt Petition was taken up for hearing on 29.06.2016, the learned counsel for the respondent-University produced a copy of the letter dated 24.06.2016 of the respondent-University addressed to the Correspondent of the petitioner-institution, in which, the Correspondent was requested to submit fresh application under new Regulations 2014 of the NCTE (National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014) (which came into effect from 01.12.2014), with all necessary enclosures and fee for further process. Challenging the said letter dated 24.06.2016 of the respondent-University, the present Writ Petition in W.P.No.23770 of 2016 is filed by the petitioner-institution for the relief stated supra.

5. Learned counsel for the petitioner-institution submitted that pursuant to the direction given by this Court in W.A.No.1138 of 2012, the NCTE has already given recognition on 03.03.2014 on condition that the petitioner-institution shall make admission only after obtaining affiliation from the examining body, namely the respondent-University, in terms of Clause 8(12) of the NCTE (Recognition Norms and Procedure) Regulations, 2009. He

further submitted that Chapter-XIII deals with affiliation and approval of colleges, of the Statutes of the respondent-University, (in relation to Section 20(1)(g) of the Tamil Nadu Teachers Education University Act, 2008) and Clause (2) of the said Chapter-XIII deals with the procedure to be adopted in granting affiliation, and Sub-Clause (i) to the said Clause (2) deals with the date of submission of and particulars to be furnished with each application, in which, inter-alia, it is stated that a college applying for affiliation shall send a formal letter of application to the Registrar between 1st of July and 31st October of the proceeding Academic Year in which the courses are proposed to be started and shall give full information in the prescribed application form.

6. Learned counsel for the petitioner-institution further contended that as per the above procedures prescribed in the Statutes, the petitioner submitted application, dated 08.08.2014, to the respondent-University, for recognition to start the B.Ed. Course, pertaining to Academic Year 2014-2015. As the said application was not considered, the petitioner filed W.P.No.4232 of 2016, which was disposed of by this Court on 04.02.2016, with direction as stated above, which was not obeyed by the respondent-University, resulting in filing the present Contempt Petition. Pending disposal of the Contempt Petition, the respondent-University issued letter dated 24.06.2016, as discussed above, against which, the

present Writ Petition is filed.

7. Assailing the said letter dated 24.06.2016, learned counsel for the petitioner, by inviting the attention of this Court to the judgment of the Supreme Court reported in 2013 (2) SCC 617 (Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P), submitted that when once the recognition given by the NCTE has been published in the official Gazette under Section 14(4) of the NCTE Act, the examining body shall grant affiliation to the institution under Section 14(6) (a) of the NCTE Act, on receipt of the order under Section 14(4) of the said Act. In the case on hand, the recognition having been granted on 03.03.2014 by the NCTE, which was also published in the Official Gazette of India, Part-III, Section 4, the respondent-examining body (TNTE University) cannot now turn around the request of the petitioner stating that once again the petitioner-institution shall apply afresh as per the new NCTE Regulations, 2014. Learned counsel further submitted that as the case of the petitioner-institution falls before the enactment of the NCTE Regulations, 2014 (which came into effect only from 01.12.2014), and having applied even prior to promulgation of the new NCTE Regulations, 2014, i.e. the petitioner's application for affiliation submitted even on 08.08.2014 to the respondent-University, should have been considered. Therefore, learned counsel submitted that the question of again obtaining recognition under the new Regulations of the NCTE, 2014, does not arise.

8. Countering the above submissions, learned Additional Advocate General appearing for the respondent-University, by driving the attention of this Court to the affidavit, dated 08.08.2016 filed by the respondent-University, submitted that the petitioner-institution had obtained recognition order on 03.03.2014 from the NCTE only to offer one year B.Ed. degree course under the NCTE Regulations, 2009 for the Academic Year 2014-2015, when the fact remains that after the Academic Year 2014-2015, the duration of the B.Ed. Course had been increased from one year to two years under the new NCTE Regulations, 2014. Learned Additional Advocate General further submitted that the provisions of the old NCTE Regulations, 2009 were valid till the Academic Year 2014-2015 and the new NCTE Regulations, 2014 are valid from the Academic Year 2015-2016. Consequent to the change in the duration of the course, the entire curriculum framework for the teacher education courses, apart from the pattern of teaching practice and infrastructures have been changed. As the petitioner-institution has submitted application for recognition on 08.08.2014, the respondent-University could grant affiliation only for the Academic Year 2015-2016, as per the Statutes of the respondent-University in Clause 2 (i) in Chapter XIII, however, now even the affiliation for the Academic Year 2015-2016, could not be granted, since the old NCTE Regulations, 2009 got superseded by new NCTE Regulations, 2014 as per the directions issued by the

Supreme Court of India and hence, now, the respondent-University cannot pass orders based on the old NCTE Regulations, 2009, which are not existing as on today.

9. In the above context, learned Additional Advocate General invited the attention of this Court to the order of the Supreme Court in Petitions for S.L.P.(Civil) Nos.4247-4248 of 2009, dated 10.09.2013 (Rashtrasant T.M.S. and S.B.V.M.C.A. VID and others Vs. Gangadar Nilkant Shende and others) and submitted that the Apex Court, based on the recommendation of the Implementation Committee, directed as follows:

"... One of the recommendations made by the Implementation Committee is the revision of regulations framed by NCTE.

With a view to ensure that there is no further complication in the matter of grant of recognition for establishment of new Teacher Training Colleges/Institutions and permission to the existing Colleges/Institutions to run the Teacher Training Courses, we direct the concerned authorities including the NCTE to notify the new regulations latest by 30.11.2013.

.. ..

Those who are desirous of establishing teacher education colleges/institutions shall be free to make application in accordance with the new regulations. Their applications shall be decided by the competent authority keeping in view the relevant statutory provisions. All the pending applications shall also be decided in accordance with the new regulations."

10. Learned Additional Advocate General also brought to the notice of this Court another order of the Supreme Court in Writ Petition (Civil) No.148 of 2014 dealt along with W.P.(C).Nos.152 and 155 of 2014, dated 24.03.2014 and

clearly observed that the NCTE has time upto June 2014 to frame the new Regulations and till the new Regulations are framed, the pending applications for recognition cannot be considered. It was also further observed by the Apex Court that the consideration of application of the institutions for the year 2014-2015 cannot be made by the NCTE before June 2014 and if the same are to be considered after the new Regulations to be finalised by June 2014, the academic sessions 2014-2015 would have commenced and the Supreme Court further observed that no direction could be issued to the NCTE to consider the applications of the institutions for the academic session 2014-2015 instead of 2015-2016.

11. Learned Additional Advocate General further submitted that the new Regulations were notified by the Government of India in the Gazette on 28.11.2014, and therefore, based on the earlier recognition dated 03.03.2014 granted to the petitioner-institution by the NCTE as per the old NCTE Regulations, 2009, the application for affiliation for the academic year 2014-2015 cannot be considered and based on the above directions of the Supreme Court, the petitioner-institution has to only apply afresh based on the new NCTE Regulations, 2014.

12. Heard the submissions made by the learned counsel on either side and perused the materials available on record.

13. It is the main submission of the learned counsel for the petitioner that the NCTE has already granted

recognition even on 03.03.2014 pursuant to the direction issued by this Court in W.A.No.1138 of 2012, dated 13.12.2013. Based on the said recognition, the respondent-University (examining body) has to consider the petitioner-institution's application seeking affiliation for admission to the course. But, from the materials placed on record, I find that originally, under the old Regulations of the NCTE, 2009, the duration of the B.Ed. course was one year and in exercise of the powers conferred under Section 32(2) of the NCTE Act, 1993, the NCTE made the new Regulations, 2014, in supersession of the NCTE Regulations, 2009, and as per the new NCTE Regulations, 2014, the duration of the B.Ed. course is two years. Since the recognition of the petitioner-institution having been granted under old NCTE Regulations, 2009 (one year B.Ed. Course), the respondent-University (examining body) directed the petitioner-institution to submit the application afresh as per the new NCTE Regulations, 2014, in furtherance of the directions issued by the Supreme Court as narrated above and accordingly, by letter dated 24.06.2016, the respondent-University directed the petitioner-institution to apply afresh as per the new Regulations, 2014.

14. Though it is the submission of the learned counsel for the petitioner that since the recognition to the petitioner-institution was already given as per the old NCTE Regulations, 2009, now this Court may direct the

respondent to give affiliation for admission to the B.Ed. Course, in my opinion, the said submission cannot be countenanced for the reason that Supreme Court, as discussed above, has directed to consider the recognition only as per the new NCTE Regulations, 2014, even in the case of pending applications. Therefore, it is clear that only pursuant to the direction of the Supreme Court, the new NCTE Regulations, 2014, were notified and all institutions have to apply only afresh for recognition/affiliation/permission for the B.Ed. course as per the new NCTE Regulations, 2014. That being the position, based on the old NCTE Regulations, 2009, this Court cannot give any direction to the respondent-University to consider the request of the petitioner-institution for grant of affiliation to admit the students, more particularly, when the old NCTE Regulations, 2009 got superseded by the new NCTE Regulations, 2014 and that the Supreme Court has specifically directed to consider the pending old cases also based on the new NCTE Regulations, 2014. Therefore, I am of the considered opinion that the prayer sought for by the petitioner in W.P.No.23770 of 2016 cannot be granted.

15. Accordingly, W.P.No.23770 of 2016 is dismissed. In view of the dismissal of W.P.No.23770 of 2016 as discussed above, the Contempt Petition in Cont.P.No.1497 of 2016 is closed, as nothing survives for consideration. The petitioner-institution is at liberty to apply afresh for

recognition/affiliation/permission to start B.Ed. Course,
based on the new NCTE Regulations, 2014, if they so desire.
No costs. The Sub-Application and W.M.Ps. are closed.

SD/
JOINT REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

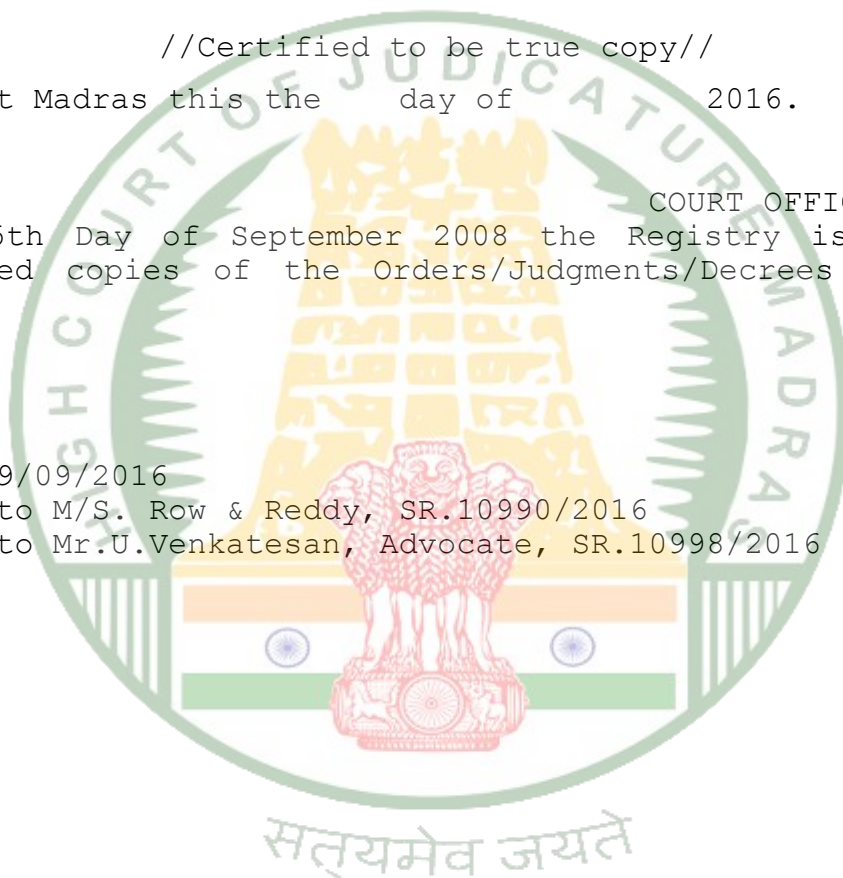
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