

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

CWP No. 14684 of 2015

Reserved on: 27.11.2015

Date of decision: 13.01.2016

D.S. Jain Memorial Educational Trust

...Petitioner(s)

Versus

Maharishi Dayanand University, Rohtak and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Rahul Sharma-I, Advocate,
for the petitioners.

Mr. Amit Rao, Advocate,
for Mr. Anurag Goyal, Advocate,
for the respondent-MDU.

Mr. Keshav Gupta, AAG, Haryana.

Mr. Ashish Rawal, Advocate,
for the respondent-NCTE, Jaipur.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

G.S.SANDHAWALIA, J.

The present judgment shall dispose of two writ petitions i.e. CWP Nos. 14684 and 19993 of 2015. Facts, being common, are being taken from *CWP No. 14684 of 2015, D.S. Jain Memorial Educational Trust vs. Maharishi Dayanand University, Rohtak and others.*

The prayer in the present writ petition by the petitioner-Trust is for grant of affiliation on account of the recognition order dated 03.03.2015 (Annexure P-8) granted by National Council for Teachers Education (in short 'NCTE') i.e. respondent no. 4 to the institute namely Teer Thankar

KRD College for running a Bachelor of Education Course with intake of 100 students for the academic session 2015-16. The denial is on account of the ban imposed on the opening of the new B.Ed. Colleges under the self financed basis by the State of Haryana which order is not as such under challenge by filing a writ of certiorari.

The pleaded case of the petitioner is that vide public notice dated 26.11.2012 (Annexure P-1), Northern Regional Committee-respondent no. 4 invited applications for recognition of teacher education courses for the year 2013-14 in accordance with the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2009 (hereinafter referred to as "2009 Regulations"). The State of Haryana had not sent any negative recommendation and even otherwise, the restrictions were not applicable to minority educational institutions established under Article 30 of the Constitution of India. A similar notice dated 27.02.2015 (Annexure P-2) for the academic session 2016-17 was also published. However, it provided that the course of Diploma of Elementary Education was in the negative list and the respondent no. 4 and the State was not to accept the applications for recognition of the said programe. The petitioner-Trust was a minority educational institution as per the certificate issued by the National Commission for Minority Educational Institutions (Annexure P-3) covered under Article 30(1) of the Constitution of India and, therefore, the restriction also did not apply to it. The application for the B.Ed. course was processed vide letter dated 13.08.2013 (Annexure P-4) and comments were invited from the State of Haryana. The State of Haryana, vide letter dated 14.03.2014 (Annexure R-4/13) submitted its objection that no recognition can be given to even minority institutions for starting the

Diploma of Elementary Education and B.Ed. Course. Accordingly, a show cause notice dated 01.01.2015 (Annexure P-5) was issued to the petitioner bringing to its notice that the State had objected to the grant of recognition to the said institution. The said show cause notice was replied on 09.01.2015 taking up various pleas. It has been pleaded that the State of Haryana itself issued a corrigendum on 12.02.2015 (Annexure P-7) that the restriction contained in the letter dated 14.03.2014 should be read as having been imposed on Diploma of Elementary Education Courses and not B.Ed. Courses. Keeping in view the objections raised, respondent no. 4 issued the recognition order dated 03.03.2015 giving recognition for conducting the Teacher Education Course with annual intake of 100 students for the academic session 2015-16 subject to the fulfillment of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 (hereinafter referred to as "2014 Regulations"). Accordingly, the petitioner-college applied to the respondent-university for grant of affiliation for starting the B.Ed. Course. The inspection was done on the application by the Dean of the University on 10.05.2015 and as per the report (Annexure P-9), certain deficiencies were pointed out which were brought to the notice of the petitioner-college vide letter dated 29.05.2015 (Annexure P-10). The same were removed by the petitioner-college and reply was submitted on 15.06.2015 (Annexure P-11). Before the formal order of affiliation could be granted, the State of Haryana, vide letter dated 05.06.2015 (Annexure P-17), wrote to respondent no. 4 that the ban imposed on the opening of new B.Ed. Colleges under self financed basis would continue during the session 2015-16 as well. In view of the said letter, the process of issuing of the formal affiliation was stopped.

Clarification was also sought from the State Government as to whether affiliation could be granted to the petitioner-college vide letter dated 01.07.2015 (Annexure P-13). Resultantly, the present writ petition was filed that the classes were to start on 20.08.2015 and the cut off for the last admission was 07.10.2015 and financial loss would occur to the petitioner-trust.

Respondent no. 1-university took the defence that the State Government, vide letter dated 05.06.2015, had intimated the ban regarding the opening of new B.Ed. Colleges during the session 2015-16 and the letter had been endorsed to the affiliating universities. Vide letter dated 01.07.2015, the request had been made whether the petitioner's case could be considered for affiliation for the session 2015-16 but no clarification had been received from the State Government. Challenge had not been raised to the letter dated 05.06.2015 issued by the State Government wherein, a decision had been taken to continue the ban imposed on the opening of the new colleges and, therefore, no relief could be granted to the petitioner-trust. As per Section 10(2) of the National Commission for Minority Educational Institutions Act, 2004 (in short '2004 Act'), the university was to consult the State Government in which the minority educational institutions seeking affiliation was situated. The Government had already refused to grant permission for opening of new B.Ed. institutions in the State of Haryana for the session 2015-16 and, therefore, no institution could be opened under the self financing scheme. The NCTE Regulations of 2014 provided that the NOC of the affiliating university was considered as mandatory before applying with the NCTE for opening of new institutions of Education. The university had received about 300 requests and proposals

from various societies and trusts for grant of NOC and as per the recommendation made by the Committee constituted by the university, it was decided that no new college may be allowed. The copy of the proceedings dated 29.05.2015 (Annexure R-1/2) were appended. Accordingly, in the absence of any positive recommendation from the State, the university was not in a position to pass an order of affiliation.

In the written statement filed by respondent nos. 2 and 3, the defence taken is that the NOC was to be got from the State Government/Department of Higher Education. Vide letter dated 14.11.2007 (Annexure R-1), the Principal Secretary to the Government of Haryana, Higher Education Department, Chandigarh had brought to the notice of the MHRD (New Delhi) that NCTE was granting permission for opening of new B.Ed. Colleges at their own level resulting in mushrooming of colleges which was adversely affecting the education system and the policy needed to be reviewed. Thereafter, on 24.04.2009 (Annexure R-2), respondent no. 2 had again requested to call a meeting in the presence of both the authorities on the ground that in the last 2-3 years, NCTE has allowed 470 B.Ed. Colleges in the State of Haryana with 60,000 seats against counselling of 33,000 last year and more applications were pending for consideration. Vide letter of even date i.e. 24.04.2009 (Annexure R-3), request was made to the Chairperson of respondent no. 4 not to open any more B.Ed. Colleges. A similar communication dated 04.08.2009 from the Chief Minister to the Minister of Human Resource and Development, Government of India had been written regarding the indiscriminatory opening of self financing private colleges of education, which was leading to the deterioration and quality of school education. The request was

reviewed on 23.02.2011 (Annexure R-5). A similar request was made on 09.03.2011 (Annexure R-6) against the yearly policy of respondent no. 4 which had resulted in running of 471 B.Ed. Colleges in the State with 62,544 seats, which was followed up on 15.07.2011 (Annexure R-7). On 22.08.2011, the Minister of State for External Affairs and Human Resource Development, Government of India had written that the ban had continued in Haryana for opening new B.Ed. Colleges except for minority institutions w.e.f. 08.07.2009 and continues upto academic year 2012-13.

On account of the name of the State of Haryana not being mentioned in the negative list of the public notice dated 26.11.2012, the answering respondent had sent his dissent vide letter dated 01.01.2013 (Annexure R-9), which had been responded on 11.01.2013 (Annexure R-10) that the letter could not be considered by the Committee while taking a decision in respect of imposition of ban and that the copy of the request made by the State Government would be circulated to respondent no. 4, which shall treat that letter as an objection for granting recognition. Reference was made to letter dated 12.06.2013 again written by the Chief Minister regarding grant of fresh permission for the year 2013 and that the consent of the State Government should be a pre-requisite for considering permission of new college by respondent no. 4 as a corrective measure. Reference was made to the letter dated 13.08.2013 (Annexure P-4) wherein, comments had been sought from the State and which had been responded on 19.09.2013 (Annexure R-12) that the recognition may not be entertained. The said communication had been over looked in the case of the petitioner-trust. Vide letter dated 28.10.2013 (Annexure R-13), respondent no. 4 was again requested not to entertain any applications for B.Ed. Colleges for the

session 2014-15. Reference was made to the judgment passed by this Court in ***CWP No. 16473 of 2013, Sunshine International College of Education and others vs. NCTE and others*** decided on 06.08.2014 (Annexure R-4/24) to submit that once the 2014 Regulations had come into force, the recognition had to be as per the said Regulations. No further communication had been made after the new regulations which were notified on 28.11.2014. Reference was made to various communications of respondent no. 4 dated 20.03.2015, 25.03.2015, 27.03.2015 and 01.04.2015 (Annexures R-17 to R-20) which had been replied vide letter dated 05.06.2015 giving reasons why the ban had been imposed.

Resultantly, it is pleaded that respondent no. 4 was required to consult the State Government afresh and the petitioner-trust was required to apply afresh. The annual intake was of 61,660 seats in 481 private self financed colleges of education which were more than the actual requirement. For the current session only 27,811 seats had been filled as on 28.09.2015 whereas, 32,951 seats were lying vacant. The quality of education was accordingly affected and an informed decision had been taken by the State Government and the mushrooming of these colleges was fuelled largely by commercial considerations leading to considerable dilution of the quality of education. The competent authority for granting the no objection certificate for minority educational institutions was the Financial Commissioner and Principal Secretary of the Department under the National Commission for Minority Educational Institutions Act, 2004 and the petitioner ought to have applied to the competent authority for grant of the certificate. Having not applied, the petitioner could not be taken out of the ban imposed for the opening of the B.Ed. Colleges for the year 2015-

16. The public notice dated 26.11.2012 was sought to be justified on the ground that dissents had been sent and the response had been received that the letter could not be considered by the Committee and that the request would be sent to respondent no. 4, who would treat the same as an objection. Annexure P-2 was pertaining to session 2016-17 and was not relevant for the year in question which pertained for the academic session 2015-16. As per the condition no. 4 in the recognition order dated 03.03.2015, permission had to be taken from the Department of Higher Education of the State Government. The State had objected on 19.09.2013 (Annexure R-12) regarding the grant of recognition of the petitioner. The letter dated 14.03.2014 was issued by the State Council of Education Research and Training, Gurgaon, who had no power to impose such restrictions regarding the Bachelor of Education course, which was to be dealt by Higher Education Commissioner and not by the Director of School Education (Haryana). Corrigendum dated 12.02.2015 had also been issued in this regard. Respondent no. 4 had passed the order despite knowing the objections of the State and reference of letter dated 19.09.2013 had not been made. Reliance was placed upon letter dated 05.06.2015 that the NOC from the State was a pre-requisite condition.

In the written statement filed by respondent no. 4, Northern Regional Committee, NCTE, the fact of applying by the petitioner for the session 2013-14 is admitted on 29.11.2012 (Annexure R-4/2) under the 2009 Regulations. It has further been admitted that letter dated 01.01.2013 (Annexure R-4/4) was also received from the State that the Haryana State had inadvertently been left out from the list where new B.Ed. colleges were not to be opened. Letter dated 20.03.2013 (Annexure R-4/5) from NCTE,

New Delhi was also referred to wherein, recommendations of State Governments were to be accepted and individual orders stating clear reasons for rejections were to be made and application fees was to be refunded to the applicants by the Regional Committees. Respondent no. 4 had also, in its 214th meeting held on 24/25.05.2013, considered the instructions dated 20.03.2013 regarding the demand and supply and the recommendations of the State Government. A letter dated 31.05.2013 (Annexure R-4/7) had been written to the State Government to indicate its final decision in respect of opening new minority institutions in the State of Haryana but no response had been received. The application of the petitioner being a minority institution was accordingly processed and forwarded vide letter dated 13.08.2013 and the request dated 19.09.2013 had also been received that the applications submitted by the petitioner be not entertained. Another letter dated 13.08.2013 (Annexure R-4/10) had been written to the petitioner to remove various deficiencies which had been received on 10.01.2013 (Annexure R-4/11). In view of the 223rd meeting held on 17/19.01.2014, the visiting team (V.T.) had been sent to verify the infrastructural facilities available with the institution which was inspected on 27.03.2014. The letter dated 14.03.2014 alongwith letter dated 26.04.2013 received from the State Government was considered in the 229th meeting held on 27.11.2014 and it was decided to issue show cause notice to such minority institutions whose applications for recognition of B.Ed. and B.El.Ed. courses were still under process. Accordingly, show cause notice dated 01.01.2015 (Annexure P-5) was served upon the petitioner, which was replied on 09.01.2015. In view of the negative recommendations from the State Government, the respondent no. 4, in its 231st meeting held

on 21/25.01.2015 (Annexure R-4/17) sought to obtain recommendations from the State Government for processing of the applications. A letter dated 06.02.2015 (Annexure R-4/18) was sent to respondent no. 2 to give the recommendation of the State Government for grant of recognition for the academic session 2013-14. It was responded vide letter dated 12.02.2015. The respondent-State did not raise any objection qua grant of recognition to minority institutions in respect of B.Ed. course. Accordingly, letters dated 06.02.2015 and 12.02.2015 were placed before respondent no. 4 in its 233rd meeting held on 18.02.2015 and a decision was taken that the applications received from minority institutions be processed further for grant of recognition and accordingly, the letter of intent was issued. The petitioner had submitted the requisite documents and formal recognition order had thereafter been issued on 03.03.2015. The due procedure had been followed and the State Government had clarified that recognition be not given only to the Diploma of Elementary Education courses. The letters Annexures R-3 to R-11 that there was a ban, had been written to the Union Minister and not to the answering respondent and, therefore, reliance upon the same was misplaced. The letter dated 15.07.2011 was only in respect of sessions 2011-12 and 2012-13 and thereafter, no communication was received from the respondent-State. The name of the State had been included in the notice (Annexure P-1) inviting fresh publications. The issue of negative recommendations was considered by the NCTE, New Delhi as well as by respondent no. 4 in its 214th meeting and response had been sought. In the absence of any communication being received prior to the notice Annexure P-1 which was published on 27.02.2012, applications were invited in 2013-14 and, therefore, applications which had been received for

the session 2013-14 and were pending had been processed. The judgment in *Sunshine International College of Education (supra)* was also relied upon that the consideration had to be made under the 2014 Regulations. Reliance was also placed upon the judgment of this Court in ***CWP No. 12478 of 2015, Hakeem Harbans Singh New Era College of Education vs. State of Haryana*** (Annexure R-4/25) to submit that the issue of ban had been considered and that the NCTE was the appropriate authority. The applications only for minority institutions had been processed and recognition had been granted to the said institutions after the receipt of letter dated 12.02.2015. Accordingly, the orders passed were sought to be justified.

In the replication filed by the petitioner to written statement filed on behalf of respondents no. 2 and 3, it was pleaded that the grant of NOC was not a pre-requisite. It was denied that the petitioner-trust is not a minority educational institution and the certificate had been issued by the Commission. The petitioner had been forced to approach the Commission and the certificate and the recognition order had never been set aside and was valid in the eyes of law. Permission had been granted on 31.08.2015 (Annexure P-15) to Guru Ram Dass Institute of Education, Tehsil Indri to fill up 50 seats for the D.Ed. Course for the session 2015-17.

Counsel for the petitioner Mr. Sharma, vehemently submitted that as per the notices itself 26.11.2012 and 27.02.2015 (Annexures P-1 and P-2), Minority Education Institutions which have been established under Article 30 of the Constitution were excluded from the restrictions applicable, therefore, the petitioners were entitled for the affiliation. It has been submitted once the order of the recognition had been granted by the

competent authority, the same has to be declared illegal by a Court of competent jurisdiction and could not be ignored. Reliance was placed upon the judgment of the Apex Court in '**State of Punjab and others Vs. Gurdev Singh and another**' 1991 (3) SCR 663. It is submitted that the State had been informed on 30.05.2013 and the objections had been raised on 10/19.09.2013 (Annexure R-4/9). Consideration had taken place by respondent no. 4 and it had been held on 27.11.2014 as per Agenda Item No.229.3 (Annexure R-4/14), that a show cause notice be issued to the institutions. The petitioners had filed reply on 09.01.2015 (Annexure R-4/16), once the opinion of the State had been asked for. In the 231st meeting held between 21.01.2015 to 24.01.2015 (Annexure R-4/17) the opinion had been sought on 06.02.2015, which has been duly replied by the Director, SCERT. Reliance was accordingly placed upon the judgment of the Apex Court in '**State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya & others**' 2006 (3) SCR 638, to contend that the power of State was not their for setting up the Teacher Education Institutions and the respondent-NCTE was the competent authority. Reliance was placed upon the judgment of Delhi High Court in CWP No.8870 of 2015 titled as '**Modern College of Education Vs. National Council for Teacher Education & others**' decided on 20.10.2015 and judgment of this Court in CWP No. 12478 of 2015, **Hakeem Harbans Singh New Era College of Education Vs. State of Haryana and others** decided on 03.08.2015.

In the 233rd meeting on 18.02.2015 (Annexure R-4/20), consideration had taken place and, thereafter, the letter of intent had been issued. It was, accordingly, contended that even as per the letter dated 12.02.2015, Director, SCERT Haryana confirmed that the earlier letter dated

14.03.2014 only talked about diploma of elementary education and not of the B.Ed courses. It was accordingly submitted that the institutions had already been set up and the affiliating body was only to verify the authenticity of the land and building and the appointment of teaching and non-teaching staff. It was submitted that investment had been made for seeking recognition and affiliation and the applications were pending since 2012.

Mr. Keshav Gupta, AAG, Haryana on the other hand relied upon the observations of the Apex Court in *Adarsh Shiksha Mahavidyalaya and others Vs. Subhash Rahangdale and others 2012 (2) SCR 1* and this Court in *Sunshine International College's case (supra)* to submit that the 2014 Regulations had to be followed and consideration has to be done accordingly. Reliance was placed upon Regulations 7(4) to 7(6) and 7(13) to submit that there was procedure prescribed and the consent of the State Government and the affiliating body had to be taken. There was a 90 days period prescribed and the NOC was the requisite condition for the grant of recognition and once a policy decision was taken and there was a ban on opening of new institutions, the order of recognition was not justified. The mandatory procedure had not been followed and regulations provided that the procedure was to be followed in a particular manner which had not been done and, therefore, the petitioners could not seek a writ of mandamus. Reliance was placed upon the judgment of the Apex Court in *Adarsh Shiksha Mahavidyalaya's case (supra)* to contend that the Regional Committee is duty bound to consider the recommendations of the State Government and the presumption would only arise, if the State Government had not communicated its dissent. It was held that though the 2007 regulations were under consideration, but the State Government's policy

decision could not be given a go by. Similarly, reliance was placed upon the judgment of Apex Court in '*Annamalai University Vs. Secretary to Government, Information and Tourism Department and others*' 2009 (4) SCC 590, to contend that once the mandatory provision and statute has not been complied with, the law would take its own course and the order of the administrative authority would be void. It is contended that the procedure under the regulations provided a particular way for doing the things and the action suffered being a nullity.

Reliance was placed upon the judgment passed in *St. Johns Teachers Training Institute VS. Regional Director, National Council for Teacher Education and another*, 2003 (3) SCC 321 to submit that recognition from the State was necessary which had to be taken into consideration by the NCTE.

Resultantly, it was pointed out that the decision of 18.02.2015 (Annexure R-4/20) was passed on the strength of the letter dated 14.03.2014, SCERT Gurgaon, whereas the recommendation of the Department of Higher Education for the Course of Bachelor of Education was to be considered. The said department had no jurisdiction to make any such recommendation nor could opine upon the issue of opening of new institutions for B.Ed. course. It is submitted that the petitioner-institute was not a minority institute by a duly recognized competent authority which was the Financial Commissioner and the Principal Secretary of the Department under the 2004 Act. Thus, the petitioner could not submit that being a minority institute, they were exempt from the ban.

Thus, from the above pleadings, two issues arise for consideration which are as under:-

- i) Whether respondent no. 4 has taken into consideration the objections of the State regarding the feasibility of setting up more educational institutions for conducting the B.Ed. course on account of the fact of the surplus number of colleges in the State of Haryana before granting recognition.
- ii) Whether the petitioners are minority institutions as contended under the National Commission for Minority Educational Institutions Act, 2004 and, therefore, exempt from any such policy decision and free from the restrictions imposed by the State.

Issue No. (i)

Whether respondent no. 4 has taken into consideration the objections of the State regarding the feasibility of setting up more educational institutions for conducting the B.Ed. course on account of the fact of the surplus number of colleges in the State of Haryana before granting recognition.

It is not disputed by the NRC-respondent no. 4 that while inviting applications for recognition of Teacher Education Courses for the academic session 2013-14 on 26/29.11.2012, the State of Haryana should have been in the negative list. On 01.01.2013, communication was addressed by respondent no. 2 requesting for not opening new B.Ed. colleges in the State of Haryana on account of 480 B.Ed. colleges already being present, which was far in excess of its requirement. The said letter was addressed to the NCTE, New Delhi and reference was made to earlier communications dated 23.02.2011 and 15.07.2011 wherein, the Chief Minister had written to the Union Minister for Human Resource

Development. It had been pointed out that the policy frame work of NCTE and the ruling of the Courts obligated the universities to grant affiliations to these colleges. The liberal approach had resulted in 471 colleges with 62544 seats in B.Ed. course in Haryana. The quality of education thus had been compromised and, therefore, keeping in view the applications pending for consideration, directions were sought not to grant NOC to new B.Ed. colleges. A perusal of letter dated 09.03.2011 (Annexure R-6) would go on to show that respondent no. 2 wrote to the Secretary, Government of India, Department of Secondary Education (Literacy) to the same effect. Vide letter dated 15.07.2011, the said respondent also wrote to NCTE, New Delhi regarding the vacancies of 1506 seats and 1263 selected candidates not reporting and requested that opening of new colleges be not entertained during the year 2011-12 and 2012-13. The Union Minister for External Affairs and Human Resource Development wrote back on 22.08.2011 that the ban had been imposed in Hayana for opening new B.Ed. colleges except for minority institutions w.e.f. 08.07.2009 and it continued upto the academic session 2012-2013. The NCTE, New Delhi, in its communication dated 11.01.2013, admitted that the Apex Court in its judgment dated 06.01.2012 in SLP (Civil) No. 14020 of 2009 has held that the State Government is to make its recommendations within the time specified under Regulation 7(3) and, therefore, the NOC from the State was to be taken into consideration. The objections had been received from the Government of Haryana late and, therefore, the letter was being forwarded to the NRC-respondent no. 4 to treat it as an objection to grant recognition to New Teacher Education Institutions offering B.Ed. course or for additional intake to existing B.Ed. course. In pursuance of the said communication, NCTE

on 20.03.2013, issued instructions to respondent no. 4-NRC that the recommendations of the State Government were applicable in each individual case and it was mandatory to obtain the recommendations of the State Government which were to be in tune with the demand and supply situation. Therefore, individual orders stating clear reasons of both State Government recommendations and the demand and supply situation for rejection should be made and application fee should be refunded to the applicants by the regional committees concerned.

Thus, the nodal body has admitted that before allowing any such applications, the primary policy of the State had to be kept in mind by respondent no. 4. In pursuance of the same, the said respondent had written to the State regarding the application of the petitioner-institute inviting the recommendations of the State Government within the stipulated time of 45 days on 13.08.2013. Respondent no. 2, vide its letter dated 19.09.2013, had pointed out that 59000 seats were available out of which only 38000 seats had been filled and there were surplus trained candidates in cases of demand. It was also mentioned that reports of irregularities of various types were being committed in these colleges and mushrooming of such institutes was resulting in degradation of quality of education. Reference was made to the letter dated 15.07.2011 written earlier. Thus, the recommendation was negative for the petitioner-college institute from the State Government. In spite of the said objection being raised by the State, a visiting team was sent to verify the infrastructural facilities which inspected the premises on 27.03.2014. In the meantime, another letter dated 14.03.2014 was sent by the SCERT, Haryana, who only had authority regarding the diploma of elementary education. The said department also wrote that no private

institution be recognized to start the diploma of elementary education classes and also that minority institutions for the said diploma and B.Ed. be also not granted recognition. Accordingly, show cause notices were issued upon such institutes on 01.01.2015 which were replied by them. Further recommendations from the State Government were sought on 06.02.2015 in pursuance of the 231st meeting of respondent no. 4. The response was given on 12.02.2015 by SCERT verifying that its earlier letter pertained only to diploma courses and, therefore, recognition should not be granted for the years 2013-14 and 2014-15. It was clarified that the earlier letter should be read only for the diploma courses and not the B.Ed. courses realizing the mistake. This letter is now wrongly sought to be relied upon by the petitioners to submit that the State had given consent for B.Ed. courses. It is settled principle that the authority which does not have the jurisdiction to grant permission or a license cannot give permission for something which it is not entitled to do so. Therefore, the reliance on the said letter that there was no objection is unfounded as mentioned earlier. As noticed above, the objection had already been received on 19.09.2013 regarding the petitioner-institute by the competent authority-respondent no. 2. Respondent no. 4 thereafter wrongly relied upon the said letter and came to the conclusion that the objection was only in respect of the diploma of elementary education. A reference was made to permission granted to a minority institution for the session 2013-14 on 21.10.2013. Accordingly, it was decided that applications received from minority institutions which were under process be processed further for grant of recognition for B.Ed. and diploma courses. The relevant decision reads thus:-

“AGENDA ITEM NO. 233.3

The committee noted that in its 229th meeting held on 27.11.2014, it had decided to issue show cause notices to all minority institutions from the State of Haryana whose applications received for the academic session 2013-14 were under process in the Northern Regional Committee, on the basis of a letter dated 14.03.2014 received from SCERT, Gurgaon, Haryana. The NRC office issued show cause notices to all such institutions. Some of the institutions submitted reply to the show cause notices. The reply to the notices were considered by the NRC in its 231st meeting held on 21st to 24th January, 2015. The Committee decided that recommendation of the State Govt be obtained for processing of applications received from the Minority institutions for the academic session 2013-14 for B.Ed and D.El.Ed, courses. A letter was written to the State Govt. on 06.02.2015 for seeking recommendation in respect of B.Ed and D.El.Ed courses.

The Committee also noted from the letter dated 12.02.2015 received from SCERT, Gurgaon, Haryana that their letter dated 14.03.2014 was in respect of D.El.Ed course only.

The Committee also noted that the State Govt. of Haryana vide letter No. 17/5-2013 Ele.Edu/DIET (1) dated 21.01.2013 granted permission to a minority institution for D.Ed. Course, which had submitted application for D.El.Ed course for session 2013-14 and was granted recognition by the NRC from the academic session 2014-15.

The Committee thus decided that the applications received from the minority institutions which are under process, be processed further for grant of recognition for B.Ed and D.El.Ed course.”

The formal permission was granted on 03.03.2015, on the basis

of which, the petitioner-trust is seeking a mandate that it is entitled for affiliation as a matter of right in view of various judgments including the judgment of the Apex Court in *Sant Dnyaneshwar's case (supra)*. There is no dispute that as per the 2014 Regulations, the recommendation of the State or its comments have been furnished and in the present case it is not in favour of the recognition. The detailed reasons or grounds with necessary statistics were to be taken into consideration by the regional committee while disposing of the application as per Regulation 7(5). Similarly, under Regulation 7(6), further consideration of recommendations of the State Government or on its own merits, the regional committee was to decide that the institution is to be inspected by a team of experts to ensure that the infrastructure is in place and the recognition is to be granted after satisfying itself that the institute fulfils all the conditions prescribed by the National Council under the Regulation 7(10). The Regional Committee, under Regulation 7(11), was to act strictly within the ambit of the Act and not make any relaxation thereto. The relevant regulations read thus:-

“7. Processing of applications.—(1) In case an application is not complete, or requisite documents are not attached with the application, the application shall be treated : incomplete and rejected, and application fees paid shall be forfeited.

xxx

xxx

xxx

(4) A written communication alongwith a copy of the application form submitted by the institution shall be sent by the office of Regional Committee to the State Government or the Union territory administration and the affiliating body concerned within thirty days from the receipt of application, in chronological order of the receipt of the original application in the Regional

Committee.

(5) *On receipt of the communication, the State Government or the Union territory administration concerned shall furnish its recommendations or comments to the Regional Committee concerned within forty five days from the date of issue of the letter to the State Government or Union territory, as the case may be. In case, the State Government or Union Territory Administration is not in favour of recognition, it shall provide detailed reasons or grounds thereof with necessary statistics, which shall be taken into consideration by the Regional Committee concerned while disposing of the application.*

(6) *If the recommendation of the State Government is not received within the aforesaid period, the Regional Committee concerned shall send a reminder to the State Government providing further time of another thirty days to furnish their comments on the proposal. In case no reply is received, a second reminder shall be given for furnishing recommendation within fifteen days from the issue of such second reminder. In case no reply is received from the State Government within aforesaid period the Regional Committee shall process and decide the case on merits and placing the application before the Regional Committee shall not be deferred on account of non-receipt of comments or recommendation of the State Government.*

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(10) *The Regional Committee shall decide grant of recognition or permission to an institution only after satisfying itself that the institution fulfills all the conditions prescribed by the National Council under the Act, rules or regulations, including, the norms and*

standards laid down for the relevant teacher education programmes.

(11) In the matter of grant of recognition, the Regional Committees shall strictly act within the ambit of the Act, the regulations made thereunder including the norms and standards for various teacher education programmes, and shall not make any relaxation thereto.”

As noticed above, objections had been raised by the State Government regarding the setting up of the institute alongwith the necessary reasons and statistics.

A perusal of the decision taken whereby, the application was allowed by considering the petitioner a minority institute would go on to show that there was no consideration of the objections raised by the State at all and it was mandatory to take the same into consideration as per the regulations itself and give reasons specially since the nodal body itself of the respondent no. 4 had specifically directed that each case would have to be decided on its own merits vide letter dated 20.03.2013. The relevant portion reads thus:-

“9. A legal opinion in the matter was solicited from the NCTE's legal counsel (copy enclosed). The matter was placed before the NCTE Committee in its 32nd meeting held on 08.03.2013. The Committee considered the relevant facts and legal opinion, wherein it is clear that the general recommendations of the state Government were applicable in each individual case, since in view of the Hon'ble Supreme Court's orders, it is mandatory to obtain the recommendation of the State Government. Further, the recommendations were in tune with the demand supply studies of the NCTE. Also,

the NCTE Committee had decided on the banning of receipt of applications in certain states, based on the State Governments recommendations of the State Government concerned. Therefore, it was decided that the State Governments recommendations would be accepted; individual orders, stating clear reasons of both the State Governments recommendation and the demand supply situation for rejection would be made and the application fee refunded to the applicants by the Regional Committee concerned.

10. *The Regional Committees may process/dispose all such applications accordingly.”*

The Apex Court has highlighted the importance of the State to give its recommendations in *St. John's case (supra)*. The relevant observations read thus:-

“21. Learned counsel for the appellant has strongly urged that in some cases the State Government has sat over the matter for very long period without taking any decision either to grant a NOC or declining to grant the same and on account of this inaction of the State Government the application moved by the institutions before the Regional Committee was not even registered for consideration and thereby the right of the appellants to establish an institution for teachers’ training or starting a course in teacher education was completely defeated. There can be no manner of doubt that the State Government must take a decision on the application moved by an institution for grant of a NOC within a reasonable time. If the State Government does not take a decision within a reasonable time it will obviously defeat the right of an institution to have its application considered by the Regional Committee. It will therefore be proper that the Council frames

appropriate Regulations fixing the time limit within which a decision should be taken by the State Government on the application moved by an institution for grant of a NOC. In the present cases, we are of the opinion that till such Regulations are made the decision should be taken by the State Governments within four months, failing which it shall be deemed that the NOC has been granted.

The Apex Court, in *Adarsh Shiksha's case (supra)*, highlighted the importance of setting up the Teachers Educational Institutions under the Act and its Regulations under the 2005 and 2007 Regulations which were earlier in force and came to the conclusion that the regional committee is duty bound to consider the recommendations of the State Government. The relevant portion reads thus:-

“68. We shall now examine whether the State Government has any say in the matter of grant of recognition to the private institutions desirous of conducting teacher training courses. In this context, it will be appropriate to notice Regulation 7(2) and (3) of the 2005 and 2007 Regulations, which lay down that a copy of the application form submitted by the institution(s) shall be sent by the office of the Regional Committee to the State Government/Union Territory Administration concerned and the latter shall furnish its recommendations within 60 days from receipt of the copy of the application. If the State Government/Union Territory Administration does not make favourable recommendations, then it is required to provide detailed reasons/grounds with necessary statistics. While deciding the application made for recognition, the Regional Committee is duty bound to consider the recommendations of the State Government / UT

Administration. The last portion of Regulation 7(3) contains a deeming provision and lays down that if no communication is received from the State Government/Union Territory Administration within 60 days, then it shall be presumed that the concerned State Government/Union Territory Administration has no recommendation to make.

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87. As a sequel to the above discussion, we hold that the impugned orders do not suffer from any legal infirmity warranting interference by this Court. We also reiterate that:

(i) The Regional Committees established under Section 20 of the 1993 Act are duty bound to ensure that no private institution offering or intending to offer a course or training in teacher education is granted recognition unless it satisfies the conditions specified in Section 14(3)(a) of the 1993 Act and Regulations 7 and 8 of the Regulations. Likewise, no recognised institution intending to start any new course or training in teacher education shall be granted permission unless it satisfies the conditions specified in Section 15(3)(a) of the 1993 Act and the relevant Regulations.

(ii) The State Government / UT Administration, to whom a copy of the application made by an institution for grant of recognition is sent in terms of Regulation 7 (2) of the Regulations, is under an obligation to make its recommendations within the time specified in Regulation 7(3) of the Regulations.

(iii) While granting recognition, the Regional Committees are required to give due weightage to the recommendations made by the State Government/UT Administration and keep in view the observations made by this Court in St. Johns Teachers Training Institute v.

Regional Director, NCTE (2003) 3 SCC 321 and National Council for Teacher Education v. Shri Shyam Shiksha Prashikshan Sansthan, which have been extracted in the earlier part of this judgment.”

The Apex Court in ***State of U.P. vs. Singhara Singh, AIR 1964 SC 358*** held that it would be an unnatural construction to hold that any other procedure was permitted than that which was specifically provided and a thing must be done in a particular manner provided for. The relevant observations read thus:-

“7. In Nazir Ahmed vs. King Emperor AIR 1936 PC 253, the Judicial Committee observed that the principle applied in Taylor vs. Taylor (1876) 1 Ch.D 426 to a court, namely, that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden, applied to judicial officers making a record under Section 164 and, therefore, held that the Magistrate could not give oral evidence of the confession made to him which he had purported to record under Section 164 of the Code. It was said that otherwise all the precautions and safeguards laid down in Sections 164 and 364, both of which had to be read together, would become of such trifling value as to be almost idle and that “it would be an unnatural construction to hold that any other procedure was permitted than that which is laid down with such minute particularity in the sections themselves”.

The view was thereafter followed by the Constitution Bench in ***A.R. Antulay vs. Ramdas Srinivas Nayak, 1984 (2) SCC 500***. It was held that once the Statute prescribed the certain method, the thing has to be done

in that way or not at all. The relevant observations read thus:-

“22. Once the contention on behalf of the appellant that investigation under Section 5-A is a condition precedent to the initiation of proceedings before a Special Judge and therefore cognizance of an offence cannot be taken except upon a police report, does not commend to us and has no foundation in law, it is unnecessary to refer to the long line of decisions commencing from Taylor v. Taylor (1876) 1 Ch.D 426; Nazir Ahmad v. King-Emperor AIR 1936 PC 253 and ending with Chettiam Veetil Ammad v. Taluk Land Board Air 1979 SC 1573, laying down hitherto uncontroverted legal principle that where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.”

Reference can be made to the observations of the Apex Court in *Annamalai University's case (supra)*. Relevant observations read thus:-

“56. Grant of relaxation cannot be presumed by necessary implication only because UGC did not perform its duties. Regulation 2 of the 1985 Regulations being imperative in character, non compliance thereof would entail its consequences. The power of relaxation conferred on UGC being in regard the date of implementation or for admission to the first or second degree courses or to give exemption for a specified period in regard to other clauses in the regulation on the merit of each case do not lead to a conclusion that such relaxation can be granted automatically. The fact that exemption is required to be considered on the merit of each case is itself a pointer to show that grant of relaxation by necessary implication cannot be inferred. If mandatory provisions

of the statute have not been complied with, the law will take its own course. The consequences will ensue.

57. *Relaxation, in our opinion, furthermore cannot be granted in regard to the basic things necessary for conferment of a degree. When a mandatory provision of a statute has not been complied with by an Administrative 41 Authority, it would be void. Such a void order cannot be validated by inaction.*”

Counsel for the State was thus well justified in saying that once the recognition itself was granted on a wrong premise and the mandatory procedure had not been followed and the permission had to be granted in a certain and prescribed manner and if it had not been followed, the same could not as such be enforced even though there was no challenge raised to the same.

Reliance placed upon a judgment in *Gurdev Singh's case (supra)* by the petitioner, is without any basis since in the said case, the issue was regarding the limitation to bring the suit for declaration that the employee continues to be in service. It was accordingly held by the Apex Court that the party has to approach Court within a prescribed period of limitation and the decrees whereby, the termination orders had been set aside after filing suits beyond the period of limitation had been set aside.

In *Sant Dnyaneshwar's case (supra)*, the NCTE had granted the permission in spite of a policy decision not to issue NOCs. On the other hand, the institutions had challenged the policy itself. The High Court had allowed the petitions filed by the institutions and set aside the policy decision and directed to take appropriate consequential actions in accordance with law in favour of the institutions. It is accordingly held that

the final authority lies with the NCTE and it could not be deprived of its power in taking appropriate decision under the Act. Accordingly, the appeals filed by the State were dismissed.

As noticed, in the present case, there is no challenge to the policy decision and the NRC has not followed the procedure prescribed by the NCTE wherein, specific directions were issued to consider and decide each application on its merit which was not the case in *Sant Dnyaneshwar's case (supra)*. Therefore, the judgment is distinguishable and not applicable.

The judgment in *Modern College of Education's case (supra)* pertains to the diploma of elementary education course and has not dealt with the issue of the objection of the State which had been recognized by the NCTE and as has been done in the present case and which had further instructed the regional committees to take into consideration the objections on merits in each case.

Similarly, in *Hakeem Harbans Singh's case (supra)* also, the issue was not whether each and every case has to be considered on its merits as directed by NCTE but pertained to the diploma courses and also pertained to a minority institution regarding which there was no restriction imposed. The objections raised by the State in principle had not been brought to the notice of the Court and nor the said decision takes into consideration the 2014 Regulations.

Accordingly, keeping in view the above discussion and in the absence of any challenge raised to the decision of the State Government dated 05.06.2015 wherein a complete ban had been imposed on the opening of the new B.Ed. colleges under the Self Financing Scheme because of issue of quality, granting of degrees without students actually attending classes

and lack of training faculty, no writ in the nature of mandamus can be issued to the petitioners for grant of affiliation. Merely because the petitioners have a recognition but on account of a policy decision of the State which was compulsorily to be taken into consideration by respondent no. 4 and in view of the specific objections raised pertaining to the petitioner-institute, issue no. 1 is decided against the institute.

Issue no. (ii)

Whether the petitioners are minority institutions as contended under the National Commission for Minority Educational Institutions Act, 2004 and, therefore, exempt from any such policy decision and free from the restrictions imposed by the State.

The contention of the counsel petitioners' counsel that because the petitioner institutes are a minority institute and, therefore, they were exempt from the policy decision and the State could not interfere in their setting up is without any basis. The reliance upon the certificate (Annexure P-3) issued by the National Commission for Minority Educational Institutions whereby, they have been declared as a minority educational institutions under Article 30(1) of the Constitution is without any basis. Under Section 10 of the 2004 Act, it is provided that a person establishing a minority educational institution has to apply to the competent authority for the grant of NOC. The said authority has to peruse the documents, affidavits and evidence and decide the application expeditiously. Only where the certificate is not granted within a period of 90 days or where it is rejected under Section 10(2), the Commission can be approached under Section 12A and 12B. The competent authority under the Act has been defined as an authority appointed by the appropriate government to grant

NOC for establishment of educational institutions. The relevant portion of the provisions read thus:-

“2(ca) “Competent authority” means the authority appointed by the appropriate Government to grant no objection certificate for the establishment of any educational institution of their choice by the minorities;

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10. Right to establish a Minority Educational Institution.— **(1) Subject to the provisions contained in any other law for the time being in force, any person, who desires to establish a Minority Educational Institution may apply to the competent authority for the grant of no objection certificate for the said purpose.”*

(2) The Competent authority shall,—

(a) on perusal of documents, affidavits or other evidence, if any; and

(b) after giving an opportunity of being heard to the applicant, decide every application filed under sub-section (1) as expeditiously as possible and grant or reject the application, as the case may be:

Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant.

(3) Where within a period of ninety days from the receipt of the application under sub-section (1) for the grant of no objection certificate,—

(a) the Competent authority does not grant such certificate; or

(b) where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate, it shall be deemed that the Competent authority has granted a no objection certificate to the applicant.

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12A. Appeal against orders of the Competent authority.— (1) Any person aggrieved by the order of refusal to grant no objection certificate under sub-section (2) of section 10 by the Competent authority for establishing a Minority Educational Institution, may prefer an appeal against such order to the Commission.

(2) An appeal under sub-section (1) shall be filed within thirty days from the date of the order referred to in sub-section (1) communicated to the applicant:

Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.

(4) The Commission, after hearing the parties, shall pass an order as soon as may be practicable, and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

(5) An order made by the Commission under sub-section (4) shall be executable by the Commission as a decree of a civil court and the provisions of the Code of Civil Procedure, 1908 (5 of 1908), so far as may be, shall apply as they apply in respect of a decree of a civil court.

12B. Power of Commission to decide on the minority status of an educational institution.—(1) Without prejudice to the provisions contained in the National Commission for Minorities Act, 1992 (19 of 1992), where an authority established by the Central

Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status, the aggrieved person may appeal against such order of the authority to the Commission.

(2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order communicated to the applicant:

Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.

(4) On receipt of the appeal under sub-section (3), the Commission may, after giving the parties to the appeal an opportunity of being heard, decide on the minority status of the educational institution and shall proceed to give such direction as it may deem fit and, all such directions shall be binding on the parties.”

Nothing has been brought on record to show that any such application was filed before the competent authority for the grant of the certificate and that there was a refusal by the said authority. Neither any order has been placed on record to show that an appeal was allowed by the National Commission and the certificate was granted on the strength of some material to show that the petitioner is a minority institution which would be entitled to remain outside the ambit of the policy decision of the State.

In such circumstances, reliance upon Annexure P-3 issued by

the National Commission declaring it as a minority institution is without any basis. In similar circumstances, a Division Bench of the Bombay High Court has held that the Appellate Authority cannot exercise original power in *State of Maharashtra vs. Mehmuda Shikshan and Mahila Gramin Vikas Bahuudheshiya Sanstha, Nagpur and another, 2009 (5) Maharashtra Law Journal 874*. In the said case, the State had challenged the direction issued by the Commission to grant permission for opening of a college for imparting education. It is accordingly held that the order was without jurisdiction. The relevant portion reads thus:-

“11. In the present case, though the application appears to have been properly drafted under [Section 10](#), it came to be addressed to the Commission, which decided it. Shri Mirza, learned counsel for Respondent No.1 submitted that the Commission is empowered by reasons of [Section 11\(b\)](#) (supra) to direct the petitioner - State Government to give permission to a person desiring to set up a minority educational institution. According to the learned counsel for respondent No.1, the order of the Commission must be read as, 'having reached the conclusion that in this case there was deprivation or violation of the rights of minority to establish an educational institution of their choice' within the meaning of [Section 11 \(b\)](#) and therefore, the Commission clearly had the powers to direct that such permission be given. We have no doubt that the Commission has a power to enquire, suo motu or otherwise into the question relating to deprivation or violation of a right of the minority to establish and administer educational institutions of their choice. It is, however, clear that the respondent no.1 has in this case not presented any petition regarding deprivation or

violation of a right to establish and administer minority educational institution. It had presented an application for grant of permission to start a college and, the only power with the Commission was to report its findings to the appropriate Government for its implementation. Section 12(b) [sic : 11(b)] of the Act does not confer any power on the Commission to entertain a specific case of permission to start a minority educational institution and to direct that such a permission be granted. The subject-matter of Section 12 (b) [sic : 11(b)] can not be said to include the consideration of application for permission to start a minority educational institution, particularly when a specific power for this purpose is conferred on the Competent authority under Section 10 of the Act.

12. There is also no merits in the submission that since the Commission is invested with the appellate powers under Section 12(a) of the Act, in spite of orders of refusal to grant No objection Certificate by the competent authority, the order of the Commission is within jurisdiction. There is a well known distinction in law between the exercise of original powers and appellate powers. The exercise of these powers can only be by the authorities who are constituted for the purpose. To say that an appellate authority can in the first place decide the original application because it has appellate powers in that regard, would set at naught the scheme of many a legislation. The Apex Court in State of Punjab vs. Hari Kisan, reported in AIR 1966 SC 1078, has observed in Para 12 as follows.

"12. The question which we have to decide in the present appeal lies within a very narrow compass. What appellant No.1 has done is to require the licensing authority to forward to

it all applications received for grant of licenses, and it has assumed power and authority to deal with the said applications on the merits for itself in the first instance. Is appellant no.1 justified in assuming jurisdiction which has been conferred on the licensing authority by S. 5(1) and (2) of the Act? It is plain that S. 5(1) and (2) have conferred jurisdiction on the licensing authority to deal with applications for licences and either grant them or reject them. In other words, the scheme of the statute is that when an application for license is made, it has to be considered by the licensing authority and dealt with under S.5(1) and (2) of the Act. Section 5 (3) provides for an appeal to appellant No.1 where the licensing authority has refused to grant a license, and this provision clearly shows that appellant No.1 is constituted into an appellate authority in cases where an application for licence is rejected by the licensing authority. The course adopted by appellant No.1 in requiring all applications for licences to be forwarded to it for disposal, has really converted the appellate authority into the original authority itself, because S. 5(3) clearly allows an appeal to be preferred by a person who is aggrieved by the rejection of his application for a licence by the licensing authority."

13. In this view of the matter, we have no hesitation in coming to the conclusion that the impugned order of the Commission, directing the

petitioner and the respondent no.2 University to grant permission to Respondent no. 1 to start minority educational institution, is without jurisdiction. Smt. Dangre, learned Additional Government Pleader has stated that there is a Competent authority constituted. We make it clear that Respondent no.1 shall be entitled to make a fresh application in regard to its earlier proposal before such competent authority in accordance with law.

14. Rule is made absolute in above terms. There shall be no order as to costs.”

This Court in **CWP No. 7977 of 2015, Sh. Guru Nanak Mission Educational Trust (Regd.) vs. State of Haryana** decided on 09.09.2015 held that where the NOC is not granted, then there will be a deemed NOC granted under Section 10(3). The power of the Commission to issue such a certificate on its own without exercise of the appellate power is thus not justified. In such circumstances, in the absence of any application made to the competent authority, the petitioners institute cannot claim any right of being a minority institution on the strength of the certificate issued by the Commission which is merely an appellate body. Accordingly, issue no. 2 is also decided against the petitioners.

Thus, in view of the findings recorded on issue no. 2, this Court is of the opinion that the petitioners cannot be granted the benefit of the minority status in the absence of an appropriate certificate having been issued from the competent authority. As noticed above, it is always open to the petitioners to apply for the said certificate from the said authority who is duly authorized and on that basis seek the benefit of being a minority institution. In case the petitioners are able to show that their applications

were dismissed and the National Commission for Minority Educational Institutions had set aside the said order and thereafter issued directions for grant of certificate, then the petitioners will be entitled for the benefit of the same. Similarly, the petitioners will only be entitled where they were able to show that they had applied and the State Government had not acted on the said request within the prescribed period and thereafter, they had got a declaration that there was a deemed sanction in their favour. However, it is made clear that it is always open to the petitioners to file an application before the competent authority for the necessary relief.

Accordingly, the writ petitions are dismissed.

(G.S. SANDHAWALIA)
JUDGE

13.01.2016
shivani

