

CWP No.1529 of 2016 (O&M)

[1]

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

**CWP No.1529 of 2016 (O&M)
Date of decision:25.05.2016**

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

Versus

State of Haryana and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sanjay Kaushal, Senior Advocate, with
Mr. Arjun Shukla, Advocate, for the petitioner.

Mr. R.K.Doon, AAG, Haryana.

Rakesh Kumar Jain, J.

The petitioner has prayed for a direction to the respondents to issue roll numbers to the students admitted in Diploma in Education Course (D.Ed.) in the academic session 2015-2016 before the examinations which were to be held from 27.01.2016.

The petitioner is a minority institution and was granted recognition by the NCTE on 03.09.2008 for running the course of B.Ed. It was granted recognition by the NCTE on 03.03.2015 for running the course of D.Ed. and permitting it additional intake of 50 seats in that course. On 01.05.2015, a minor correction was made through a corrigendum in the recognition order dated 03.03.2015. After the recognition, the petitioner started admitting the students in D.Ed. course but on 09.06.2015, the Director, Secondary Education, Haryana, issued a letter to the petitioner-

CWP No.1529 of 2016 (O&M)

[2]

college, as per which the Government had decided not to recommend fresh opening/recognition or increase in intake capacity of any D.Ed. institute in the State of Haryana for the years 2013-14, 2014-15, 2015-16 and 2016-2017. A similar letter dated 12.05.2015 was also served upon the another college, namely, Guru Har Krishan College of Education, which was challenged by that college and the petitioner by way of CWP Nos.12478 and 12482 of 2015 respectively. Both the petitions were allowed on 03.08.2015 and the letters dated 09.06.2015 and 12.05.2015 were set aside. Thereafter, the petitioner requested through letter dated 27.10.2015 to the Secretary, Board of School Education, Haryana, to allow the petitioner to deposit the examination fee and for the issuance of college code. Respondent No.4 accepted the affiliation fee on 30.10.2015 and issued the temporary Code No.517008 and also vide letter dated 06.01.2016, informed the petitioner that the recognition letter for the course of D.Ed. for the academic session 2015-2016 would be issued to it after completion of the process. On 13.11.2015, the petitioner wrote a letter to respondent No.4 to issue roll numbers to all the students admitted in the D.Ed. course for the session 2015-16 which were scheduled to be held on 27.01.2016 but vide its letter dated 22.12.2015, the Director, SCERT, Haryana, asked the petitioner to comply with the order dated 03.08.2015 in reference to letter dated 13.11.2015 by which allegations against the petitioner-college were levelled. The petitioner sent a detailed reply on 13.01.2016 and on 21.01.2016 sent a reminder for issuance of roll number so that the career of the students may not be adversely affected. The Board of School Education,

CWP No.1529 of 2016 (O&M)

[3]

Haryana circulated the date sheet on 15.01.2016 communicating the initiation of examination from 27.01.2016. Since the roll numbers were not being issued, the present petition has been filed by the petitioner, in which the prayer has been made for issuance of roll numbers. At the time of issuance of notice of motion on 25.01.2016, this Court passed the following order:-

“Learned counsel for the petitioner submitted that the petitioner was granted recognition by National Council for Teacher Education for starting a fresh course of D. El. Ed. for the session 2015-16, vide order dated 3.3.2015. The State refused to grant permission vide communication dated 9.6.2015. The same was challenged in CWP No. 12478 of 2015— Hakeem Harbans Singh New Era College of Education v. State of Haryana and others, and was set aside by this court vide judgment dated 3.8.2015. The admissions were made. The petitioner had been making representations to the State for compliance of the judgment of this court, however, nothing was done. On 15.1.2016, date sheet for D. Ed. has been issued by the Board of School Education, Haryana for 1st semester. The exams are scheduled from 27.1.2016.

Notice of motion for 19.2.2016.

Mr. Naveen Kaushik, Addl. Advocate General, Haryana, who is present in court, accepts notice on behalf of respondents No. 1 to 3.

Service on respondent No. 4 be effected on filing of process fee.

Process Dasti only.

In the meantime, 50 students admitted in D. El. Ed. Course in the petitioner-institution may be issued provisional roll numbers permitting them to take exams scheduled from 27.1.2016, subject to final result of the writ petition. The result of exams shall not be declared without permission of the court.

A copy of the order be given to learned counsel for the petitioner under the signatures of the Bench Secretary.”

The students of the petitioner-college have already taken the

CWP No.1529 of 2016 (O&M)

[4]

exam and now the prayer has been made by way of CM No.3946 of 2016 for a direction to the respondents to declare the result of those students.

In the reply filed by respondent Nos.1 to 3, it is alleged that in CWP No.14684 of 2015 titled as “**D.S.Jain Memorial Educational Trust vs. Maharishi Dayanand University, Rohtak and others**”, decided on 13.01.2016, the order dated 03.08.2015 passed in CWP No.12478 of 2015 filed by the petitioner has been considered and it was held that the objection 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 Regulation.

In reply, counsel for the petitioner has submitted that the facts of **D.S.Jain Memorial Educational Trust's case (supra)**, relied upon by the respondents, are different from the facts of the present case because in that case, it was held that though the minority institution is exempted from the ban but the status of the minor institution should have been declared by the competent authority i.e. the State and not by the Appellate Authority i.e. the National Commission for Minority Educational Institutions.

I have heard learned counsel for the parties and perused the available record with their able assistance.

There is no quarrel about the finding recorded in **D.S.Jain Memorial Educational Trust's case (supra)** but in the present case, the petitioner has been declared a minority institution by the State of Haryana vide letter dated 08.08.2011 (Annexure P-2), therefore, the said judgment is not applicable to the present case. Thus, the respondents have illegally and

CWP No.1529 of 2016 (O&M)

[5]

arbitrarily refused to issue roll numbers to the students of the petitioner-college, which otherwise have been issued under orders of the Court dated 25.01.2016 but with a rider that the result of the exam shall be declared only with the permission of the Court, for which the petitioner has filed CM No.3946 of 2016 for an appropriate direction/order in this regard.

Keeping in view the aforesaid facts and circumstances, I am of the considered opinion that there is a merit in the present case and hence, the same is hereby allowed and direction is issued to the respondents to declare result of the students of the petitioner-college, who had appeared in the examination in terms of the order dated 25.01.2016, without any further delay, preferably within a period of one week from the date of receipt of certified copy of this order.

May 25, 2016
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(Rakesh Kumar Jain)
Judge