

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

**CWP No.18143 of 2015
Reserved on: 27.11.2015
Decided on : 13.01.2016**

Aarzo Educational Society

... Petitioner

Versus

State of Haryana and others

... Respondents

(2)

CWP No.18214 of 2015

Guru Nanak Siksha Samiti

... Petitioner

Versus

State of Haryana and others

... Respondents

(3)

CWP No.18820 of 2015

Vardhman College of Education

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present : Mr. Rahul Sharma-I, Advocate
for the petitioner (s).

Mr. Keshav Gupta, AAG, Haryana.

Mr. D.K. Khanna, Advocate
for respondent No.4-Board.

Mr. Ashish Rawal, Advocate
for respondent No.5-NCTE.

G.S. Sandhawalia , J.

The present judgment shall dispose of three writ petitions i.e. CWP Nos. 18143, 18214 and 18820 of 2015. The facts are being taken from CWP No.18143 of 2015.

The petitioner-institutes in the present cases seek the quashing of the order dated 11.08.2015 (Annexure P-11), whereby respondent No.3 has declined to grant approval for the staff for the Diploma of Elementary Education Course (D.Ed. Course). The reasoning given is that the deficiencies as per the communication dated 26.06.2015 (Annexure P-9) at Sr. No.1, 4 and 9 had not been removed. The second ground for rejection is that the State Government had decided not to recommend any fresh opening/recognition or increase intake of any D.Ed. Institutes in Haryana State for the year 2013-14, 2015-16 and 2016-17. The said policy was also applicable to the Minority Institutions.

From the impugned order it further transpires that the letter dated 04.05.2015 issued by the State Government had been considered by the NRC and show cause notice had also been issued under Section 14/15 (3) (b) of the NCTE Act, 1993.

In the reply filed by the State, the plea taken is that the

compliance of Rule 7 (4) and 7 (5) of NCTE Regulations, 2014 had not been done and the Letter of Intent was issued on 17.06.2015 (Annexure P-5). It has further been averred that no application was ever received from the NRC under Rule 7 (4) and 7 (5) of the Regulations, 2014 and the recognition could not be issued for the academic session 2015-16, but can be granted for the academic session 2016-17. It has further been averred that the minority certificate has been issued by the National Commission which is also objected to as invalid. The competent authority was the State Government and the said certificate did not give the true picture of the constitution of the petitioner-Trust. Reliance was placed upon the letter dated 16.01.2015 (Annexure R-4/C) issued to the Chairperson of the NCTE that the State did not propose to add any intake capacity in the year 2013-14 and 2014-15 and further also for the year 2016-17 and that, therefore, application may not be entertained. Reliance was also placed upon the communication dated 03.04.2015 (Annexure R-5/C).

The respondent No.4-NRC in its reply has taken the plea that on account of the State Government stand that recognition be not given, show cause notice was issued on 01.01.2015 (Annexure R-4/12) to which a detailed reply was given by the petitioner-institute. The letter dated 06.02.2015 (Annexure R-5/A) was addressed to the respondent No.2-Department of

Higher Education, asking for recommendations of the State Government for grant of recognition. The response was received on 12.02.2015 (Annexure R-4/16). A perusal of the same would go on to show that the State Government had objected to the opening of the Diploma of Elementary Education Course and it was clarified that the earlier letter dated 14.03.2014 was only regarding the said course and not for B.Ed. Course. This Court has already noticed that the respondent No.2 in any case was not authorized to issue the letter regarding the B.Ed. Course, which the Department of Higher Education had the jurisdiction. The said fact has been discussed in detail in **CWP No. 14684 of 2015 titled as 'D.S. Jain Memorial Educational Trust Vs. Maharishi Dayanand University, Rohtak and others'**, decided on even date. The NRC has thus submitted that in view of the response received, a decision was taken on the applications on 18.02.2015 in its 233rd Meeting that applications received from Minority Institutions which were under process be processed further for grant of recognition.

Resultantly, inspection was carried out and Letter of Intent was issued on 17.06.2015. The NRC has further defended the action of issuing the recognition order dated 16.06.2015 on the ground that no objections received from the State to the notice dated 26.11.2012 (Annexure P-1), whereby applications were

invited from the minority institutions. It has further been mentioned that the respondent-State for the first time had communicated its decision regarding the Minority Institutions vide letter dated 14.03.2014 (Annexure R-4/10) and at that time the application of the petitioner was in process. However, a perusal of the said letter dated 14.03.2014 would go on to show that there is a reference of the earlier objections dated 26.04.2013 (Annexure R-2), which has already been referred by the State also, whereby the State objected to the opening of the colleges on the ground that the annual intake capacity of D.Ed Institutes is about 20,000, whereas requirement of new D.Ed Teachers employment as teachers is much lower.

Reliance has been placed on the judgment passed in ***CWP No.12478 of 2015*** titled as '***Hakeem Harbans Singh New Era College of Education Vs. State of Haryana and others***' decided on 03.08.2015 regarding the Minority Institutions and the State liability. The said issue has been discussed in detail in ***CWP No. 14684 of 2015 titled as D.S. Jain Memorial Educational Trust*** (supra) decided on even date.

The State has been objecting to the opening of the educational institutions and the Nodal Authority, namely, NCTE vide communication dated 20.03.2014 had also directed the NRC to pass individual order stating clear reasons of both the State

Government recommendations and demand and supply situation. It has also been noticed that the institutes have not been granted the minority status from the competent authority and reliance placed upon the certificates issued by the National Commission would be invalid being a Appellate Authority.

In such circumstances, this Court is of the opinion that the the recognitions have been granted on the basis of wrong consideration without taking into mind the objections of the State Government and dealing with the same in a detailed manner.

Accordingly, prayer of the petitioners for grant of affiliation cannot be acceded to. The writ petitions are accordingly disposed of with a direction to respondent No.3 to reconsider their applications in pursuance of the observations made in the order of even date passed in **CWP No. 14684 of 2015 titled as D.S. Jain Memorial Educational Trust** (supra) decided on even date for the coming session 2016-17, keeping in view of the objections of the State.

With the abovesaid observations the writ petitions are disposed of.

JANUARY 13, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE