

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

**CWP No.19088 of 2015
Reserved on: 27.11.2015
Decided on : 13.01.2016**

New Era Education Charitable Trust

... Petitioner

Versus

Kurukshetra University and others

... Respondents

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

Present : Mr. Praveen Gupta, Advocate for the petitioner.

Mr. R.S. Rana, Advocate
for respondent No.1-University.

Mr. Keshav Gupta, AAG, Haryana
for respondent No.2.

G.S. Sandhawalia , J.

The petitioner-Trust seeks the quashing of the communication dated 05.06.2015 (Annexure P-17) which has been addressed by respondent No.2 to the Northern Regional Committee, National Council for Teachers Education-respondent No.3 (NRC), whereby the said respondent was informed of the surplus number of B.Ed. Colleges running in the State of Haryana with approximately 61,650 students on roll in B.Ed. Course. Accordingly, the Government had decided that the ban imposed on opening of new B.Ed. Colleges under the self financed basis shall continue during the current academic session i.e. 2015-2016. Challenge is also being raised to the communication addressed by

the University dated 01.07.2015 (Annexure P-16), whereby the request for affiliation by the University was kept in abeyance on account of the letter dated 05.06.2015. Further challenge is also being made to the order dated 05.09.2015 (Annexure P-23) passed by respondent No.2, wherein the representation of the petitioner dated 07.07.2015 for directing the University to grant affiliation was rejected on account of the policy decision taken by the State.

Counsel for the petitioner has vehemently argued that the petitioner has set up the college by providing infrastructure and had applied in the year 2009-2010 and initially his case has been kept pending to be considered as and when the ban will be lifted. His appeal was allowed on 28.09.2010 (Annexure P-3) by the NCTE and direction was issued to process the application of the institution on merit. Thereafter, inspection was conducted and on 21.11.2013. Certain discrepancies were pointed out, which were removed vide letter dated 19.02.2014 (Annexure P-8).

Thereafter, the petitioner was constrained to approach this Court through CWP No.10935 of 2014, which was disposed of on 29.05.2014 with a direction that a decision be taken on the application filed by the petitioner-Trust and the legal notice dated 15.03.2014 within a period of 4 weeks from the receipt of the certified copy of order. Certain revenue records were asked for, which were duly supplied and thereafter a Letter of Intent was

issued on 15.04.2015, wherein certain conditions had to be satisfied for grant of formal recognition and the staff was to be duly approved by the University. The same was done by the respondent-University vide letter dated 08.05.2015 (Annexure P-14). Resultantly, a formal recognition order dated 30.05.2015 (Annexure P-15) was issued by respondent No.3 in exercise of powers vested under Section 14 (1) and 15 (1) of the NCTE Act, 1993. The petitioner, thereafter, applied for affiliation to the University and in view of the impugned orders, his request has been declined. Initially, this Court had again been approached, but the writ petition was withdrawn with liberty to approach the State Government at the first instance, which has accordingly passed the impugned order dated 05.09.2015 (Annexure P-23). It is, thus, submitted that the subsequent ban would not deprive the petitioner from being considered, since his application has been pending, since the year 2009-2010.

In reply, the University has taken the defence that in view of the letter dated 05.06.2015 on account of the ban imposed by the State Government, the matter had been kept pending.

Similarly, the State in its reply through respondent No.2 has taken the defence that due to the mushrooming of B.Ed. Colleges within a short span of 2-3 years, the seats in the said colleges have gone upto 60000 against the counseling of 33000 last year and 470 B.Ed. Colleges are presently available.

Reference has been made to the various communications passed by the State Government to the Union of India, NCTE, New Delhi and the NRC at Jaipur. All the said communications have been discussed in detail in the judgment passed by this Court 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.

In view of the fact that the order of recognition does not show any consideration as to whether the recommendations of the State Government had been called for. It has been held in **D.S. Jain Memorial Educational Trust** (supra) that said case has to be decided on the basis of merits in each and individual case as directed by the NCTE in its letter dated 20.03.2013. Thus, this Court is of the opinion that the matter should be decided afresh by the NRC-respondent No.3 that whether the petitioner-Trust is liable to be given the benefit of recognition, in view of the ban imposed by the State Government on the opening of new B.Ed. Colleges. It has accordingly been held that the regulations of 2014 are to be taken into consideration by the NRC. It is further been noticed by respondent No.1 in its order dated 05.09.2015 that no NOC has been taken from the Department of Higher Education, while granting recognition for the annual intake of 100 students. Thus, a reasoned order is needed to be passed by the NRC, which will call for the NOC of the State Government who will in detail give the

statistics and the viabilities whether the college is liable to be opened. While taking a decision, respondent No.3 will keep into mind the said facts and if a contrary view is to be taken on the recommendations of the State Government, a reasoned order shall follow.

Resultantly, the present writ petition is partly allowed to the extent that respondent No.3 shall reconsider the case of the recognition, in view of the fact that the application of the petitioner is pending since 2010 and whether in the teeth of any objections raised by the State Government, the college would be liable to be granted recognition. Since, the academic year 2015-2016 is almost over, the recognition order would be for the subsequent year.

The exercise by the NRC be completed within a period of 3 months from the receipt of the certified copy of this order. In case, the petitioner gets the recognition order, the University will, thereafter, decide the issue of affiliation within a period of one month from the receipt of the certified copy of the recognition order.

With the abovesaid observations, the present writ petition is disposed of.

JANUARY 13, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE