

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

-:-

C.W.P No. 25707 of 2015(O&M)

Date of Decision: February 25, 2016.

Association of NCTE Approved Colleges(Regd.) Petitioner

Versus

State of Haryana & Anr. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. R.K.Malik, Sr. Advocate, with
Mr. Ramandeep Singh, Advocate, for the petitioner.

Mr. Ashok S. Chaudhary, Addl. Advocate General, Haryana.

Mr. Tribhuwan Dahiya, Advocate, for respondent No.2.

Rajesh Bindal, J.

1. The present petition has been filed by the Association of NCTE Approved Colleges imparting education for B.Ed course. The prayer is for issuance of a direction to the respondents to fill up the vacant seats in B.Ed course for the academic Session 2015-16. As per the last counselling conducted upto 31.10.2015, only about 60% seats were filled up and about 40% seats remained vacant. In support of its case the petitioner has referred to letter dated 04.11.2015 issued by Chaudhary Ranbir Singh University, Jind, forwarding its request to the State Government for sympathetic consideration.

2. Learned counsel for the petitioner submitted that duration of B.Ed course is two years and as per National Council for Teacher Education Regulations, 2014 (for short 'the Regulations) 200 days of compulsory teaching is prescribed for each year in the course. Daily classes can be upto

maximum of six hours. As in the process of seeking permission to fill up vacant seats some time has been lost, the exams are normally scheduled in July. In the four months period from March to June end, the petitioner will have about 120 days including Sundays and other holidays to complete the course content of 1200 hours. They will hold classes for 10 hours a day. He further submitted that this will take care of the reason assigned by the Government while rejecting their prayer for extension of last date for making admissions to the B.Ed course.

3. Learned counsel for the State submitted that in the remaining working days from March 2016 till June 2016, the B.Ed educational colleges cannot complete the course content in the normal circumstances, accordingly they cannot be granted extension for making admissions. Their request was rightly denied.

4. Learned counsel for the university did not dispute the fact that the University was assigned the job of carrying out counselling for admission. It had no role to play after the admissions. Hence, should not have assumed jurisdiction in the process initiated by the petitioner seeking extension of last date for admissions. He further submitted that thereafter even the university had rejected the prayer made by the petitioner for granting extension of last date for making admissions. He further submitted that the petitioner, herein is not a legal entity which can file a petition before this Court. Some of the members of petitioner-association are members of another association formed of the un-aided education colleges. Hence, otherwise also the petition is liable to be dismissed, as some colleges have filed petitions through two different associations, being members of both

association.

5. I have heard learned counsel for the parties and perused the paper-book.

6. As per the schedule for online admissions notified by the university the process of admission was to start on 01.07.2015 and the first round of counselling was to be held on 05.08.2015 for self-financing education colleges; second was to be held on 10.08.2015 and the final round of counselling was to be held on 16.08.2015. The classes were to start for the Session 2015-16 from August 20, 2015 and the annual examinations were scheduled from 01.06.2016 onwards. The schedule further provided that in case any seats remain vacant even after third counselling, fourth and fifth counselling may be held for filling up the remaining seats with late fee. The final cut-off date for admission was fixed as 07.10.2015. It also provided for 200 compulsory teaching days. The note appended to the schedule reads as under:-

“Note:- After subsequent counseling for vacant/leftover seats in college of education no further counselling shall be conducted by the University for admission and no college shall be allowed to make admission beyond 07.10.2015 even if seats remain vacant, to meet the minimum requirement of 200 days compulsory teaching as per NCTE, norms.”

7. The aforesaid note provides that no college shall be allowed to make admissions after 07.10.2015, even if seats remain vacant. Still, the government in its wisdom vide memo dated 12.10.2015 extended the last

date fixed for filling up the remaining vacant seats in B.Ed course for the session 2015-16, to 31.10.2015.

8. It has been stated in the reply filed by respondent No.1 that there were total 60,762 seats available for admission to B.Ed course in different education colleges in the State for the Session 2015-16, out of which 32,811 seats were filled upto 07.10.2015. After extension of last date for admissions from 07.10.2015 to 31.10.2015, 3,558 more seats were filled. Finally as against the intake capacity of 60,762 seats, 24,393 seats i.e. about 40% seats remained vacant after completion of fifth counselling.

9. It is not in dispute that National Council for Teacher Education (for short 'the Council') prescribes norms and standards for B.Ed education. For the purpose it had notified National Council for Teacher (Recognition Norms and Procedure), Regulations, 2014 (for short 'the Regulations'). The appendix 4 thereof laid down the standards. The relevant portion thereof is extracted below:-

“Norms and Standards for bachelor of education programme leading to the Bachelor of Education (B.Ed) Degree.”

1. Preamble

The Bachelor of Education programme, generally known as B.Ed, is a professional course that prepares teachers for upper primary or middle level (Classes VI-VIII), secondary level (classes IX-X) and senior secondary level (classes XI-XII). The programme shall be offered in composite institutions as defined in clause(b) of regulations 2.

2. Duration and Working Days

2.1 Duration

The B.Ed. Programme shall be of a duration of two academic years, which can be completed in maximum of three years from the date of admission to the programme.

2.2 Working Days

(a) There shall be at least two hundred working days each year exclusive of the period of examination and admission.

(b) The institution shall work for a minimum of thirty six hours in a week (five or six days), during which physical presence in the institution of all the teachers and student teachers is necessary to ensure their availability for advice, guidance, dialogue and consultation as and when needed.

(c) The minimum attendance of student-teacher shall have to be 80% for all course work and practicum, and 90% for school internship.

10. A perusal of the aforesaid Regulations shows that B.Ed programme is of a duration of two academic years, which can be completed in maximum of three years from the date of admission. It requires at least 200 working days each year exclusive of the period of examination and admission. Minimum thirty six working hours in a week are required. Minimum attendance of student-teachers is provided at 80% for course work and practical, and 90% for school internship.

11. It is not in dispute that classes for B.Ed course for the Session

2015-16 started on August 20, 2015. If the prayer of the petitioner is now considered for filling up all the remaining vacant seats, months of March, April and May 2016 will remain. During this period as per details furnished by respondent No.1 there would be only 72 working days as against 200 required. Hence, to accept the plea of the petitioner that they will complete the course contents and comply with the norms fixed by the Council is totally misconceived. The stand of the petitioner is that in this period they will hold classes irrespective of any holidays or Sundays and further by increasing the teaching hours from 6 to 10-12 hours a day. If this argument is accepted, it would mean that the students may have to study from 10-12 hours per day without break even on holidays and Sundays. That will compromise the quality of education. Hence, this plea has to be rejected. Ordered accordingly.

12. There is another issue which is required to be addressed i.e. as to why so much of seats remain vacant, if anyone applies his mind before permitting opening of new colleges to impart education for B.Ed courses. While dealing with C.W.P. No. 25532 of 2015, titled as “Ganga Institute of Education Vs. Maharishi Dayanand University (MDU) and others”, this Court directed Regional Director, NCTE and the Additional Chief Secretary to Govt. of Haryana, Department of Higher Education to appear in person in Court. What transpired in that case as stated by Dr. S.K.Chauhan, Regional Director, NCTE and Mr. Vijai Vardhan, Addl. Chief Secretary to Govt. of Haryana, is that there is no co-ordination between the State, the Council and the affiliating universities. The Council, which is a regulatory body, does not have infrastructure to monitor/over-see that the quality of education is

maintained. No one is going into the aspect as to why new colleges are to be opened and additional capacity added in the existing colleges, when even existing seats are not being filled up. This aspect is not being considered by the Council.

13. After hearing learned counsel for the parties, this Court passed following order on 19.02.2016, in Ganga Institute of Education's case (Supra):-

“In terms of the order passed yesterday i.e. 18.02.2016, Dr. S.K.Chauhan, Regional Director, National Council for Teacher Education (for short, the Council) incharge of eight States i.e. Chandigarh, Haryana, Punjab, Himachal Pradesh, Delhi, Uttrakhand, Uttar Pradesh and Rajasthan and Sh. Vijai Vardhan, Addl. Chief Secretary to Govt. of Haryana, Department of Higher Education, Chandigarh are present in person. Dr. S.K.Chauhan, Regional Director has pointed out that as per Council Act and Regulations, the Council is monitoring the following courses:

- 1. Diploma in early childhood education programme leading to Diploma in Preschool Education (DPSE)*
- 2. Elementary teacher education programme leading to Diploma in Elementary Education (D.El.Ed.)*
- 3. Bachelor of elementary teacher education programme leading to Bachelor of Elementary Education (B.El.Ed.) degree*
- 4. Bachelor of Education programme leading to Bachelor of Education (B.Ed.) degree*
- 5. Master of Education programme leading to Master of Education (M.Ed.) degree*
- 6. Diploma in Physical Education programme leading to Diploma in Physical Education (D.P.Ed.)*
- 7. Bachelor of Physical Education programme leading to*

Bachelor of Physical Education (B.P.Ed.) degree

8. *Master of Physical Education programme leading to Master of Physical Education (M.P.Ed.) degree*

9. *Diploma in Elementary Education programme through open and distance learning system leading to Diploma in Elementary Education (D.El.Ed.)*

10. *Bachelor of Education programme through open and distance learning system leading to Bachelor of Education (B.Ed.) degree*

11. *Diploma in arts education (Visual Arts) programme leading to Diploma in Arts Education (Visual Arts)*

12. *Diploma in arts education (Performing Arts) programme leading to Diploma in Arts Education (Performing Arts)*

13. *4-year integrated programme leading to B.A.B.Ed./B.Sc.B.Ed. Degree*

14. *Bachelor of Education programme (part time) leading to Bachelor of Education (B.Ed.) degree*

15. *B.Ed.M.Ed.(3-years integrated) programme leading to B.Ed.M.Ed. (integrated) degree*

As regards the procedure to be followed, Dr. S.K.Chauhan, Regional Director, has submitted that initially a communication is sent to the respective State governments seeking their comments as to whether more colleges to impart courses in education are required or not. In case comments are received in positive, an advertisement is published in the newspaper for inviting applications from the persons seeking permission to open colleges. In case the State Government communicates stating that no further colleges/courses are required, the name of that State or course is not added in the

advertisement. However, in case no comments are received from the State Government, the applications are invited for all the courses. He further submitted that the Council has the data of projected demand and supply for each course and that is taken into consideration by the Committee constituted for taking final decision for grant of approval of any application for starting a new course. However, he was candid in saying that the number of seats, for which permission is to be granted, to be prospective applicants for imparting education in a course is neither mentioned by the Council or by the State Government in its communication. It only relates to a course. Whosoever fulfills the conditions laid down for starting a new college or for additional intake of seats, is granted the letter of intent.

Many times, the State Government responds after the applications have already been received by the Council, either when those are sent for comments to the State Government or after that but in that situation the Council considers those applications and wherever applicants fulfill the conditions and the committee recommended their case, the permission is granted. As per the regulations framed in the year 2014 NOC from the University from which the Institute is to have affiliation, is a pre-requisite. Such NOC is to be submitted along with the application. One set of application is sent to the State Government for its comments. The comments are required as to whether in a particular area any further colleges are required or not. Whether any comments are received or not for which two opportunities within 90 days were granted to the State Government, the Council sends a

team of two nominated members from the Council and one from the State Government for inspection. It is generally felt that State Governments do not nominate any member. In case, with the inspection report, it is found that the applicant fulfills all the conditions mentioned in the Act and regulations, the same is considered by the committee and the letter of intent is issued.

He further submitted that though the Council has the data of number of seats already permitted and colleges in the State, but do not have any data of the number of the admissions. Hence they are not considering this aspect while granting permission to the new colleges or new courses to the old colleges. He further stated that in case the State sends its comments regarding requirement of colleges in a particular area or number of seats required, that can be taken care of before inviting applications for start of new colleges/courses. After grant of letter of intent, the applicant colleges are required to fulfill certain formalities, such as appointing faculty and providing other infrastructural facilities. After fulfillment thereof within time granted, final permission is granted.

He did not dispute the fact that after initial permission is granted, there is no infrastructure or staff available with the Council to further regulate or monitor the working of the colleges with regard to quality of education imparted or with regard to the faculty or other facilities required. Even the self appraisal reports are not sent by all the colleges and wherever these reports are submitted, these cannot be appraised on account of lack of staff.

Learned counsel for University submitted that before grant of NOC for affiliation only the land and building available with the applicant is seen. He has further submitted that while granting NOC, the University should examine total number of seats already available in the colleges affiliated to the University and actual number of students admitted.

Mr. Vijai Vardhan, Addl. Chief Secretary to Govt. of Haryana, Deptt. of Higher Education submitted that from the year 2007 onwards, the State Government had been regularly writing to the Minister concerned of the Union Government and the Council also that no further colleges are required in the State for imparting B.Ed. In one communication dated 22.08.2011 from Mr. E.Ahamad, Minister of State for External Affairs & Human Resource Development, Government of India, it was intimated that the matter was got examined. The Council had informed that it had already imposed a ban in Haryana for opening new B.Ed. Colleges (except for minority institutions) w.e.f. 08.07.2009. The ban continued upto the academic year 2012-13. He further stated that despite this ban, in the year 2009-10, Council granted permission to 114 new colleges. In the year 2010-11, 37 new permissions were granted. In the year 2012-13, 19 new permissions were granted. In the year 2013-14, no new permission was granted by the Council. For the year 2014-15, the State Government had written to the Council that new college was not required, but still Council granted new permission to 19 colleges. For the year 2015-16 also, the State government has also written to the Council for not granting new permission to any new college for imparting education. No permission was granted.

Mr. Chetan Mittal, Asstt. Solicitor General of India, who is present in Court, was requested to assist the Court on the issue why Union of India is not taking care of regulatory statutory body under the National Council for Teacher Education Act, 1993. The regional office of Council who controls eight States with around 6,000 colleges, is functioning merely with a staff of eight regular officers. Rest of the staff is appointed on contract basis. He further submitted that the information, which he could get from the concerned officer is that a Committee was constituted to examine the number of persons required in the Council and certain recommendations have been made by Ms. Anshu Bains, the then Secretary of Elementary Education. That matter is pending consideration with the Government. He seeks time to have instructions as how to get the matter expedited.

What transpires from the procedures and facts as clarified by Dr. S.K. Chauhan and Mr. Vijai Vardhan, is that there is lack of coordination among the three bodies namely the Council being the parent regulatory body, the State Government and the University in monitoring the quality of education and further regarding the number of colleges and the seats required in a particular course, as the data submitted before this Court suggest that in the State of Haryana, there are 491 self financing Education Colleges and three government colleges having an intake capacity of 60,672 students out of which in the current session i.e. 2015-16, 32,811 seats were filled up and 27,951 seats are lying vacant despite granting four weeks extra time for counseling after the last cut off date.

In the light of the aforesaid facts, it is paramount for the

regulatory body, affiliating university and the State government to see that no further colleges are allowed to be opened, which will result in compromising the quality of education.

As far as the issue regarding inspection of existing colleges to see the availability of infrastructure or quality of education imparted, the matter needs to be examined. There has to be coordination among the three bodies i.e. Council, State Government and the concerned affiliating university.

Mr. Vijai Vardhan, Addl. Chief Secretary seeks short adjournment to find out whether there is some accredited private agency, which can carry out this work or the State Government may have to constitute teams. He further stated that he will communicate with other affiliating university in the State to streamline the working of the education colleges in the light of the facts noticed above. It needs to be noticed that entire work has to be done in coordination of the Council, State Government and the affiliating University. Let the needful be done, however, it should be kept in mind that this exercise has to be done in the shortest possible time. Adjourned to 25.02.2016.

14. It cannot be disputed that with degree of B.Ed course what is being produced are teachers who will be teaching the future generations. If there is compromise in quality thereof one can imagine the ultimate results. It is also evident if one sees the results in the Government schools where most of the teachers, who get education from these type of institutions/shops, who are interesting in money than in imparting quality education, are appointed. As in the case in hand also, merely four months are left for completion of session, members of the petitioner-association are

seeking admission of new students, ultimately fee for one full year will be charged while imparting education only for a period of four months. It is nothing else but only commercial mind set.

15. The stand of the University which was assigned the job of merely holding counselling, is not appreciable as after the last date fixed was over, it was functus officio. Still on a representation made by the petitioner for extension of the date for admissions, recommendation was made to the Government for extension. Undisputeably, the last date for admissions fixed as per the schedule was 07.10.2015. Even, thereafter extension was granted by the State not by the University. The university which is the affiliating body should not in any manner connive or side with the private institutions in achieving their designs, which is nothing else but commercial. They are there to monitor the quality of education. The University did not even appreciate the fact that number of teaching days were far less than required hence, there could not be any extension.

16. As has already been noticed above, as per the Regulations framed by the Council, at least two hundred working days each year exclusive of the period of examinations and admission are required to complete the course. The institution is to work minimum of thirty-six hours in a week. Minimum attendance required is 80% for all course work and practical, and 90% for school internship. The notification issued by the M.D University, the affiliating university, specifying the schedule of term and B.Ed regular course to be observed by the colleges of education for the Session 2015-16, has been placed on record as Annexure R/2/7. The relevant portion thereof is extracted below:-

<i>“ 1st Term</i>	<i>20.08.2015 to 17.10.2015</i>
<i>Vacations-I</i>	<i>19.10.2015 to 25.10.2015</i>
<i>1st Term continued</i>	<i>26.10.2015 to 17.12.2015</i>
<i>Winter Vacations</i>	<i>18.12.2015 to 31.12.2015</i>
<i>2nd Term</i>	<i>01.01.2016 to 19.03.2016</i>
<i>Vacations-II</i>	<i>21.03.2016 to 26.03.2016</i>
<i>2nd Term continued</i>	<i>28.03.2016 to 26.05.2016</i>
<i>Summer Vacations</i>	<i>27.05.2016 to 07.07.2016</i>
<i>Theory Examinations</i>	<i>01.06.2016 onwards</i>
<i>Practical Examinations</i>	<i>Before/After Theory Examinations.</i>

Note:- If the number of teaching days falls less than 200 days in the academic session 2015-16 due to some unforeseen reasons, it should be the responsibility of each teacher to make good the loss by taking extra classes.”

17. If calculated, the total number of working days even in the schedule notified initially are less than 200. Meaning thereby Regulations notified by the Council were being violating by the university even from the very beginning namely, starting of the course. The admission as per the schedule notified for counselling initially, were to conclude on August 16, 2015 and classes were to start from August 20, 2015. Still thereafter for the vacant seats the admissions could be made upto 7.10.2015. Meaning thereby the resultant teaching days for the students so admitted on 7.10.2015 were less than 200 days. There was no possibility of their completing the course content. It was the duty of the State Government while granting extension of date for admission from 7.10.2015 to 31.10.2016, to see as to whether there are sufficient number of working days as required by the norms notified by the Council. Meaning thereby from the very beginning, the

violation of the norms framed by the Council started.

18. To avoid this situation in future, the University, State and Council shall be duty bound to notify the schedule for the complete year during which the classes for the course shall be held. It shall ensure that in no case the number of teaching days are less than 200. For any admission the last date for admission has to be notified. Thereafter, there would be no extension under any circumstances. The schedule for admission as was notified for the Session 2015-16 may have to be preponed in the subsequent years to ensure that sufficient number of teaching days are available for every student admitted in the Course.

19. For the reasons mentioned above, I do not find any merit in the present petition.

20. The petition is dismissed.

February 25, 2016
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(RAJESH BINDAL)
JUDGE

(Refer to reporter)