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

**CWP No.6253 of 2016
Date of decision:18.05.2016**

Legal Aid Parishad and another ..Petitioners

Versus

Maharishi Dayanand University, Rohtak and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Shiv Charan Bhola, Advocate, and
Mr. Vikas Mor, Advocate, for the petitioners.

Mr. Amit Rao, Advocate,
for respondent No.1-MDU.

None for respondent No.2.

Mr. Ashish Rawal, Advocate,
for respondent No.3-NCTE.

Rakesh Kumar Jain, J.

The petitioners applied to the National Council of Teacher Education (NCTE) for recognition for starting B.A. B.Ed. and B.Sc. B.Ed. Courses for the session 2014-15 vide application dated 14.07.2015. As per Section 5(3) of the NCTE Act, 2014 (as amended), the application of the petitioners is to be considered only if it is complete in all respect and without the 'No Objection Certificate' from the concerned affiliating body, the application for recognition cannot be considered. It was decided by the University that the proposal for four years integrated course of B.A. B.Ed. and B.Sc. B.Ed. shall not be considered until and unless Department of Higher Education, Haryana, issues the 'No Objection Certificate'. The State

of Haryana has not issued the 'No Objection Certificate' for opening of the new education colleges rather a ban has been imposed vide letter dated 05.06.2015 (Annexure R-1/3) on opening of new education colleges under self-finance basis during the academic session 2015-2016. The prayer made by the petitioners is for the issuance of a writ in the nature of *mandamus* to direct the NCTE to consider their application for recognition without the 'No Objection Certificate' from the affiliating body, in view of the decision rendered by this Court in the case of **Hakeem Harbans Singh New Era college of Education vs. State of Haryana and others**, CWP No.12748 of 2015, decided on 03.08.2015.

Counsel for the respondents has submitted that the decision rendered in **Hakeem Harbans Singh New Era college of Education's case (supra)** is not applicable to the present case because in that case, the issue was as to whether the State Government can restrict the opening of fresh institutions imparting D.El.Ed. course or grant of recognition or increase in intake capacity of such existing institutions, which are otherwise also established as the minority institutions, despite the fact that the NCTE has already taken a decision in favour of the institutions?

I have heard learned counsel for the parties and examined the available record.

In **Hakeem Harbans Singh New Era college of Education's case (supra)**, relied upon by the counsel for the petitioner, the following observations were made by this Court:-

“The answer to this question is not far fetched to reach because a similar question was involved in **State of Maharashtra's case (supra)**, in which the State of Maharashtra had taken a policy decision not to grant NOC to any institution for

starting new B.Ed. college. A decision was also taken to bring it to the notice of the NCTE that there is no need for new B.Ed. trained manpower and hence, the NCTE should not directly consider any application for grant of permission to start B.Ed. college. In the present case as well, the impugned letter/order suggests that recommendations have been made by the State Government to the NCTE not to allow opening of fresh D.El.Ed. institute or increase in the intake capacity of such existing institutions because of the reason that the State does not require such trained manpower because of lack of employment.

In the cited case, the NCTE took the decision to grant permission, as has been shown in the present case as well when this aspect was discussed by the Northern Regional Committee of the NCTE in its 238th meeting held between 20-31 May, 2015, on the ground that the State has been late, whereas several cases have already been dealt with and hence, the letter of the State dated 04.05.2015 has to be ignored. In the cited case, the High Court held that the NCTE is the appropriate authority to take a decision for the opening of new colleges and the State of Government or the University cannot act contrary to the decision of the NCTE. It was also observed that the contention of the State Government is only to supply data and material to the NCTE to enable it to take a decision, but the State had no power to decide, by way of a policy decision, not to grant permission to open new B.Ed. college for a particular period. It was finally concluded that the ultimate authority lies with the NCTE and it cannot be deprived off to take appropriate decision under the National Council for Teacher Education Act, 1993 irrespective of absence of no-objection certificate by the State Government/Union Territory. It was held that absence or non-production of NOC by the institution, therefore, was immaterial and irrelevant so far as the power of NCTE is concerned.

Learned counsel for the respondents has also failed to argue on the issue of the right of the minority institution which has been highlighted by the petitioner while submitting that even in the public notice issued on 26.11.2012, no restriction was imposed by the NCTE in case of minority educational institutions.

Thus, in view of the aforesaid discussion, both the writ petitions are hereby allowed and the letters/orders dated

09.06.2015/12.05.2015, affecting rights of the petitioner(s) in both the cases, are hereby declared as illegal and set aside.”

In **Hakeem Harbans Singh New Era college of Education's case (supra)**, it was a Sikh Minority institution on which there was no restriction imposed by the State even in the public notice issued, as has been noticed in that case, whereas the petitioner in the present case is not a minority institution and, thus, it cannot take the advantage of the decision rendered by this Court in **Hakeem Harbans Singh New Era college of Education's case (supra)**.

Consequently, the present writ petition is hereby dismissed being denuded of any merit.

May 18, 2016
vinod*

(Rakesh Kumar Jain)
Judge