

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17584 of 2016

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Devendra Pathak Sarvodaya College of Education (B. Ed. College), At-Dubhai,
P.O.-Chand Choura, Gaya, through its Secretary, Devendra Kumar Pathak, aged
about 54 years, Son of Shri Gopal Pathak, Resident of 439, A.P. Colony, P.S.-
Rampur, District-Gaya.

.... Petitioner/s

Versus

1. Magadh University, Bodh Gaya, through its Registrar.
2. The Vice-Chancellor, Magadh University, Bodh Gaya.
3. The Registrar, Magadh University, Bodh Gaya.
4. The Inspector of Colleges, Arts & Commerce, Magadh University, Bodh Gaya.
5. National Council for Teacher Education, (a Statutory Body of the Govt. of India),
Hans Bhawan, Wing-II, Bhadurshah Zafar Marg, New Delhi-110002, through its
Member Secretary.
6. The Member Secretary, National Council for Teacher Education, Hans Bhawan,
Wing-II, Bhadurshah Zafar Marg, New Delhi-110002.
7. National Council for Teacher Education, Eastern Regional Committee, (a
Statutory Body of the Govt. of India), 15 Neelkantha Nagar, Nayapalli,
Bhubneshwar-751012.
8. The Regional Director, National Council for Teacher Education, Eastern
Regional Committee, 15 Neelkantha Nagar, Nayapalli, Bhubneshwar-751012.
9. The State of Bihar, through the Principal Secretary, Education Department, Govt.
of Bihar, Patna.
10. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Adv. Mr. Raghubir Chandrayan, Adv.
For the MU	:	Mr. Shivendra Kishore, Sr. Adv. Mr. Ritesh Kumar, Adv.
For the State	:	Mr. Nanendra Kumar, AC to GP 20
For the NCTE	:	Mr. Sunil Kr. Singh, Adv.



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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 14-11-2017

This writ application, under Article 226 of the Constitution of India, has been filed asking the Magadh University, Bodh-Gaya, Gaya (*in short 'the University'*) to issue 'No Objection Certificate' (NOC) for grant of recognition for additional intake of Bachelor of Education (B.Ed.) course from the academic session 2017-18. The availability of an NOC from the examining body is a *sine quinon* for grant of recognition by the National Council for Teacher Education (*in short 'the NCTE'*), in the said course.

2. The petitioner-institution also seeks a direction to the respondent-Eastern Regional Committee of the NCTE to accept its application, even in the absence of NOC, and consider to process the same for grant of recognition for an additional intake of students for the said session 2017-18.

3. The said session 2017-18 has already commenced and, therefore, no direction can be issued for the said academic session. However, learned counsel, appearing on behalf of the petitioner-institution has submitted that if NOC is issued by the University, the same can be considered by the NCTE for the next



academic session.

4. This is not in dispute that the petitioner, which is a Teachers Training College, has recognition under Section 14(3) of the National Council for Teacher Education Act, 1993, with the intake of 100 students. The petitioner-institution has been affiliated to Magadh University, Bodh-Gaya, which fact is also not in dispute.

5. It seems that the petitioner-institution wanted to increase the intake with an additional intake of 100 students. It is the case of the petitioner-institution that it, accordingly, improved and increased the infrastructure, so as to satisfy the requirements for the intake of 200 students. It applied for recognition of additional seats. For grant of recognition by the NCTE, NOC is required from the affiliating body, which is Magadh University, Bodh-Gaya, in the present case. The University has refused to grant NOC to the petitioner-institution, in view of the decision taken by the Syndicate in its meeting, dated 15.06.2017. The proceedings of the emergent meeting of the Syndicate, dated 15.06.2017, has been brought on record by way of Annexure-A to the 2nd supplementary counter affidavit filed on behalf of the University. It appears that the Senate in its said meeting had taken a decision that it shall not issue any NOC. The rationale behind the



decision of non-issuance of new NOCs has been given in the proceeding itself, which are as follows:-

“1. The University shall not issue any NOC. The rationale for the non-issuance of the new NOC is as follows:

(i) There is in progress a joint enquiry by the members of the NCTE, Govt. and the University, on the order of the Hon’ble High Court, therefore, fresh NOC should be issued only after understanding the order of the final outcome of the case.

(ii) There are too many B.Ed. colleges under the jurisdiction of the Magadh University vis-a-vis total population.

(iii) The University has a jurisdiction in 6 districts of Bihar and the number of said B.Ed. colleges is around 87.

2. As on the day proposal of some 17 colleges are under consideration for enhancement of intake capacity/addition of M.Ed. Programme/extension of affiliation with the University on the basis of previously issued NOC’s. However, these institutions would be additionally inspected by the University for



ensuring their adherence to the norms laid down by the NCTE and the University in all respects; very especially in regard of infrastructure and faculty.

3. It has become difficult for the University to inspect and monitor the said B.Ed. colleges periodically, with the held of only two Inspectors of Colleges, who are working in addition to their own duties. The present infrastructure of governance of the Inspectorate is also insufficient to ensure the standards of teaching in such institutions.

4. x x x x x

5. It was also considered that as the Aryabhatta Knowledge University has the mandate to run all professional courses in the entire State of Bihar including the B.Ed., the affiliation of privately run institutions for the B.Ed., Dental, Pharmacy, Paramedical, Sciences, Health Sciences, Engineering Science should be transferred to its Jurisdiction for uniform management as per the



policy of the regulators.”

6. I shall be dealing with the reasoning assigned by the University one by one, as noted above. As regards 1.(i) above, I am of the view that pendency of the proceedings before this Court could not be said to be a valid reason for non-issuance of NOC. There is nothing to show that any interim order, requiring the Universities not to issue any NOC, was ever passed by this Court. Coming to the next reasoning, *i.e.*, 1.(ii), that there are too many B.Ed. colleges under the jurisdiction of the University *vis-à-vis* total population, I am of the view that the petitioner’s institution is one among those B.Ed. colleges, which are under the jurisdiction of the University and the college is already affiliated to the Magadh University. The grant of recognition by the NCTE for enhancement of seats will not amount to addition of a new college to already existing colleges. Similarly, the reasoning assigned in 1.(iii) also cannot be approved in the facts and circumstances of the present case, where the college is already affiliated to the University.

7. The other reasons, which have been assigned by the University, are that it does not have the enough number of Inspectors to inspect the colleges. Inability of the University to conduct the inspection, the way it has been expressed in the said



decision of the Syndicate, dated 15.06.2017, cannot be approved by this Court. This is the statutory obligation of the University to consider issuance of NOC. If the University does not have enough requisite infrastructures, it can strive to improve the same, but, on that ground, it cannot refuse to consider grant of NOC itself. The present institution has already been granted recognition by the NCTE after issuance of NOC.

8. This is to be noted that when the matter was taken up by this Court on 02.03.2017, the NCTE was directed not to reject the online application filed by the petitioner for enhancement of intake for the said academic session 2017-18, in the meanwhile. The said order was apparently passed because the University had failed to consider the petitioner's case for grant of NOC, for the said purpose.

9. In that view of the matter, I dispose of this application with a direction to the Magadh University, Bodhi-Gaya, Gaya, to consider the petitioner's case for grant of NOC in accordance with law, despite its resolution, dated 15.06.2017, and take a final decision within a period of two months from the date of receipt/presentation of a copy of this order.

10. In the meanwhile, the NCTE shall await the decision of the University, as regards issuance of NOC.



11. It goes without saying that the University shall be obliged to conduct inspection of the petitioner-institution for the purpose of grant of NOC.

12. The impugned communication, dated 21.08.2017, as contained in Annexure-C to the 2nd supplementary counter affidavit filed on behalf of the University, stands quashed.

13. This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.11.2017
Transmission Date	N/A

