

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9416 of 2014

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1. Manoj Kumar Paswan son of late Ram Naresh Paswan, R/o village- Baghi, P.S.- Town (M), District- Begusarai, At present Principal Dr. Ambedkar Hindi, Sanskrit Vidyapeeth, Bihar-Cum-Education and Training Institute at Jokia, P.O.- Jokia, District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Department, Govt. of Bihar, Patna
2. The Director, Research and Training, Government of Bihar, Patna
3. Bihar School Examination Board, Sinha Library Road, Patna, through its Secretary
4. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna
5. The Regional Director, National Council for Teacher Education, Eastern Regional Committee, 15, Nilkantha Nagar, Nayapalli, Bhubneswar

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bishnu Kant Dubey
For the B.S.E.B	:	Mr. Manish Kumar
For NCTE	:	Mr. Kumar Birjnandan
For the State	:	Mr. Sanjeet Kumar Singh, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 15-05-2017

This application under Article 226 of the Constitution of India has been filed by the Principal of Dr. Ambedkar Hindi, Sanskrit Vidyapeeth-cum-Education and Training Institute, Jokia, in the District of Begusarai (hereinafter referred to as Vidyapeeth), seeking direction to the respondents to accept the fee and forms of the petitioner's institution for holding examination of B.Ed. Course for the Sessions 2008-09 to 2010-12; which according to him has already been deposited in the office of the respondent-Bihar School Examination Board, Patna



(hereinafter referred to as the Board). The petitioner has also sought for a direction to accept the fee and forms for the Sessions 2010-12, 2011-13 and 2012-14 for D.El.Ed Course and to permit the students of the institution to appear for ensuring examination and to publish their results for the said Sessions.

2. It must be recorded at the very outset that till the date of the filing of the present application on 10.06.2014, the institution did not have an affiliation with the Board. After filing of the writ application, the Board has granted affiliation to the Institution to conduct D.El.Ed. Course from the Sessions 2014-15, communicated to the petitioner through letter, dated 26.02.2015, under the signature of the Secretary of Board. The petitioner has a grievance with the said communication, dated 26.02.2015, to the extent that the affiliation has been granted from Sessions 2014-15. It is his claim that the affiliation ought to have been granted from academic Sessions 2009-10 from which Session, recognition was granted by the competent authority, viz, National Council for Teacher Education (NCTE).

3. Accordingly, I. A. No. 3613 of 2017 has been filed seeking amendment in the writ application to permit the petitioner to challenge the said communication, dated 26.02.2015, to the limited extent as indicated above,

4. I. A. No. 3613 of 2017 is allowed and consequently the petitioner is, hereby, permitted to question the correctness



of the impugned order, dated 26.02.2015, to the extent that the affiliation has been granted from Session 2014-15 and not from the Session 2008-09.

5. There are certain facts, which are not in dispute. The NCTE under an order, dated 14.05.2010, exercising power under Section 14(3 (a) of the National Council for Teacher Education Act, 1993, granted recognition to the petitioner's Institution for conducting BTC (D.El.Ed.) Course of Elementary level of two years duration with an annual intake of 50 (fifty) students from the academic session 2009-10 under Clause 7(11) of the NCTE (Recognition Norms and Procedure) Regulations, 2007 (hereinafter referred to as the Regulations), subject to fulfillment of the certain conditions. The conditions as laid down in sub-Clauses (i) and (iv) of Clause 3 of the said order are crucial for adjudication of the present case, which are accordingly being reproduced hereinbelow :-

"(i) The admission of students shall be made only after affiliation by the examining body before the commencement of the academic session and the admission of students shall be completed well before the cut off date prescribed by the examining body for the academic session 2009-10 failing which the recognition will be effective from the academic session 2010-2011 only.

X x x x x x

(iv) The Institution shall make admission only after it obtains affiliation from the examining body in terms of clause 8(12) of the NCTE (Recognition Norms &



Procedure) Regulations, 2007.”

6. Before coming to other facts I consider it apt to read carefully the aforesaid two clauses of the order, dated 14.05.2010, which have been reproduced above. Clause (i) in most categorical terms, while granting recognition to the Institution, required that admission of students shall be made only after affiliation by the examining body before the commencement of the academic session and that admission of students shall be completed well before the cut off date prescribed by the examining body for the academic session 2009-10, failing which the recognition shall be effective from the academic session 2010-11. Sub-clause (iv) reiterates that the institution can take admission only after it obtains affiliation from the examining body in terms of clause 8(12) of the Regulations. Evidently, in view of Clause (i), grant of recognition by the NCTE to the Institution for the academic session 2009-10 was subject to (a) affiliation by the examining body before commencement of academic session and (b) completion of admission process before the cut off date prescribed by the examining body. It is not the case of the petitioner that the institution had affiliation as contemplated under sub-clause (i) and sub-clause (iv) of Clause 3 of order, dated 14.05.2010. In the absence of affiliation, the institution could not have taken admission in



view of the conditions for grant of recognition prescribed in the said order, dated 14.05.2010.

7. In that view of the matter, the petitioner cannot claim recognition by NCTE for the session 2009-10 since the order itself prescribed that in case of affiliation was not granted by the examining body within stipulated time, the recognition would be effective from academic session 2010-11.

8. It is evident from the relief, which has been sought for on behalf of the petitioner that he has a grievance against the Board, which according to the petitioner is the examining body, competent to affiliate the institution for the said purpose, is not discharging its statutory obligation of granting affiliation and giving examination for the concerned course, dispute recognition having been granted by the NCTE. I must point out at this stage that while granting recognition to the petitioner's institution, Hindi University, Allahabad, Utter Pradesh was made the examining body by NCTE and not the Bihar School Examination Board; which fact is not in dispute. This fact had been taken note of by this Court earlier on a writ application filed by the same petitioner which had given rise to CWJC No. 12502 of 2011. Reference can be made in this regard to the order, dated 31.10.2013, from which it is evident that the petitioner's institution itself had



made preference for Hindi University, Allahabad in its application forms as the examining body and the affiliating body and based on the said application, the NCTE had directed the said Hindi University for affiliation and taking examination of the students of the petitioner Institute. From the said order, it is also evident that the Bihar School Examination Board had taken specific stand that since Board had not been designated affiliating body and examining body of the petitioner Institute, it was not possible for them to permit the students to appear for the examination. Relevant portion of the order of this Court, dated 31.10.2013, is being reproduced hereinbelow:-

"The petitioner is aggrieved by the action of the Bihar School Examination Board in not accepting the forms of the students of the college for appearing in the academic sessions 2008-10 and 2009-11.

A counter affidavit has been filed on behalf of the respondent nos. 3 and 4 wherein it has been stated that they have not been designated 'affiliating body' and 'examining body' of the petitioner Institute and as such it was not possible for them to permit the students for the batch 2009-10 & 2009-11 to appear in the said examination. Further in paragraph 4 it has been stated that the 'affiliating body' and 'examining body' of the petitioner Institute is Hindi University, Allahabad, Uttar Pradesh.

Mr. S.N. Pathak, learned counsel for the NCTE submits that the petitioner itself made preference for Hindi University, Allahabad in its application form and as such the NCTE directed the said University for affiliation and taking examination of the students of the petitioner Institute.

Mr. Rajendra Prasad Singh, learned Senior Counsel for the petitioner submits that by mistake they have mentioned Hindi



University as their choice for 'affiliating body' and 'examining body'. He further submits that way back on 22.6.2010 the petitioner made a request for granting affiliation with Bihar School Examination Board, Patna as the petitioner Institute is situated in the State of Bihar itself. The petitioner has also filed an affidavit that by mistake the 'affiliating body' and 'examining body' was given as Hindi University, Allahabad.

It appears from the order, dated 29.7.2013 that the Bihar School Examination Board would have no problem in granting affiliation once the NCTE directs so. In my view, the NCTE, ERC should have acted upon the request of the petitioner dated 22.6.2010 for directing its affiliation with Bihar School Examination Board in place of Hindi University, Allahabad.

As the choice of a training college should be a dominant factor, I direct the National Council for Teacher Education, Eastern Regional Committee, Bhubaneswar for consideration of granting affiliation of the petitioner Institute with Bihar School Examination Board by convening urgent meeting within three weeks from the date of receipt/production of a copy of this order along with representation of the petitioner.

With the aforesaid observations and directions, this writ application stands disposed."

9. Consequent upon this Court's order, dated 31.10.2013, the NCTE in its meeting held on 5th-6th December, 2013 decided to change the affiliating body of the Institution from Hindi University, Allahabad to Bihar School Examination Board, Patna. After having decided so, the NCTE asked the Institution to take up the matter with the Board for grant of affiliation to the Institution. What has emerged from the facts as noted above, is that Institution was not affiliated to any examining body till 01.01.2014 when



the NCTE decided to change the affiliating body from Hindi University, Allahabad to Bihar School Examination Board, Patna. As a matter of fact, the petitioner's Institution had not applied for affiliation with the Hindi University, Allahabad and could not have applied for affiliation with the Bihar School Examination Board because in terms of recognition granted by the NCTE, the Hindi University, Allahabad was to be the affiliating and examining body.

10. Coming now to the order granting recognition by the NCTE to the Institution, as has been noted above, in my view, the petitioner's Institution could not have allowed admission before grant of affiliation. In such circumstance, his claim that the Institution had taken admission of students for the session as indicated in paragraph 1, who should be allowed to appear for the examination for Session as indicated therein is untenable.

11. In case of ***Sunil Oraon (minor) through guardian and others Vs. CBSE and others*** reported in ***(2006) 13 SCC 673***, the Supreme Court, referring to previous decisions deprecated the practice of educational institution admitting the students without requisite recognition or affiliation. The Supreme Court observed that such infraction was of serious nature. Despite keeping in mind that the ultimate victims were innocent students, the



Supreme Court held that that could not be a ground for grant of relief to them.

12. The Supreme Court took similar view in case of ***Adarsh Shiksha Mahavidyalaya Vs. Subhash Rahangdale and others*** reported in ***(2012) 2 SCC 425***, holding specifically that the students admitted by unrecognized institution or by institutions, which are not affiliated to any examining body are not entitled to appear in the examination conducted by the examining body or any other authorized agency. The Supreme Court held in clear terms that result of students admitted by an unrecognized institution or by an institution which had not been granted affiliation by the examining body shall not be declared.

13. The Supreme Court reiterated this view as has been noticed above, in case of ***National Council for Teacher Education and another Vs. Venus Public Education Society and others*** reported in ***(2013) 1 SCC 223***, laying down that without recognition from NCTE and affiliation from the University/examining body, the educational institutions cannot admit students. The Court observed that an educational institution is expected to be aware of the law and the students who are educated are expected to enquire whether the institutions had due recognition and affiliation. The Supreme Court deprecated



conduct of educational institutions taking admission of students in B.Ed. Courses, though not having due recognition and affiliation.

14. In a recent judgment in case of ***Committee of Management Anuragi Devi Degree College & Anr. Vs. State of U.P. & Anr*** reported in ***(2016) 12 SCC 517***, again reiterated the same view making scathing remarks against the conduct of institutions taking admission without having necessary affiliation. The Court observed in paragraph 15:- "This kind of conduct has become a disease, and when the conduct becomes a disaster, it is a disastrous phenomenon."

15. Mr. Bishnu Kant Dubey, learned counsel appearing on behalf of the petitioner has submitted in response to a query made by this Court as to whether the petitioner is aggrieved, in any manner, by the order, dated 14th May, 2010, whereby the institution has been granted recognition by the NCTE, has submitted that the petitioner has grievance only to the extent the aforesaid two conditions as noticed above, in the present order have been put, while granting recognition, which according to him, were unwarranted. According to him, since the institution in question was established long before, the NCTE ought not to have put the conditions that admission of students shall be taken only after affiliation by the examining body before



commencement of the academic session. The plea deserves to be rejected for more than one reason. Firstly, these conditions have statutory background. Regulation 7 of the Regulations specifically provides that an institution shall make admission only after it obtains order of recognition from Regional Committee concerned under Regular 7(12) and affiliation from the examining body. The said provision is extracted hereinbelow:-

"(12) An institution shall make admission only after it obtains order of recognition from the Regional Committee concerned under Regulation 7(11), and affiliation from the examining body."

16. I am mindful of the fact that 2007 Regulations have subsequently been superseded and replaced by similar Regulation named NCTE (Recognition Norms and Procedure) Regulation 2009 which also contains similar provision under Regulation 7(12).

17. Secondly, at no point of time, the petitioner raised any plea against the said conditions imposed in order granting recognition on any ground whatsoever though the petitioner had earlier approached this Court by filing writ petition being CWJC No. 12502 of 2011, which has already been noticed above.

18. As has been noticed above, the Board has granted affiliation from academic Session 2014-15. The Board



could not have granted affiliation for session prior to that because the Board was made affiliating body and examining body only after the decision of the NCTE was taken in its meeting on 5th-6th December, 2013, as communicated to the petitioner through letter, dated 01.01.2014 (Annexure-9).

19. Situated thus, I find no justification why the Court should direct the Bihar School Examination Board to accept the fees and forms of the students of the Institution and allow them to appear in examination for the session when the Institution was not affiliated with any affiliating body and the examining body.

20. No relief as sought for, by the petitioner in the present application can be granted over and above what has already been done by the Board by granting affiliation from academic session 2014-15.

21. I find no merit i this application. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.,)

ArunKumar/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	16.05.2017
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