

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5247 of 2017

St. Therasas Primary Teacher Education College Bettiah thorough its Principal
Sr. Anice Enchackal, daughter of Late P. Patrose, resident of Holy Cross
Convent, Bettiah, P.S.- Bettiah Town, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. Bihar School Examination Board through the Chairman, Bihar School Examination Board, Patna-17.
3. Director (Education), Bihar School Examination Board, Patna-17.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 6790 of 2017

Ram Kumar, aged about 61 years, S/o Late Lagandeo Sharma, Principal of
Buddha Siksha Seva Sansthan, Prathmik Prashikchak Mahavidyalaya,
Shekhpura, Patel Nagar, Patna-4.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Deptt, Govt. of Bihar, Patna.
2. The Director, The State Education Research & Training Board, Bihar, Patna.
3. Bihar School Examination Board through its Secretary, Sinha Library Road, Patna.
4. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 5247 of 2017)

For the Petitioner/s	:	Mr. K.M.Joseph
For the Respondent/s	:	Mr. JITENDRA KR. ROY NO. 1- SC13
For Board	:	Mr. Satyabir Bharti

(In Civil Writ Jurisdiction Case No. 6790 of 2017)

For the Petitioner/s	:	Mr. Rajendra Pd. Singh Sr. Adv. With Mr. Rajeev Kumar Singh
For the Respondent/s	:	Mr. ASHUTOSH RANJAN PANDEY- AAG15
For Board	:	Mr. Gyan Shankar

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 19-12-2017 These two matters involve identical issue on the question



of grant of affiliation by an Examining Body, once teachers training institution has been granted recognition by the National Council For Teachers Education (in short NCTE) under the National Council of Teacher Education Act, 1993 (hereinafter referred to as the Act).

2. The petitioner in the first case is an institution imparting teacher training institution, which was established in the year 1926 as asserted in the writ application. It is the case of this petitioner that the institution was granted recognition by the Director (Research and Training), Government of Bihar in the year 1978 and the institution has thus, been imparting teachers training education right from the very beginning. It was granted recognition by NCTE on 12.02.1997 under Section 14(3) (a) of the Act, which fact is not in dispute. This is also not in dispute that the Bihar School Examination Board (hereinafter referred to as the Board) has been conducting examination of the students of the institution for D.El.Ed. Course regularly. It is within the knowledge of the Board that the institution has recognition under Section 14(3) (a) of the Act, which is also not in dispute.

3. The writ application has been filed seeking quashing of an order, dated 17.03.2017, issued by the Director (Education) of the Board addressed to the Principal, St. Theresa Primary



Teachers Education College, Bettiah, whereby the Board has directed the College to seek fresh affiliation from the Board for the said course which has been recognized by the NCTE.

4. In the second case, the petitioner is the Principal of Buddha Siksha Seva Sansthan, Prathmik Prashikchak Mahavidyalaya, Shekhpura, Patna. In this case also, there is no dispute that the institution in question has been recognized by the NCTE. The Board has, however, despite information to the effect that the College has recognition of NCTE has not granted affiliation. The Board is admittedly the examining body.

5. This Court in case of ***Surendra B.Ed. Teachers Training College Vs. State of Bihar and anr***, (CWJC No. 7972 of 2017) disposed of on 11.08.2017, had the occasion to deal with the various provisions under the Act, particularly, Section 14(3) (a) and Section 14(6) of the Act. After having noticed the language of the said provision, this Court has held in paragraph 8 as follows:-

“8. The language of sub-Section(6) of Section 14 is unambiguous and clear. It mandates and casts legal obligation on every examining body to grant affiliation to the institution, where recognition has been granted, and to cancel affiliation of the institution, where recognition has been refused. No option/choice/discretion lies with the examining body, in terms of sub-Section(6) of Section 14 of



the Act, in the matter of grant of affiliation to the institution, where recognition has been granted and cancellation of affiliation of the institution, where recognition has been refused.”

6. This Court upon considering the Supreme Court's decisions in case of ***State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya & Ors.***, reported in ***(2006) 9 SCC 1*** and in case of ***Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of Uttar Pradesh & Ors.***, reported in ***(2013) 2 SCC 617***, held in paragraphs 13 to 15 as follows:-

“13. In order to deal with the question and rival submissions advanced on behalf of the parties, I may take note of clear observations made in paragraph 63,64,74 and 76 of Supreme Court decision in case of State of Maharashtra (supra), wherein the Supreme Court has clearly held that the field of teacher education is fully and completely occupied by an Act of Parliament and covered by Entry of List I of Schedule VII of the Constitution. It has further been held that it is not open to the State Legislature to encroach upon the said field and Parliament alone could have exercised the power by making appropriate law. It is not open to the State Government to refuse permission relying on a State Act or on “ policy consideration”, the Supreme Court held. Paragraph 74 of the said decision is relevant, wherein, the Supreme Court held that it was neither open to the State Government nor to a University to consider the local conditions or apply “State Policy” to refuse



such permission, in view of the act of the Parliament, dealing with teacher education system “ throughout the country”.

14. Reiterating the view of the Supreme Court, in case of Maa Vaishno Devi Mahila Mahavidyalaya (supra), the Supreme Court held in paragraph 43, referring to Section 16 of the Act, that since it opens with a non obstante language and has an overriding effect over all other laws for the time in force, it requires that unless the institution concerned has obtained recognition from the Regional Committee concerned, no examining body shall grant affiliation, whether provisional or otherwise or even hold examination, whether provisional or otherwise, for the courses in the teacher training programme.

15. Upon conjoint reading of sub-Section (6) of Section 14 of the Act and the Supreme Court decision in case of Maa Vaishno Devi Mahila Mahavidyalaya (supra), I have no hesitation in reaching a definite conclusion that the Act will have supremacy over all other laws in the matter of teacher education and provisions under any law, made by the State Legislature, will have to yield to the provisions of the Act. The Supreme Court clearly held that amplitude of the provisions of Section 14 of the Act is very wide and extensive and hardly leaves any matter relatable to an educational institution outside its ambit. The Court held that NCTE is a supreme body and is vested with wide powers to be exercised with aid of expertise, in granting or refusing to grant recognition to an educational institution. NCTE is the paramount body for granting approval/recognition not only for commencing of fresh courses but even for increase



in intake, etc., the Supreme Court has held.”

7. Paragraph 18 of the said decision is also of significance, which reads thus:-

“18. If what is being contended on behalf of the University is accepted and the Universities are allowed to refuse affiliation, on the ground that an institution does not fulfill the requisite conditions, despite there being recognition by the NCTE, this will amount to giving them jurisdiction to tinker with the decision of the NCTE of granting recognition under Section 14(6) (a) of the Act and thereby diluting the clear legislative intent. This, in my view, cannot be allowed. If the University, on the basis of any inspection carried out and other information received, is of the view that the concerned institution does not fulfill the conditions for grant of recognition/affiliation, it can take up the matter with the NCTE and in that circumstance, NCTE only can take a final decision. In any event, refusal by the University to grant affiliation or to extend affiliation, during the currency of recognition by the NCTE, will be in breach of Section 14(6) of the Act.”

8. In view of what has already been held by this Court in case of ***Surendra B.Ed. Teachers Training College*** (supra), I have no hesitation in recording that once recognition has been granted by the NCTE under Section 14(3) (a) of the Act and such grant of recognition is brought to the notice of the



examining body, the examining Board has no other option but to grant affiliation till the effect of grant of recognition by the NCTE continues. The examining body has a very limited role in such matters and it can put certain conditions in relation to its own requirements alone as laid down in paragraph 71 of the Supreme Court's decision in case of ***Maa Vaishno Devi Mahila Mahavidyalaya*** (supra).

9. These applications are, accordingly, disposed of with a direction to the Bihar School Examination Board to issue appropriate orders in respect of grant of affiliation in terms of law laid down by this Court in ***Surendra B.Ed. Teachers Training College*** (supra) forthwith, so far as these institutions are concerned..

10. The orders dated 17.03.2017 impugned in CWJC No. 5247 of 2017 and order, dated 01.08.2017 impugned in CWJC No. 6790 of 2017, are quashed.

11. These applications are allowed accordingly.

(Chakradhari Sharan Singh, J)

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