

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.1605 of 2017**

Sandipani Academy Through Rajeev Sharma, Member of Managing Committee of Sandipani Academy, Achhoti-Murmunda Kumhari-Ahiwara Road, Tah-Dhamdha, District-Durg (CG)

----Petitioner

Versus

1. Durg University Through the Registrar Durg University, Raipur Naka, Durg, Distt-Durg (CG)
2. National Council for Teacher Education, Through : The Regional Director, Western Regional Committee National Council for Teacher Education Manas Bhawan, Shyamla Hills : Bhopal (MP)

---- Respondents

For Petitioner	:	Mr.Anurag Dayal Shrivastava, Advocate
For Respondent No.1	:	Mr.Neeraj Choubey, Advocate
For Respondent No.2	:	Mr.Bhaskar Payasi and Mr.Rohitas Singh, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

01/09/2017

1. The short question that arises for consideration is whether the affiliating body i.e. respondent No.1/Durg University can refuse to grant affiliation after recognition having been granted by the National Council for Teacher Education, Western Regional Committee (hereafter in called as "NCTE") in the light of the provisions contained in sub-section (6) (a) of Section 14 of the National Council for Teacher Education Act, 1993 (hereinafter called as "Act of 1993").
2. The Essential facts necessary to adjudicate the above stated question are as under:-

2.1 The petitioner-Institution is imparting teacher training

course i.e. Bachelor of Education (B.Ed.) and Diploma in Elementary Education under the recognition granted by the Statutory Body i.e. NCTE. The said Institution moved an application for further recognition for 4 years integrated composite course i.e. B.Sc. B.Ed/B.A. B.Ed under clause 5 of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations 2014 (hereinafter called as 'NCTE Regulation 2014'). Respondent No.2 after due verification and after physical verification granted recognition to the petitioner-Institution vide order dated 9.3.2017. The petitioner-Institution after obtaining recognition from the NCTE applied to respondent No.1 for affiliation in terms of clause 8 (10) of the NCTE Regulation 2014. Respondent No.1-University noticed certain deficiencies, which were replied by the petitioner-Institution. Respondent No.1 by its order dated 27.5.2017 declined to grant affiliation on the ground that the course of B.Sc., B.Ed. and B.A. B.Ed. offered by the petitioner-Institution as composite institution could not be permitted to run in composite building.

2.2 Feeling aggrieved and dissatisfied with the order passed by respondent No.1, this writ petition has been filed by the petitioner-Institution herein stating inter-alia that the impugned order refusing to grant affiliation is unsustainable and bad in law apart from, this order is said to be without jurisdiction and without authority of law.

2.3 Respondent No.2/NCTE has filed its counter-affidavit in

which it has been stated that the decision of respondent No.1 is not in accordance with the NCTE Regulation 2014.

- 3.** Mr.Anurag Dayal Shrivastava, learned counsel appearing for the petitioner, would submit that once the recognition has been granted by respondent No.2 under Section 14(4) of the Act of 1993, respondent No.1-University is obliged to grant affiliation to the petitioner-Institution. There is no discretion left to be exercised for refusal of affiliation contrary to sub-section 6 of Section 14 of the Act of 1993, therefore, the impugned order is liable to be set aside.
- 4.** Mr.Neeraj Choubey, learned counsel appearing for respondent No.1, would oppose the aforesaid submission and support the impugned order.
- 5.** Mr.Bhaskar Payasi, learned counsel appearing for respondent No.2 would submit that decision of respondent No.1 is not in accordance with the NCTE Regulation 2014.
- 6.** I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
- 7.** The Act of 1993 was enacted with a view to achieve the planned and coordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matter connected therewith.

Section 14 deals with recognition of institutions offering course or training in teacher education. Section 14(1) deals with submission of application to the Regional Committee of the NCTE recognition. Section 14(3)(a) deals with grant of recognition, which reads as under:-

“14. Recognition of institutions offering course or training in teacher education:-

(1) xxxx xxxx xxxx xxxx

(2) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall,-

(a) If it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations.”

Sub-section (6) of Section 14(4) provides that once the order of recognition is communicated under Section 14(4), the University is bound to grant affiliation to the College. Section 14(6), dealing with grant of affiliation by the University, reads as follows:

“(6) Every examining body shall, on receipt of the order under sub-section (4),-

(a) grant affiliation to the institution, where recognition has been granted: or

(b) cancel the affiliation of the institution, where recognition has been refused.”

Section 17 deals with cancellation of the recognition granted under Section 14(3). Section 18 provides for appeals against the orders passed under Section 14 or Section 17.

8. Thus, from the above scheme of the Act, it is manifestly clear that once the Western Regional Committee of NCTE granted recognition to the petitioner-institute, the respondent-University is bound to grant affiliation and cannot refuse recognition on the pretext that the petitioner-institution do not have sufficient number of teachers as required under Statute 28.

9. In the matter of **State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others**¹ the Supreme Court has held that once recognition is granted by NCTE under Section 14(6) of the Act, 1993, every University (“examining body”) is obliged to grant affiliation to such institution and Acts, Ordinances and Regulations of the University do not apply to such cases. It was observed as under:-

“80. In our opinion, the observation that the provisions of Sections 82 and 83 of the Maharashtra Universities Act are “null and void” could not be said to be correct. To us, it appears that what the High Court wanted to convey was that the provisions of Sections 82 and 83 would not apply to an institution covered by the 1993 Act. As per the scheme of the Act, once recognition has been granted by NCTE under Section 14(6) of the Act, every university (“examining body”) is obliged to grant affiliation to such institution and Sections 82 and 83 of the University Act do not apply to such cases.”

1 (2006) 9 SCC 1

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10. In the matter of Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of Uttar Pradesh and others²

the Supreme Court while considering the supremacy of the recognition granted by the NCTE has held and emphasized that affiliating body/examining body does not have any discretion to refuse affiliation with reference to any of the factors which have been considered by the NCTE while granting recognition. It was observed as under:-

“70. Under Section 14 and particularly in terms of Section 14(3) (a) of the Act, the NCTE is required to grant or refuse recognition to an institute. It has been empowered to impose such conditions as it may consider fit and proper keeping in view the legislative intent and object in mind. In terms of Section 14(6) of the Act, the examining body shall grant affiliation to the institute where recognition has been granted. In other words, granting recognition is the basic requirement for grant of affiliation. It cannot be said that affiliation is insignificant or a mere formality on the part of the examining body. It is the requirement of law that affiliation should be granted by the affiliating body in accordance with the prescribed procedure and upon proper application of mind. Recognition and affiliation are expressions of distinct meaning and consequences. In the matter of Chairman, Bhartia Education Society Vs. State of H.P.³ this Court held that: (SCC p. 534 para 19)

“19. The purpose of recognition and affiliation is different. In the context of the Act, affiliation enables and permits an institution to send its students to participate in public examinations conducted by the examining body and secure the qualification in the nature of degrees, diploma and certificates. On the other hand, recognition is the licence to the institution to offer a course or training in teaching education.”

The Court also emphasised that the affiliating body/examining body does not have any discretion to refuse affiliation with reference to any of the

² (2013) 2 SCC 617

³ (2011) 4 SCC 527

factors which have been considered by NCTE while granting recognition.”

11. In view of the aforesaid settled principle of law, it is quite explicit that once recognition has been granted to the Institution, the University has no right and authority to refuse affiliation of any ground whatsoever and if the University feels that it could not have been granted it can bring the same to the knowledge of the NCTE by forwarding the report and may request for withdrawal of recognition or in the alternative, may challenge the recognition so granted by filing appeal under Section 18 of the NCTE Act, 1993.

12. In the present case, the NCTE has also filed the affidavit clearly stating that the decision of respondent No.1/University is not in accordance with the NCTE Regulation 2014 which states as under:-

“9. That, distinction between a “Composit Institution” and a “Non-Composit Institution” is that in composit institution several teacher education or non-teacher education programmes are conducted in the same premises under the administrative control of one Principal only while in non-composit institution several teacher education or non-teacher education programmes are conducted in distinct premises under the administrative control of different Principles.”

13. Apart from this, notice issued by respondent No.1 has been replied by the petitioner-Institution and clearly stated that the petitioner shall be making good the shortcomings pointed out by the University expeditiously. Thus, unless the recognition granted is stayed or set aside by a competent

authority, the University is bound to act in accordance with sub-section (6) (a) of Section 14 of the Act of 1993, which is mandatory in nature and grant of affiliation to the petitioner Institution cannot be declined. If there are other requirements to be satisfied by the petitioner like recruiting regular teachers, then the University may ask the petitioner to comply with such requirements within a time frame. However, the requirements should be in conformity with the provisions of Section 14(6) (a) of the Act of 1993 and Regulation 8 of the Regulations, 2007.

14. As a fall out and consequence of the aforesaid discussion, respondent No.1 is directed to comply with the mandatory provisions of sub-section (6) of Section 14 of the Act of 1993 and to grant affiliation to the petitioner-Institution within a period of 4 weeks from today unless recognition granted to it by the NCTE is stayed or set aside by the competent authority.

15. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-