

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.13154 of 2017  
and  
W.M.P.No.14145 of 2017

Nehru College of Education  
Rep by its Correspondent cum Managing Trustee  
Dr.J.Anbarasi  
19/3 Water Tank Street  
Pilliyarkuppam (V)  
Pudhucherry - 605502. ....Petitioner

Vs.

- 1.Union of India  
Rep by the Secretary to Government  
Chief Secretariat  
Pondicherry.
- 2.University of Pondicherry  
Rep by its Registrar  
Pondicherry-605 014.
- 3.The Assistant Registrar  
Affiliation Wing CDC  
Pondicherry University  
Pondicherry-605 014.
- 4.The Assistant Registrar  
Academic Section-Admission  
Pondicherry University  
Pondicherry-605 014.
- 5.The Controller of Examination  
Pondicherry University  
Pondicherry-605 014.
- 6.The National Council for Teacher Education  
Rep by its Regional Director  
First Floor, CSD Building, HMT Post  
Bangalore - 560 031.

[R6 suo motu impleaded as per order dated 30.10.2017  
by NKKJ in W.P.No.13154 of 2017] ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to accord approval to the admission of 15 additional students of English department and 2 students of computer science department admitted during academic year 2015-16 and follow up academic year 2016-17 on the basis of petitioner earlier applications to the respondents herein and petitioner recent representation dated 19.05.2017.

For Petitioner : Mr.G.S.Vivekmani  
for M/s.Giridhar & Sai

For Respondents : Mr.C.T.Ramesh [For R1]  
Additional Govt Pleader

Mr.Stalin Abhimanyu  
[For R2 to R5]

MS.Vincy  
for Mr.M.T.Arunan [For R6]

#### O R D E R

The petitioner-institution is conducting the course in Bachelor of Education in Union Territory of Puducherry. The petitioner got approval from NCTE for intake of 100 students every year, with 25 students under each subject on 04.08.2005. Subsequently, affiliation has been obtained from the second respondent/University. Though the petitioner has got approved strength of 100 students, it is based on the strength of the staff viz., one teacher / lecturer for 25 students. Since one B.Muralidharan was appointed as Computer Science teacher, the petitioner admitted two students for Computer Science course and the admission has to be approved by the second respondent / University.

2.As far as English department is concerned, the petitioner admitted 25 students and further 15 more students, as the petitioner appointed one more staff Mr.Hariharan, as an additional Lecturer. The respondent/University has not approved the admission made in excess of the approved strength of 25 students under each subject. Since approval has not been granted for 15 students who have been admitted in addition to the 25 approved students in English and for two students in Computer Science, the petitioner has come to this Court by way of Writ of Mandamus to direct the respondents to accord approval

to the admission of 15 additional students of English department and 2 students of Computer Science Department, admitted during the Academic year 2015-16 and 2016-17, on the basis of the petitioner's earlier application and representation dated 19.05.2017.

3.The learned counsel for the petitioner would submit that the approval was obtained as early as in the year 2005 for intake of 100 students and for the past 11 years, the Institute has been functioning properly. Since there was demand for admission in English Department, 15 more students have been admitted. The only requirement to be complied with by the petitioner is to appoint an Additional staff, which has been rightly appointed by the petitioner. Therefore, there will not be any problem in granting approval. Similarly for Computer Science Department also, two students have been admitted, for which the required staff viz., one Mr. Muralidharan has been appointed. Therefore, the affiliation has to be granted by the University, as the petitioner-institution has already got approval from NCTE.

4.On the other hand Mr.Stalin Abhimanyu, learned counsel appearing for the respondents 2 to 5 would submit that though approval has been obtained for admission of 100 students, the strength of the student to be admitted in each of the subjects has been categorically given in the affiliation order. He would also refer to Appendix 4 of the norms and standards for Secondary Teacher Education programme, relating to Bachelor of Education (B.Ed) degree, wherein it is stated that only maximum of 100 students could be admitted and under each subject only 25 students could be admitted. He would also rely upon the Inspection report, dated 11.04.2016 to contend that there are many shortcomings during the inspection and all the shortcomings have not been rectified by the petitioner. He would further argue that it is not based on the strength of the teacher that the students could be admitted, but it is based on the affiliation given by the University. Once affiliation is given for a particular subject, the strength of the students has to be maintained and it cannot be altered merely by increasing the strength of the teacher / lecturer. In this regard, he refers to the University's communication, dated 08.04.2016 and 19.05.2016, wherein, it has been categorically stated that the excess admissions made in English department and Computer Science department cannot be approved.

5.Ms.Vincy, learned counsel appearing on behalf of Mr.M.T.Arunan, learned standing counsel appearing on behalf of NCTE would argue that NCTE had already granted approval for 100 seats and all the details have been given in the approval order, dated 12.12.2005.

6.Heard the parties and perused the records.

7.There is no dispute with regard to the approval of admission of 100 students in the petitioner's college, as per the Approval letter, dated 04.08.2005 from the year 2005-2006 onwards. Though the approval has been granted by the NCTE, the affiliation has to be obtained from the University / second respondent. The affiliation is only for 100 students in six subjects, out of which the maximum intake for each subject is only 25, per subject faculty. The relevant portion of the approval is given as follows:

"With reference to the above, the approval of the University is hereby accorded for extension of Provisional Affiliation for the two year B.Ed course at Nehru College of Education, Puducherry for the academic year 2015-16 with an intake of 100 seats only of two basic units of 50 students each in the following subjects, on the condition that in each subject the intake is restricted to 25 only per subject faculty.

| Sl. No. | Branch/ Group      |
|---------|--------------------|
| 1       | Tamil              |
| 2       | English            |
| 3       | Mathematics        |
| 4       | Physical Science   |
| 5       | Biological Science |
| 6       | Social Studies.    |

8.From the above, it is clear that 25 students could be admitted, provided one assistant professor in that particular subject is available and 50 students could be admitted in each of the subject, provided one more faculty is available.

9.As far as computer science is concerned, there is no approval at all, as evident from the University affiliation dated 19.05.2016, which speaks about approval of subjects namely, Tamil, English, Mathematics, Physical science, Biological science and Social studies. Therefore, the admission of two students in the Computer Science group is not approved rightly by the University.

10.As far as English group is concerned, according to the petitioner, the institution has appointed one additional faculty and therefore, it is entitled to admit 50 students in that subject. On the other hand, Mr.Stalin Abhimanyu learned counsel appearing for the University submitted that only 25 students

alone could be admitted and anything more than that would be an unapproved one.

11.As already seen, in each subject, two basic units of 50 students could be admitted and the restriction is 25 students per subject faculty. To put it in other words, the petitioner-Institution is entitled to admit 50 students in each of the approved block and total strength should not exceed 100.

12.In this case, in English subject, the petitioner has admitted 40 students and sought approval for 15 excess students. As already seen, the approval was granted for two basic units of 50 students each in any of the 6 approved subjects and English is one of the subject. Therefore, the petitioner is entitled to admit 50 students per subject faculty. Since this Court comes to the conclusion that the petitioner is entitled to admit more than 25 students and maximum of 50 students, provided the petitioner has got one additional subject faculty, it has to be seen as to whether additional subject faculty is available or not?

13.Originally, the petitioner appointed Mr.Elanchezian and approval was sought on 03.11.2015, which was disapproved on 29.12.2015. Thereafter, one Mr.C.Hariharan was appointed on 12.05.2016 and his appointment was approved on 13.05.2016, as additional faculty. The original faculty available with the petitioner is one Mr.A.Jayakumar. The said appointment of Mr.A.Jayakumar was approved as early as 04.10.2012. Therefore, it is clear that the petitioner had originally appointed A.Jayakumar, as faculty for English subject and another additional appointment was made by appointing Mr.C.Hariharan, as the appointment of Mr.Elanchezian was not approved. Hence, the petitioner has got sufficient subject faculty in English and they are entitled to admit a maximum of 50 students, which is in consonance with the approval given by Pondicherry University vide letter, dated 19.05.2016. Therefore, the University cannot deny approval for the admission of the excess students.

14.First of all, those 50 students cannot be called as excess students, as the petitioner has got the approval for maximum of 50 students in each subject, provided, the petitioner appoints an additional staff. As stated supra, the petitioner has got two teaching staff, namely, Mr.Jayakumar and Mr.Hariharan for English. Therefore, the approval already granted by the University would take care of the alleged additional 15 students in English and hence, the 2<sup>nd</sup> respondent is directed to publish the results of the 15 students and issue their degree certificates.

15.It is pertinent to note that the University itself had

permitted 40 students in English and 2 students in computer science to write the first year examination. If the University has got any objection regarding the unauthorized excess admission 15 students in English and 2 students in computer science, the University would not have allowed the students to write the exams. That itself goes in favour of the petitioner's institution.

16.As far as the computer science course is concerned, there is no approval, as it is evident from approval letter dated 19.05.2016. When there is no approval, the petitioner should not have admitted any students in unauthorized subject. It has become a habit for the educational institutions to admit the students even in unapproved category and try to rectify the same by hook or crook. Though the Hon'ble Supreme Court recognizes education as occupation, the educational institutions are making it as a business.

17.As rightly pointed out by Mr.Stalin Abhimanyu, there are various procedural irregularities committed by the petitioner/institution in not getting the approval for the teaching staff in time and also not sending list of students admitted on or before 01.10.2015. Therefore, the University is at liberty to impose fine on the petitioner/Institution for the procedural irregularities and the petitioner is warned not to repeat the mistake in future.

18.It is open to the University to make it clear that whether subject wise maximum 25 students could be admitted or 50 students could be admitted in a subject, provided additional staff is appointed, from the next academic year, so that the confusion can be avoided. Further, the University is also at liberty to fine the petitioner-institution, if the petitioner institution is not complying with the regulations in time. Only if such extreme steps are taken, the petitioner/institution will learn a lesson and it will also be a lesson for other institutions, not to violate any of the norms prescribed by NCTE or concerned university.

19.As far as the Computer Science Group is concerned, one Anbarasi was appointed as Assistant Professor and approval for her appointment was rejected on 29.12.2015. Thereafter, one B.Muralidaran was appointed on 07.05.2016 and his appointment has been approved by the University on 17.06.2016. Therefore, it is very clear that there is an Assistant Professor in Computer Science group. Even the two unapproved students admitted in Computer Science group were permitted to write the University exams, which is also a factor which goes in favour of the petitioner. Normally, this Court shall not recognize any unauthorized or unapproved admission. However, in the facts of

the case, especially, the permission granted by the University in allowing the 2 students to write the first year exams goes into the mind of the Court. Moreover, for the fault of the petitioner/institution, the students future cannot be sacrificed. If the course underwent by the students' is not approved, it would definitely cause prejudice to the students who have undergone the course.

20.This Court also takes into consideration the affidavit filed by one Mr.M.Tamilselvan, Administrative Officer of the petitioner/institution stating that the petitioner shall not admit students in excess of the subject wise strength to be sanctioned by the University and further undertake to abide by the conditions of the University affiliation.

21.Therefore, this Court is inclined to direct the respondent/University to consider the claim of the petitioner/institution for approval of admission of the 2 students and for grant of degree. The said exercise has been taken sympathetically and it is made clear that this order is based more on compassion than on law, taking into consideration of the future of students. Hence, this order cannot be treated as precedent at all.

22.The University is at liberty to undertake inspection and point out any deficiency or shortcomings in the infrastructures and call upon the institution to rectify the same. Since the students already wrote the examination the respondent/University is directed to publish their results and grant degrees. However, it is made clear that the declaration of results depends upon the payment of fine amount which is to be imposed by the University on the institution for violating the norms. The fine amount has to be determined and informed by the University within a period of 1 week from the date of receipt of a copy of this order. On payment of such fine amount by the petitioner/institution, the respondent/University shall declare the result. Further the petitioner/institution shall comply with all the formalities including the provision of infrastructure, filling up of the teaching faculties etc.,

23.The writ petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

maya/ssd

To

- 1.The Secretary to Government  
Union of India  
Chief Secretariat  
Pondicherry.
  - 2.The Registrar  
University of Pondicherry  
Pondicherry-605 014.
  - 3.The Assistant Registrar  
Affiliation Wing CDC  
Pondicherry University  
Pondicherry-605 014.
  - 4.The Assistant Registrar  
Academic Section-Admission  
Pondicherry University  
Pondicherry-605 014.
  - 5.The Controller of Examination  
Pondicherry University  
Pondicherry-605 014.
  - 6.The Regional Director  
The National Council for Teacher Education  
First Floor, CSD Building, HMT Post  
Bangalore - 560 031.
- +1cc to Mr.Stalin Abhimanyu Advocate, S.R.No. 81967
- +2cc to Mr.T.Anand Advocate, S.R.No. 81907
- +1cc to Mr.P.Giridhar & sai Advocate, S.R.No. 81912

W.P.No.13154 of 2017

TR(24/11/2017)

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