

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-11-2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.28755 of 2017
and
W.M.P.No.30933 of 2017

R.Sivapriya

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai - 600 009.
- 2.Director of School Education,
DPI Complex, College Road,
Chennai - 600 006.
- 3.Teachers Recruitment Board,
Rep. by its Member Secretary,
4th Floor, EVK Sampath Maaligai,
DPI Compound,
College Road, Chennai 600 006.
- 4.Tamil Nadu Teachers Education University,
Lady Willingness College Campus,
Kamarajar Salai,
Chennai - 600 005.
- 5.Vinayaka Missions University,
(Formerly Vinayaka Missions's
Research Foundation Deemed University)
(Annapoorna College of Education),
University Office, NH-47, Sangagiri Main Road,
Ariyanoor, Salem.
- 6.Equivalence Committee,
Tamil Nadu State Higher Education Council,
Rep. by its Vice Chairman,
Lady Wellington College Campus,
Kamarajar Salai, Triplicane, Chennai - 600 005.

7.National Council for Teacher Education

Rep. by its Chair Person,
Hans Bhawan - Wing II,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

(R7-Suo Motu impleaded as per order dated 21.11.2017
in WP.28755/2017)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring that the G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016 holding that the B.Ed degree course offered by the 5th Respondent University is not equivalent to B.Ed of the 4th Respondent University is applicable only to the 2 years B.Ed degree course offered by the 5th Respondent University from the academic year 2015-16 onwards and not to one year B.Ed. degree course offered by the 5th Respondent and consequently direct the 3rd Respondent to call the Petitioner for counselling for the English subject as per the provisional selection list of candidates published by the 3rd Respondent after certificate verification for direct recruitment of Post Graduate Assistant for the year 2016-17 and allot the PG Assistant post in the English subject to the Petitioner.

For Petitioner : Mrs.Nalini Chidambaram
Senior counsel
for Ms.C.Uma

For Respondents :Mr.T.M.Pappiah, (for R1 to R3)
Special Government Pleader

Mr.U.Venkatesan, for R4

Mr.P.R.Gopinathan, for R7

Mr.M.Devendran for TNPSC

O R D E R

The petitioner is a B.Ed degree holder from Vinayaka Mission University. She has come before this Court seeking a writ of declaration, declaring that G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016 is not applicable to one year B.Ed degree course obtained by the petitioner from the said University.

2.The petitioner joined Vinayaka Missions University's Annapoorna College of Education for B.Ed course, which is a one year course between 2006-2007 and she had successfully completed the course. However, the Government issued G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, stating that B.Ed degree awarded by Vinayaka Missions University and three other Universities are not equivalent to B.Ed Degree of Tamil Nadu Teachers Education University. The petitioner who had obtained the degree before the date of issuance of G.O.Ms.No.3, Higher Education (K2) Department would contend that the said G.O., is not applicable to the candidates who had joined and passed the course before the date of issuance of the said Government Order. The G.O. could only be prospective and not retrospective. The necessity to approach this Court at this juncture is that the Teachers Recruitment Board had notified for receiving applications from eligible candidates for the post of PG Assistants in Government Higher Secondary Schools for the year 2016-17. However, in view of G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, the petitioner apprehend that she will not be considered for appointment.

3.Mrs.Nalini Chidambaram, learned senior counsel appearing for the petitioner would rely upon the judgment of the Hon'ble Supreme Court in the case of Vidarbha Madhyamik Shikshak Sangh Vs. State of Maharashtra and others, reported in 2003 SCC Online Bom 708.

4.Mr.Venkataramani, learned Additional Advocate General would oppose the plea of the petitioner contending that G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016 is applicable to the petitioner also and the equivalence committee constituted by the Government had only decided that the B.Ed., degree conferred by the Vinayaka Missions University is not equivalent to the B.Ed degree conferred by Tamil Nadu Teachers Education University. He would further submit that as per the new regulation brought in by NCTE in the year 2014, which came into effect from the year 2015-2016, the duration of B.Ed./M.Ed., degree programme has been increased from one year to two years and the entire syllabus has been changed. Once there is a change in the entire syllabus and curricula of teachers education programme, from the academic year 2015-2016, the Vinayaka Missions University has to obtain equivalence for the teachers education programme. Therefore, only based on new regulation brought in by the NCTE, G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016 has been issued, regarding equivalence of degree conferred by various Universities. Therefore, he would submit that the B.Ed degree granted by Vinayaka Missions University cannot be considered for employment.

5.Thiru.U.Venkatesan, learned counsel appearing for the Tamil Nadu Teachers Education University would submit that though the degree offered by Vinayaka Missions University was recognized, subsequent to the new regulation brought in by the NCTE in the year 2014, the entire syllabus has been changed from the academic year 2015-16. In paragraph 7 of the counter affidavit, it has been stated that NCTE regulations 2009, under which the Vinayaka Missions University's degree was recognized is not valid from academic year 2015-2016, since NCTE has brought in new regulation in the year 2014.

6.The learned counsel for Vinayaka Missions University would submit that the University after getting recognition and affiliation only, offered course to the students and if at all G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016, is to be implemented, it can be done only from the academic year 2015-16 onwards.

7.Heard the parties and perused the records.

8.A perusal of the records would show that Vinayaka Missions University was recognised by the National Council for Teachers Education by its order dated 09.01.2007. The relevant paragraph No.3 of the said proceedings is extracted as follows:

"3.Now, therefore, in exercise of the powers vested under Section 14(3) (a) of the NCTE Act, 1993, the Southern Regional Committee hereby grants recognition to Vinayaka Mission's Annapoorna College of Education, Periyaseeragapadi Post, NH 47, Sankari Main Road, Salem-636 308, Tamil Nadu for conducting Secondary (B.Ed.) course of one year duration with an annual intake of 100 (hundred) students under Clause 7 (12) of Regulations dated 13.01.2006."

9.Similarly, the affiliation has been granted by the Tamil Nadu Teachers Education University by the resolution of the Syndicate of the Teachers Education University dated 19.05.2011 to declare B.Ed degree awarded by the Vinayaka Missions University, Salem and 16 other Universities as equivalent to B.Ed Degree of Tamil Nadu Teachers Education University. Therefore, it is very clear that Vinayaka Missions University, only after getting approval from the NCTE had started the teacher training college and the degree offered by Vinayaka Missions University has also been recognised and approved by Tamil Nadu Teachers Education University.

10.When that is the position, new regulation was brought in by NCTE in the year 2014 and the same came into effect from the

academic year 2015-16. As per the new regulation, there is a change in the entire syllabus and curricula of the teachers education programme. Pursuant to the same, Tamil Nadu Government by virtue of G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, based on the resolution passed by the equivalence committee, dated 17.11.2015 declared that B.Ed degrees awarded by Vinayaka Mission University and three other Universities are not equivalent to B.Ed., degree offered by Tamil Nadu Teachers Education University. The petitioner have obtained the degrees before notification of NCTE new regulation in the year 2014, which came into effect from the academic year 2015-16. Therefore, she should not be affected by the said new regulation. Similarly, G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, issued by the Government, which declared the B.Ed degrees awarded by Vinayaka Missions University as not equivalent to the B.Ed degrees awarded by Tamil Nadu Teachers Education University could be effective only prospectively and not retrospectively. G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, has been passed based on the resolution passed by equivalence committee meeting held on 17.11.2015 based on the new regulation of the NCTE, which came into effect from 2015-2016. When the petitioner has already completed her course, neither NCTE new regulation nor G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, would be applicable to the petitioner and the Government cannot declare the degrees obtained by the petitioner as not equivalent to the B.Ed degree conferred by Tamil Nadu Teachers Education University.

11. One more interesting point is that Tamil Nadu Teachers Education University itself has been established only in the year 2008, whereas Vinayaka Missions University got approval from NCTE in the year 2007 itself and they have been admitting students from the year 2007 onwards. Subsequent regulation or G.O., cannot disqualify validly obtained degrees granted by an NCTE approved institution. Moreover, as rightly pointed out by the learned Senior counsel, the Hon'ble Supreme Court in Suresh Pal and others Vs. State of Haryana and others reported in (1987) 2 Supreme Court Cases 445, has held that based on the subsequent order, the recognition of the institution would not affect the students, who have been admitted in the college, when the recognition was in force. Similarly, the petitioner had obtained valid degrees before G.O.Ms.No.3, Higher Education (K2) Department, dated 05.01.2016, and the new NCTE regulation came into force. In view of the above, this Court holds that G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016, which declares that B.Ed degree awarded by Vinayaka Mission University as not equivalent to B.Ed conferred by Tamil Nadu Teachers Education University would be applicable only from the year 2015-2016 and not before that, especially in respect of the

petitioner.

12.Since the petitioner had already written the examination, pursuant to the notification issued by Teachers Recruitment Board and got qualified in Teachers Eligibility Test and was called for certificate verification, she should be granted appointment like any other qualified persons. Only based on the orders passed by this Court, the petitioner has been called for certificate verification and was found in the select list and her result has been withheld pending orders from this Court.

13.Since this Court holds that G.O.Ms.No.3, Higher Education (K2) Department dated 05.01.2016 is not applicable to the degrees obtained from Vinayaka Missions University and the petitioner is said to have obtained valid degrees, she is qualified to be appointed. In view of the above reasons, the petitioner is entitled to be appointed, whenever the other selected students are appointed, as the petitioner possess valid degrees and she has also qualified in the Teachers Eligibility Test and her name find place in the select list of candidates.

14.With the above directions, this Writ Petition is disposed of. Consequently, connected miscellaneous petitions is closed. No costs.

-s/d-

Deputy Registrar

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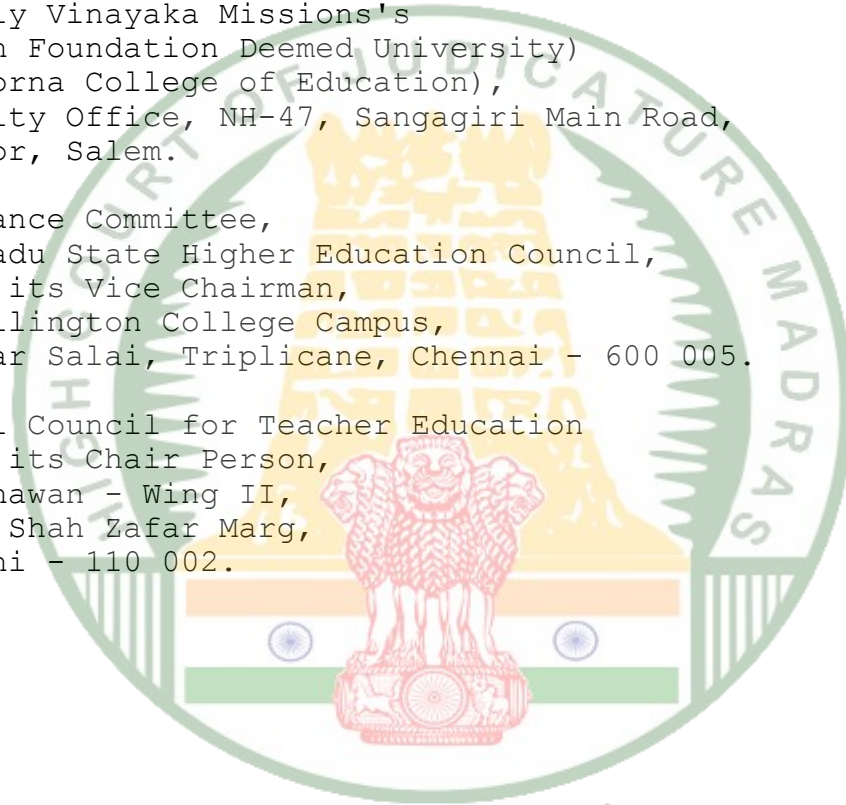
Sub-Assistant Registrar

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To

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SP(17/01/2018)

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