



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.05.2017

CORAM:

THE HONOURABLE Mr.JUSTICE M.V.MURALIDARAN

WEB COPY

W.P.(MD)No.9722 of 2017

R.Kanagaraj

... Petitioner

Vs.

1. The National Council for Teacher Education,
rep. by its Member Secretary,
Hans Bhavan Wing II,
No.1, Bahadur Sha Zafar Marg,
New Delhi - 110 002.

2. The Tamil Nadu Sports University,
rep. by its Registrar,
Melakottaiyoor Post, Vandaloore,
Chennai.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to permit the petitioner for the commencement of new course in Bachelor of Physical Education (B.P.Ed.) and Master of Physical Education (M.P.Ed.) as weekend and vocational courses to the physical education teachers who are in service within the time stipulated by this Court.

For Petitioner : Mr.J.Anandkumar

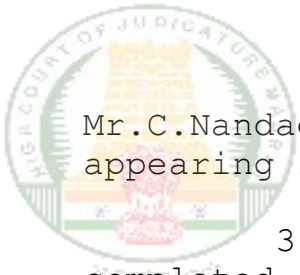
For Respondents : Mr.C.Nandagobal
Central Govt. Standing Counsel for R1

Mr.A.Muthukaruppan
Additional Government Pleader for R2

O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the respondents to permit the petitioner for the commencement of new course in Bachelor of Physical Education (B.P.Ed.) and Master of Physical Education (M.P.Ed.) as weekend and vocational courses to the physical education teachers who are in service within the time stipulated by this Court.

2. Heard Mr.J.Anandkumar, learned counsel appearing for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the second respondent and



Mr.C.Nandagopal, learned Central Government Standing Counsel appearing for the first respondent.

3.The case of the petitioner is that petitioner has completed Bachelor of Physical Education (B.P.Ed.,) in the year 1991-1992 in Ramakrishna Mission Vidyalaya Maruthi College of Physical Education, Coimbatore. On 26.01.1984, he was appointed as a Physical Education Teacher in the Hindu Nadar Uravinmurai Committee Higher Secondary School at Ariyanayakipuram, Sankarankovil Taluk, Tirunelveli District and he has been discharging his services till date without any blemish. He has stated that nearly 20,000 Physical Education Teachers are working in High Schools, Matriculation High Schools, Higher Secondary Schools, Matriculation Higher Secondary Schools and Middle Schools all over Tamil Nadu. Though the Physical Education Teachers have got appointment with the qualification of Higher Grade Certificate Courses, they have no chance to continue their further studies like B.P.Ed., and M.P.Ed., in Physical Education during their service period, as there is no Distance Education Courses available in any Universities in Tamil Nadu to the Physical Education Teachers. However, if any Physical Education Teacher wants to continue his further studies viz., B.P.Ed., and M.P.Ed., courses for one year or two years, he has to go on leave and thereby loose his monetary and service benefits like salary, increment and seniority, etc. The petitioner pursued his B.P.Ed., course during 1991-1992 and he lost salary for one year and also his seniority during the said period.

4.The petitioner has further stated that the Teachers, who are working as Secondary Grade Teachers, B.T. Assistants and Post Graduate Teachers, have the right to continue their further studies during the period of service and they can claim increment, promotions and other service benefit on the basis of the higher qualification they obtained. But due to the non-availability of the higher studies in distance education in the universities in Tamil Nadu, the Physical Education Teachers are loosing their chance to pursue their higher studies and also the consequential service and monetary benefits. Hence, the petitioner has decided to start new courses for Physical Education Teachers who are in service to pursue their higher studies viz., Bachelor of Physical Education (B.P.Ed.,) and Master of Physical Education (M.P.Ed.,), during weekends and during vacations i.e., on Saturdays and Sundays and Quarterly, Half yearly and annual holidays. He further states that two decades back there were summer vacation courses for Physical Education Teacher and the same was stopped abruptly.

5.The petitioner further stated in the affidavit that with <https://hccer.scds.gov.in/bce/ncs/> of the above said courses, on 20.04.2012, he has sent a representation to the first respondent seeking permission. The first respondent, in response to the petitioner's



representation, has replied on 17.07.2012 stating that the said representation has been forwarded to the Convenor, Committee on Curriculum, Norms and Standards, Accreditation and Innovative Programme, National Council for Teacher Education, New Delhi. As there was no response from the first respondent, the petitioner has filed a Writ Petition in W.P.No.253 of 2013 seeking issuance of mandamus, however, he withdrawn the same with liberty, as the issue was under consideration. Having waited for nearly five years as no response thereafter from the first respondent, the petitioner has made another representation on 18.03.2017 to the first respondent seeking permission to start weekend and vacation courses of Bachelor of Physical Education (B.P.Ed.,) and Master of Physical Education (M.P.Ed.,). The petitioner has also all infrastructural facilities to start a college. Further, the petitioner has also sent a representation to the second respondent on 28.02.2017, seeking permission to start weekend and vacation courses of Bachelor of Physical Education (B.P.Ed.,) and Master of Physical Education (M.P.Ed.,). There was no reply from the second respondent also.

6.The learned counsel for the petitioner would submit that Section 12(f) of the National Council for Teacher Education Act, 1993, provides powers to the councils to grant permission to start new courses or training, and for providing physical and instructional facilities, staffing patterns and staff qualification lay down norms for any specified category of courses or training in teacher education, including the minimum eligibility criteria for admission thereof and the method of selection of candidate, duration of the course, course contents and mode of curriculum. Further, Section 14 of the said Act provides powers regarding recognition of institutions offering course or training in teacher education and Section 15 provides powers regarding permission for a new course of training by recognised institutions. Therefore, the first respondent has to take into consideration not only the benefit of more than 20,000 Physical Education Teachers working in various schools all over Tamil Nadu but also the consequential benefits to the thousands and lacks of pupils. The learned counsel for the petitioner further submitted that the petitioner has all infrastructural facilities to start a college and hence, he has submitted his representations on 20.04.2012, 18.03.2017 and 28.02.2017 to the first respondent and second respondent respectively. Since there was no reply from the respondents, the petitioner has filed this Writ Petition.

7. Heard Mr.J.Anandkumar, learned counsel for the petitioner, Mr.C.Nandagopal, learned Central Government Standing Counsel appearing for R1 and Mr.A.Muthukaruppan, learned Additional Government Counsel appearing for the R2.



8.Considering the fact that the representation, dated 20.04.2012, made by the petitioner to the first respondent has been considered by the first respondent and the same has been forwarded to the Convenor, Committee on Curriculum, Norms and Standards, Accreditation and Innovative Programme, National Council for Teacher Education, New Delhi, and the same has been communicated to the petitioner by a letter of the first respondent, dated 17.07.2012, this Court finds some *bona fide* on the part of the petitioner seeking permission to start new Course viz., Bachelor of Physical Education (B.P.Ed.,) and Master of Physical Education (M.P.Ed.,) and also the petitioner is having infrastructural facilities to establish a college. Further, the first respondent, finding some *prima facie* case on the representation of the petitioner, has forwarded the same to the Convenor, Committee on Curriculum, Norms and Standards, Accreditation and Innovative Programme, National Council for Teacher Education, New Delhi, on 17.07.2012, itself for the consideration of the Committee constituted for Norms and Standard but there was no further action on the part of the first respondent. Hence, the petitioner made another representation on 18.03.2017, even on the said representation also there was no further action by the first respondent. In the meantime, the petitioner made a representation on 27.02.2017 to the second respondent seeking grant of permission to start the said course and the second respondent has also not taken any action on the said representation of the petitioner.

9.In such circumstances, in the interest of justice, this Court directs the first respondent to take necessary further action for consideration of the Committee constituted for Norms and standards and accord permission to the petitioner to start the new Course viz., Bachelor of Physical Education (B.P.Ed.,) and Master of Physical Education (M.P.Ed.,) within a period of eight weeks from the date of receipt of a copy of this order. On such permission is accorded by the first respondent to the petitioner, the second respondent is also directed to grant necessary permission to the petitioner in the light of the permission of the first respondent, forthwith.

10.In the result, this Writ Petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To
1. The National Council for Teacher Education,
rep. by its Member Secretary,
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No.1, Bahadur Sha Zafar Marg,
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2. The Tamil Nadu Sports University,
rep. by its Registrar,
Melakottaiyoor Post, Vandaloor,
Chennai.

+1cc to Mr.J.Anandkumar, Advocate Sr.No.57616

skn

vb/jc/sar2/01.06.2017/5p/4c

W.P. (MD) No. 9722 of 2017
26.05.2017