

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

W.P.Nos.34575 and 34590 of 2017

COMMON ORDER

Since these two writ petitions are filed by the same petitioners challenging the proceedings dated 23.09.2017 issued by the 2nd respondent in respect of B.Ed., and B.P.Ed., courses, they are being disposed of by this common order.

2. Heard learned counsel for petitioners, learned Government Pleader for Education, learned Standing Counsel for respondent No.2 and learned Standing Counsel for respondent No.3.

3. The 1st petitioner claims to be a minority educational society, registered under the provisions of the Andhra Pradesh Societies Registration Act, which established the 2nd petitioner Institution for running B.Ed., and B.P.Ed., courses. Originally, in order to run the said courses, the formal recognition of the 3rd respondent and affiliation of the 2nd respondent are necessary. The petitioners applied to the 2nd respondent for issuance of No-objection certificate and accordingly, the 2nd respondent issued No-objection certificate. The 1st petitioner applied to the 3rd respondent for grant of recognition and the 3rd respondent issued a letter of intent by proceedings dated 08.09.2017 permitting the 2nd petitioner institution to conduct B.Ed., and B.P.Ed., courses for two years. Pursuant to the said letter of intent, the 1st petitioner applied to the 2nd respondent vide letter dated 21.09.2017 seeking to constitute a

selection committee for selecting the staff and sending the same to the 3rd respondent for the purpose of its recognition in order to recognize the 2nd petitioner registered society. At this stage, the 2nd respondent issued a letter dated 23.09.2017 refusing to constitute a selection committee for starting new B.Ed., colleges on the ground that the 1st respondent vide letter dated 06.09.2016 directed not to issue No-objection Certificates for starting new B.Ed., colleges or additional sections for the academic years 2017-18 onwards as there is no demand for B.Ed., and B.P.Ed, courses in the 2nd respondent University. Challenging the same, the present writ petitions are filed.

4. With regard to the consent for granting permission to start new B.Ed., colleges, in view of Section 20 of Telangana Education Act, 1982, the learned Single Judge of this Court in W.P.No.26870 of 2016 and batch dated 16.09.2016, by relying on the judgment of the Supreme Court in **State of Maharashtra V. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya**¹, held that the field of educational system is fully and completely occupied by the National Council for Teacher Education Act, 1993 and it is covered by Entry 66 of List-I of Schedule VII of the Constitution of India and hence, it is not open to the State Legislature to encroach upon the said field. Accordingly, the learned Single Judge allowed the batch of cases filed challenging the refusal of the State Government in granting permission to start new B.Ed., colleges. Against the said order, appeals were preferred to the Division Bench of this Court in

¹ (2006) 9 SCC 1

W.A.No.1047 of 2016 and batch. The Division Bench, by its order dated 06.01.2017, dismissed the writ appeals and the said order was ultimately confirmed by the Supreme Court in S.L.P.Nos.3708-3716 of 2017 on 04.08.2017.

5. In view of the law laid down by this Court, the Government cannot interfere with the action of the management in starting new colleges of education as the competent authority is the National Council for Teacher Education. Since the impugned orders were passed by the 2nd respondent on communication issued by the 1st respondent, the impugned orders are set aside, and in the light of the law declared by the Supreme Court and this Court, the 2nd respondent is directed to take action on the letter of the 1st petitioner dated 21.09.2017, within a period of two weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petitions are allowed, at the stage of admission. No order as to costs. Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

A. RAMALINGESWARA RAO, J

16th October, 2017

sj