

CWP No.7664 of 2016

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.7664 of 2016
Date of decision:04.05.2017**

Baba Jogi Peer Education Society (Regd.) ...Petitioner

Versus

The State of Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. B.S.Sidhu, Advocate,
for the petitioner.

Ms. Lavnya Paul, Asstt. A.G., Punjab.

Mr. Naveen Chopra, Advocate,
for respondent No.3.

Mr. Ajay Jain, Advocate,
for respondent No.4.

Rakesh Kumar Jain, J.

The petitioner, an educational society, has prayed for the issuance of a writ in the nature of *mandamus* to direct the Panjab University, Chandigarh (hereinafter referred to as the "University") to decide their representation for selection of staff so that it may be able to submit the compliance report to the National Council for Teacher Education (hereinafter referred to as the "NCTE") with necessary documents, in order to start the academic session 2016-2017, in terms of the Letter of Intent issued by the NCTE on 16.02.2016, for the purpose of admission to the B.Ed. course starting in the month of July-August, 2016.

The petitioner has averred that the NCTE issued an advertisement

in October, 2012, inviting applications for opening of new colleges/institutions for imparting training in the field of teacher's education. The petitioner applied, for opening of a new college in the name and style of Baba Farid College of Education, online on 31.12.2012 and with a hard copy on 07.01.2013. It is alleged that the petitioner has raised the construction of the building for the college in village Kulgarhi and asked for its inspection in order to obtain NOC from the Department of Education. It is further averred that a committee of three members was formed which included nominee of the Vice Chancellor, Panjab University, Chandigarh, Principal, Government College, Kotkapura and Principal, University College, Nihalsinghwala and on 16.02.2016, the NCTE had issued a Letter of Intent, prior to the grant of recognition/permission, under Clause 7(13) of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 (hereinafter referred to as the "Regulations-2014"). It was provided in the LOI that the process of appointment of qualified staff, as per policy of the affiliating body, may be initiated by the institution and the affiliating body shall provide all assistance to the institution to ensure that the staff or faculty is appointed as per the NCTE norms within two months and the institution shall submit the list of faculty, as approved by the affiliating body, to the Northern Regional Committee, Jaipur. It is alleged that since the University was not coming forward for assisting the petitioner for appointment of staff or faculty, therefore, it made a representation to it on 12.04.2016 and since the said representation was also not decided, therefore, the present writ petition has been filed for seeking a *mandamus*.

After notice, the University has filed two replies on 26.05.2016

and 20.07.2016 and averred that the NCTE has issued a notice dated 27.02.2015 in which it is categorically mentioned that the applications for the recognition of teachers training programmes of D.El.Ed, B.Ed., B.Ed. (ODL), B.Ed. (Part-time) will not be accepted in the State of Punjab. It is further submitted that the petitioner had applied for grant of affiliation vide letter dated 16.10.2015 for the B.Ed. course for the session 2016-2017 but the University, in the light of the public notice dated 27.02.2015, issued by the NCTE, sought clarification from respondent No.2, vide letters dated 27.11.2015 and 28.12.2015 but no response was received and, therefore, request of the petitioner has been declined and in view of the public notice dated 27.02.2015, the drafts of ₹2,00,000/- and ₹10,000/- (as fees for affiliation) were returned in original to the petitioner vide letter No.Misc./A2/542 dated 03.02.2016. It is also averred that the petitioner again requested vide letter dated 01.03.2016 along with the affiliation fee to the University for the grant of affiliation for opening of the new B.Ed. College for the session 2016-2017. The University, in order to verify the decision of the Government, in view of the public notice dated 27.02.2015, issued by the NCTE, again wrote letters dated 04.04.2016 and 19.05.2016 to respondent No.1 but did not receive any communication.

In the reply dated 20.07.2016, it is averred by the University that the opening of new educational colleges is regulated by Regulation 1.3 page 157 of Col. Vol. 1 of the Panjab University, wherein it is provided that the applications for the grant of affiliation shall be submitted to the University and the last date by which the applications should reach the Registrar of the University shall be October 1st of the year preceding the one in which it is proposed to start the college. It is further averred that the proper procedure

has not been followed by the petitioner for the purpose of affiliation. The University reiterated their stand in view of the notice dated 27.02.2015 issued by the NCTE. It is also submitted that the petitioner did not apply to the University for appointment of Vice Chancellor's nominee for inspection rather it has been corresponding with the Government who have been further communicating with the University.

The State has replied that it had written letter dated 06.08.2015 to the University for inspection of the petitioner's college, followed by the reminder dated 17.09.2015 but no necessary action has been taken.

In the reply filed by the NCTE, it is averred that the application of the petitioner has to be processed in terms of the Regulations-2014 and in the 238th meeting of the Northern Regional Committee (NRC) held from 20th to 31st May, 2015, certain deficiencies were noticed and it was decided to issue notice under Section 14/15(3)(b) of the National Council for Teacher Education Act, 1993 (hereinafter referred to as the "Act"), asking the petitioner to submit its reply. Thereafter, the matter pertaining to the petitioner's college was placed before the NRC in its 245th meeting held from 24th - 27th November, 2015 and after due deliberations, it was decided to constitute an inspection team and then the inspection was caused by the two-members' team on 30.01.2016 and it submitted its report on 05.02.2016 on the basis of which the NRC in its 249th meeting held from 1st to 10th February, 2016, decided to issue Letter of Intent (LOI) to the petitioner. It was also communicated to the petitioner to obtain approval of the staff from the affiliating body as provided under Regulation 7(13) of the Regulations-2014. It is also submitted that as per Regulation 7(13), the institution, to whom the Letter of Intent is issued by

the NCTE, has to obtain approval of the list of faculty from the affiliating body. It is further averred that the matter was considered in 263rd meeting of the NRC held from 6th to 11th February, 2017, in which a decision was taken by the NRC that since the petitioner has not submitted the list of teachers duly approved by the affiliating University, it has also not fulfilled the other conditions mentioned in the Letter of Intent and has not submitted any proof/evidence to prove that it is a composite institution as per Clause 2(b) of Regulations-2014, therefore, a show cause notice was issued to the petitioner under Section 14/15 (3)(b) of the Act.

Counsel for the petitioner has submitted that the petitioner had applied online on 31.12.2012 seeking recognition for starting the B.Ed. Course for the session 2016-2017. The petitioner has built up the infrastructure for the college by spending huge amount. The State Government had constituted a committee for the purpose of inspection. The LOI was issued by the NCTE for the grant of recognition/permission and required that the affiliating body shall provide assistance to the institution for the purpose of selecting the staff or faculty as per the NCTE norms but as the affiliating body i.e. the University did not cooperate, therefore, the petitioner had to make a representation to the University in this regard. It is further submitted that even the said representation was not decided leaving the petitioner in lurch and, thus, the purpose of the petitioner for starting the admission for B.Ed. Course from the academic session 2016-2017 has been frustrated.

On the other hand, counsel for the University has submitted that a complete procedure is provided for affiliation in the Conditions of Affiliation contained in Chapter VII(A) but the affiliation could not have been given

because of the notice of the NCTE dated 27.02.2015 by which the D.El.Ed, B.Ed., B.Ed. (ODL), B.Ed. (Part-time) courses have been banned for the academic session 2016-2017 in the State of Punjab. It is also submitted that despite repeated letters, the State Government did not reply about the effect of the said notice, therefore, the University cannot be blamed.

Counsel for the NCTE has also submitted that a show cause notice has already been issued to the petitioner on 11.02.2017 as to why action be not taken against them for not fulfilling the conditions mentioned in the Letter of Intent.

I have heard learned counsel for the parties and examined the available record with their able assistance.

There is no dispute that the petitioner has applied for permission to open a new B.Ed. College on 31.12.2012 and has also allegedly constructed the requisite infrastructure. The petitioner had applied to the DPI (Colleges), Punjab, for the purpose of inspection so that the NOC may be issued. The inspection was done by the committee and Letter of Intent was also issued on 16.02.2016 for grant of recognition but for that matter, the petitioner was required to appoint the staff or faculty with the assistance of the affiliating body i.e. the University. The University showed its helplessness in cooperating with the petitioner because of the notice issued by the NCTE dated 27.02.2015 imposing a ban for opening new B.Ed. Colleges in the State of Punjab for the session 2016-2017. The validity of the said notice dated 27.02.2015 issued by the NCTE has not been challenged by the petitioner. The said notice was issued imposing ban only for the academic session 2016-2017 and the prayer made in this petition by the petitioner is also pertaining to the

admission for the academic session 2016-2017 after obtaining recognition from the NCTE by submitting the list of staff or faculty appointed by it in terms of the NCTE norms i.e. with the assistance of the affiliating body.

To my mind, the prayer made by the petitioner in this case has become redundant with the passage of time because even if a direction is issued to the University to provide assistance to the petitioner for selection of staff or faculty, the petitioner would not be in a position to make admission for the academic session 2016-2017, which is long over. Even otherwise, the effect of the public notice issued by the NCTE dated 27.02.2015, imposing ban on opening of the new educational colleges in the State of Punjab for the academic session 2016-2017, was there for the said session which has not been challenged by the petitioner despite the fact that the petitioner had the knowledge about the said notice, which was a great handicap and impediment before the petitioner.

Therefore, keeping in view the aforesaid facts and circumstances, the present petition is found to be devoid of any merit and hence, the same is hereby dismissed.

May 04, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No