

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

WRIT PETITION No.16663 of 2018

Thiagarajar College of Preceptors,
rep. by its President-College Committee,
Mrs.Valli M.Ramaswami
Teppakulam, Madurai - 625 009.

... Petitioner

vs.

1. The Registrar,
Tamil Nadu Teachers Education University,
Gangaiamman Koil Street,
Karapakkam,
Chennai 600 097.

2. The Director of College Education,
O/o.Director of College Education,
Chennai 600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, to call for the records relating to the communication bearing Ref.No.TNTEU/R/Elig/2018/1330, dated 25.06.2018 culminating in the Communication bearing Ref.No.TNTEU/R/Affiliation/2018/1342, dated 27.06.2018 on the file of the 1st Respondent insofar as they direct the Petitioner Institution to surrender excess of 90 students through the single window counselling system, and quash the same.

For Petitioner : Mr.Mani Sundar Gopal

For 1st Respondent : Mr.U.Venkatesan

For 2nd Respondent : Mrs.V.Annalakshmi,
Government Advocate

O R D E R

Petitioner/College has come up with this Writ Petition seeking to quash the communication bearing Ref.No.TNTEU/R/Elig/2018/1330, dated 25.06.2018 culminating in the Communication bearing Ref.No.TNTEU/R/Affiliation/2018/1342,

dated 27.06.2018 on the file of the 1st Respondent, insofar as they direct their Institution to surrender excess of 90 students through the single window counselling system.

2. According to the Petitioner, their College is being run by "Manickavasagam Charitable Foundation", since 1956. The said Institution conducts B.Ed. Degree Course recognized by the National Council for Teacher Education (NCTE) and is affiliated to the Tamil Nadu Teachers' Education University. NCTE originally granted recognition for 100 students to be admitted every year in B.Ed. Course conducted by the Petitioner Institution. Subsequently, in the year 2008-2009, the College increased its infrastructure and other facilities and made an application for an additional intake of another 2 units of 50 students each (totally 100 students) per year and the same was also granted by the NCTE vide order dated 30.07.2009. As on date, the Petitioner Institution has been granted a total intake of 200 students per year consisting of two units of aided and two units of additional intake.

3. As per 2014 NCTE Regulations, 7 + 1 Teachers are required for 2 units of 50 students each. The Government of Tamil Nadu has granted Aid only in respect of Teaching faculty required for 2 units of 50 students each. Apart from the above, in respect of additional intake granted by the NCTE of 2 units and 50 students each, the salaries of the teaching faculty are borne by the College Management from its own funds and the additional intake of 2 units of 50 students each is deemed to be self-financing courses equivalent to that of self-financing Colleges.

4. It is further stated by the Petitioner that B.Ed. Course was originally of one year duration. Subsequently, in the year 2014, in accordance with the 2014 NCTE Regulations, it was converted into a course of two years duration. Consequently, the Teachers requirement of 7+1 = 8 for 2 units of 50 students each will have to proportionately increase to 15+1. The Government of Tamil Nadu vide G.O.(ID) No.94, dated 21.03.2018, issued guidelines for admission to B.Ed. Degree Course of two years duration for the academic year 2018-2020. Pursuant to the said Government Order, the 1st Respondent issued two communications dated 25.06.2018 and 27.06.2018, directing the Petitioner Institution to surrender 90% of the total student intake (180 seats), for which recognition has been granted by the NCTE. It is the contention of the Petitioner that the direction issued by the 1st Respondent is not in accordance with G.O.(ID) No.94, dated 21.03.2018 and hence, is unsustainable in law and facts.

5. Further, the 1st Respondent vide its communication dated 17.03.2017 has issued a detailed time schedule to be followed by the Principals of all the Colleges affiliated to the 1st Respondent/University for the admission of students from the academic year 2017-2018 and the Petitioner Institution implemented the said direction for the academic year 2018-2019. According to the Petitioner, the communication dated 25.06.2018, directing the Petitioner to surrender 180 seats has been issued after the Petitioner Institution implemented the earlier direction of the 1st Respondent vide communication dated 17.03.2017 and based on the same, the Petitioner had already admitted 93 students as against the 110 seats available to the Management to fill up on their own. Hence, according to him, the 1st Respondent's direction vide communications dated 25.06.2018 and 27.06.2018 to surrender 180 seats, is impossible of being performed.

6. Learned counsel for the Petitioner contended that in terms of G.O.(ID) No.94, dated 21.03.2018, compelling a self-financing College to surrender 90% of its seats under Government Quota, is ultra vires. According to him, the 1st Respondent ought to have seen that Clause IV(a)(iii) of the said Government Order, which pertains to allocation of seats in the Colleges of Education, does not stipulate surrender of 90% of self-financing seats to the Government. It is his further contention that the impugned orders dated 25.06.2018 and 27.06.2018 are illegal and that the direction of the 1st Respondent to admit 180 students through single window counselling as per the existing Government norms and the remaining 20 students under the Management Quota, is bad.

7. In support of his case, learned counsel for the Petitioner has relied on a decision in the case of Tamil Nadu Self-Financing Colleges of Education Management Association (Regd.) vs. State of Tamil Nadu, reported in (2007) 6 MLJ 478, relevant portion of which, reads as under:

"19. While considering the validity or otherwise of quota of seats, in the subsequent judgment viz, in P.A. Inamdar and others vs. State of Maharashtra and others (2004 (8) SCC 139), the Supreme Court has observed not only about the seat sharing, but also reservation policy as follows:

"124. So far as appropriation of quota by the State and enforcement of its reservation policy is concerned, we do not see much of a

difference between non-minority and minority unaided educational institutions. We find great force in the submission made on behalf of the petitioners that the States have no power to insist on seat-sharing in unaided private professional educational institutions by fixing a quota of seats between the Management and the State. The State cannot insist on private educational institutions which receive no aid from the State to implement the State's policy on reservation for granting admission on lesser percentage of marks, i.e. on any criterion except merit.

... Therefore, it is clear that in respect of the unaided Colleges of Education whether minority or non-minority, they cannot be compelled to surrender any number of seats to the Government. In view of the same, we have no hesitation to come to the conclusion that the said Clause IV(a)(iii) of the Annexure to G.O.Ms.No.214, dated 04.07.2007, which compels the Self Financing Colleges of Education to surrender 50% of their seats as a Government Quota is clearly ultra vires. However, we make it clear that in respect of the Education Colleges, which by way of agreement have prepared to surrender any number of seats to the Government, the same shall not be prevented by this judgment."

8. Learned counsel appearing for the 1st Respondent, producing the counter affidavit of the 1st Respondent, submitted that the Petitioner Institution has admitted 200 students in the I year B.Ed. Course and the total students in a academic year in the petitioner-College is 400. As per the NCTE Regulations 2014, the required Teaching Faculties for the above intake is 1+30. But, as per the records produced to the Respondent University on 30.10.2017 by the Petitioner, the intake is 1+16. Out of 1+16, the qualification of the Principal was not yet approved by the University for want of teaching experience Certificates. He further submitted that the guidelines stipulated under G.O.(ID) No.94 have to be followed and that the seats cannot be allotted partially to Government Aided Colleges and partially to self-financing Colleges.

9. Heard the learned counsel for the parties and perused the material documents available on record.

10. It is not in dispute that the Petitioner/College is a non-minority Government Aided College, conducting B.Ed. Course for two years. As per clause IV(a)(iii) of G.O.(ID) No.94, dated 21.03.2018, 90% of seats in non-minority Aided Colleges have to be surrendered as Government Quota and only the remaining 10% of seats come under Management Quota. Admittedly, the Petitioner has stated in their Affidavit that the Government has granted Aid only in respect of Teaching faculty required for 2 units of 50 students each. Though, according to the Petitioner/College, it is getting Aid only in respect of Teaching faculty, it cannot be completely termed as a 'self-financing College'.

11. With reference to the decision rendered in the case of P.A.Inamdar vs. State of Maharashtra, (2004 (8) SCC 139), the Apex Court in Tamil Nadu Self Financing Colleges of Education Management Association (cited supra) has held that in respect of unaided Colleges of Education, whether minority or non-minority, they cannot be compelled to surrender any number of seats to the Government. However, it was made clear therein that in respect of the Educational Colleges, which, by way of Agreement have prepared to surrender any number of seats to the Government, the same shall not be prevented by the judgment. There is an implied condition to surrender 90% of the seats. In terms of the judgment cited by the Petitioner, it is clear that the Petitioner has agreed to surrender 90% of the seats. That being the case, the contention of the Petitioner that they are willing to surrender 90 out of 100 seats and the remaining seats will be under Management Quota, cannot be acceded, as there cannot be partial surrender of seats with regard to a particular course. That apart, nowhere in the request made to the Respondents, it is stated that the Petitioner is a self-financing College.

12. Furthermore, even according to the Petitioner/College, they have been surrendering 90 seats to be filled up through single window counselling system and they have been permitted to make their own admissions for 10% of the aided course seats. Therefore, when there is an implied undertaking by the Petitioner/College as regards surrender of seats, they are bound by Clause IV(a)(iii) of G.O.(ID) No.94, dated 21.03.2018, whereby, they have to surrender 90% of its seats under Government Quota. That apart, the Government Order vide G.O.(ID) No.94, dated 21.03.2018 is not under challenge in this Writ Petition.

Hence, in view of the foregoing, the Writ Petition fails and stands dismissed. No costs. Consequently, connected W.M.P.Nos.19875 and 19876 of 2018 are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Registrar,
Tamil Nadu Teachers Education University,
Gangaiamman Koil Street,
Karapakkam, Chennai 600 097.
2. The Director of College Education,
O/o.Director of College Education,
Chennai 600 006.

+1cc to Mr.U.Venkatesan, Advocate, S.R.No.47435

+2cc to Mr.Mani Sundar Gopal, Advocate, S.R.No.47686, 47633

+1cc to the Government Pleader, S.R.No.48492

W.P.No.16663 of 2018

CS/24/07/18

सत्यमेव जयते
WEB COPY