

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.Nos.29214 and 32178 of 2018

COMMON ORDER:

Since the petitioner in both the writ petitions is one and the same and the contentions advanced are also the same, this Court deems it appropriate to dispose of these writ petitions by way of this common order.

2. In W.P.No.29214 of 2018, challenge is to the orders passed by the Osmania University vide Proceedings No.770/MR/H-B, Ed/2018-19/ACAD /1V-2 dated 02.07.2018, intimating the resolution of the Executive Committee, approving the recommendations of the Standing Committee for disaffiliation of the petitioner institution from the Academic year 2018-19.

3. In W.P.No.32178 of 2018, the orders passed by the respondent University vide Proceedings No.877/MR/H-B.Ed/2018-19/Acad/IV-2, dated 21.08.2018, transferring the students of the petitioner institution to other colleges is under challenge.

4. Petitioner herein is a B.Ed College, established in the year 2008. Followed by a surprise visit made by the Inspection Committee of the respondent University on 16.09.2017, the Registrar of the University issued a show-cause notice bearing No.900/MR/H-Bed/2017-18/IV-2, dated 25.09.2017, calling upon the petitioner to show-cause as to why the college should not be disaffiliated from the Academic year 2017-2018 while indicating the following irregularities found by the University Inspection Committee:

- “1. College Name Board is not displayed.
2. In the same premises a school by name “Rishi Public School” is running.
3. None of the teaching staff including Principal are available.
4. No labs, No library and there is no resemblances of running a B.Ed College.
5. It appears that Rishi College of Education is not functioning in the premises where the NCTE/University has sanctioned the college.
6. The School Principal, Mrs.Kusuma, was present and informed that B.Ed Classes are not running in the premises.”

5. In response to the said show-cause notice, petitioner submitted an explanation dated 03.10.2017 in a clause-wise manner. For the Academic year 2017-2018 the respondent University allowed the students and accorded approval for grant of extension of provisional affiliation to the petitioner college to offer B.Ed Course with two basic units of 50+50 vide Proceedings No.1016-MR/H-B.Ed/2499/Aff./2017-18/Acad-IV-2 dated 29.12.2017 subject to fulfilment of the following conditions and general rules of affiliation:

- “1. As per NCTE Regulations, 2014, the college has to appoint Principal with Ph.D and (15) teachers through duly constituted Selection Committee and obtain University approval.
2. To strengthen and establish all laboratories by procuring necessary infrastructure as per NCTE Regulations, 2014.
3. To appoint one teacher each in Health & Physical Education, Fine Arts and Performing Arts.
4. To purchase books worth Rs.25,000/-
5. To update faculty information on University website.
6. To procure (9) Educational Journals and (5) Journals in related discipline;

7. Teaching diaries and Students attendance registers are to be maintained as per norms.

8. Governing Body meetings are to be conducted thrice in a year by associating University representative on the Governing Body.

9. Salaries to the staff should be paid through cheques.”

6. Earlier, when the respondent University was not receiving the examination fee, petitioner institution filed W.P.No.8861 of 2018 and this Court on 20.03.2018 passed the following order:

“Heard Sri K.Ravinder Reddy, learned counsel appearing for the petitioner, Sri Abhisek Reddy, Darned Standing Counsel for Higher Education appearing for the 2nd respondent, Sri Ch.Jagannadha Rao, learned Standing Counsel for the Osmania University and the learned. Government Pleader for Higher Education appearing for the 1st respondent.

Perused the material record.

Having regard to the facts and submissions, there shall be a direction to'. the 3rd respondent University to receive the examination fee from the petitioner's institution irrespective of expiry of the time limit, if any, for receipt of such examination fee and permit the petitioner's college students to appear for the examinations commencing from 22.03.2018, subject to the result of the writ petition and subject to the observations that such students, who appear for examinations, pursuant to these orders of this Court shall not be entitled to claim any equities in view of the permission now granted by this Court, as the permission is subject to the result of the writ petition.”

7. Pursuant to the above order, the respondent University received the fee and directed the students to write examinations. Thereafter,

complaining about the inaction on the aspect of affiliation, petitioner herein filed W.P.No.16226 of 2018 and this Court on 01.05.2018 passed the following order:

"Notice before admission.

It is seen that petitioner College was issued with show cause notice on 25.09.2017 by the respondent University on the ground that it has violated certain university norms and it submitted explanation on 03.10.2017. It appears, no decision has been taken thereon.

In those circumstances and as the petitioner College was allotted students, the respondent University is directed to consider the reply furnished by the petitioner on 03.10.2017 pursuant to the show cause notice, dated 25.09.2017, and pass necessary orders, and communicate the same to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

Post after Summer Vacation, 2018."

8. Thereafter, according to the petitioner no orders were passed and when the petitioner's College was **not** included in the Inspection List for considering grant of extension of **Provisional** affiliation for the Academic year 2018-2019, I.A.No.2 of 2018 was filed and this Court passed the following interim order on 05.07.2018:

"To include the name of the petitioner's college i.e., Rishi College of Education (B.Ed) into Inspection List for considering grant of extension of Provisional Affiliation for the Academic year 2018-2019."

9. Thereafter, petitioner filed Contempt Case No.1931 of 2018 and during hearing of the said Contempt Case, on behalf of the respondents a copy of the order dated 02.07.2018, ordering dis-affiliation of the of the petitioner college was produced. In W.P.No.29214 of 2018, challenge is to the validity and the legal sustainability of the said order.

10. Obviously, as a consequence of the order impugned in W.P.No.29214 of 2018, the order impugned in W.P.No.32178 of 2018 came to be passed, directing transfer of the students from the petitioner's college.

11. A counter affidavit is filed on behalf of the University, denying the allegations made in the writ affidavit and in the direction of justifying the impugned action.

12. Heard Sri K.Ravinder Reddy, learned counsel for the petitioner and Sri S.Lakshmikanth for the respondent University apart from perusing the material available before the Court.

13. It is humbly submitted by the learned counsel for the petitioner that the action impugned in the writ petitions is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India; that the respondent University ought to have considered the request of the petitioner's college about the physical verification and for the reasons best known, the respondent authorities did not chose to do the same; that there is no reason assigned by the respondent University for ordering disaffiliation of the petitioner's college.

14. On the contrary, it is contended by the learned counsel for the respondent University that there is no illegality nor there is any procedural infirmity in the impugned action and in the absence of the same, questioned action is not amenable for any judicial review under Article 226 of the Constitution of India; that only after inspection undertaken by the Inspection Team of the third respondent on 16.09.2017 and followed by a notice and consideration of the explanation offered by the petitioner herein, the University had taken the impugned decision for

dis-affiliation of the college, as such, there can be no complaint of violation of principles of natural justice nor the same can be faulted; that there is no provision for revocation of disaffiliation orders and as such the question of re-inspection does not arise; that the writ petition is also liable to be dismissed on the ground of suppression of material facts that the petitioner herein filed I.A.No.2 of 2018 in W.P.No.16226 of 2018 on 05.07.2018 by conveniently suppressing the orders dated 02.07.2018; that after the dis-affiliation orders dated 02.07.2018, the students who are on rolls in the Second Year III Semester were transferred to other affiliated B.Ed Colleges vide orders dated 21.08.2018.

15. In the above background, now the issues that emerge for consideration of this Court "Whether the petitioner herein is entitled for any relief from this Court under Article 226 of the Constitution of India? and Whether the orders of dis-affiliation and the consequential action of transferring the students can be sustained?"

16. The very genesis for the entire episode in these writ petitions is the inspection undertaken by the third respondent University Inspection Committee, consisting of four experts including the head of the education department, Osmania University on 16.09.2017. In fact, the deficiencies pointed out by the said Inspection Committee were also indicated in the show-cause notice dtd 25.09.2017. Petitioner herein submitted a reply on 03.10.2017 allegation-wise and the said explanation reads as under:

In reply to Clause 6:

"The Inspection Team spoke to one school Principal Mrs.KUSUMA, who is newly appointed by Rishi Public School 15 Days back and has no knowledge of the B.Ed College and the running of classes in the premises and has given misleading statements to the team without knowledge of the

facts. In fact the Rishi School is running 3km away from the B Ed College and since some construction work was going on there in the school premises, the school children were temporarily shifted as a stop gap arrangement to the B:Ed college premises, as the B.Ed College students along with all teaching staff were on teaching practice work in other schools 'where they were allotted. The school students were shifted to the B.Ed college premises because of this reason and most important to safe guard the school children for the physical safety and security from construction hazards in the school premises.

In reply to Clause 1:

The College Name Board is prominently displayed on the college building and is available on the said pre'mises: A photograph of proof is enclosed with this letter.

In reply to Clause 2:

The Rishi Public School students were in the B.Ed college premises as some construction work was going on there in the school premises as mentioned above and This was purely for the physical safety, and security of the school children and also s4lee the college premises was found available temporarily as the teaching staff and the students were on teaching practice in other schools and the principal was busy in monitoring their work.

In reply to Cause 3:

All the teaching staff were allotted teaching practice work and the principal 'was busy monitoring the work of staff on teaching practice as per the scheduled

In reply to Clause 4:

With reference to your notice we submit to you that all the labs and library are available and we are enclosing the detailed photographs of the same for your perusal.

In reply to Clause 5:

Rishi College of education is functioning in the same premises since 2008 at Bairagiguda where NCTE/ University had sanctioned the college. The management requests you to kindly condone the above and sympathetically consider to encourage the college as it has not flouted any norms wantonly. We look forward to your kind consideration and favorable action in this regard."

17. According to the counter affidavit, the Committee consisting of the following seven members was constituted:

- “1. Prof.A.Rama Krishna,
Dean, Faculty of Education, OU : Chairperson
2. Prof.D.Balaramulu,
Head, Dept. of Education, OU : Member
3. Prof.C.Madhumathi,
Dept. of Education, OU : Member
4. Dr.N.Venkateshwarlu,
I/c Director, Legal Cell, OU : Member
5. Prof.C.Venu Gopal Rao,
Director, Directorate of Academic Audit, OU : Member
6. Dr.A.V.Raja Shekhar,
Joint Director, Directorate of Academic Audit,
OU : Member
7. Mr.K.A.Samson,
Assistant Registrar, Academic Branch, OU :
Convener”

18. It is also evident that the said meeting of the said Committee was held on 17.01.2018 to examine the explanation of the petitioner and the minutes of the said meeting read as under:

“The Committee constituted to examine the explanation submitted by the management of Rishi College of Education, Bairagigud, R.R.Dist dt.03-10-2017, in response to the Show-Cause issued on 25th September, 2017 has discussed the matter thoroughly and made the following observations--

Reply to Observation 1 is false

Reply to Observation 2: As per NCTE Regulations, 2014 a School cannot be run in the B.Ed College premises. No traces like, teachers, students, library, college furniture were found in Rishi college of Education which is officially designated premises.

Reply to observation 3 is false. As per the B.Ed revised Almanac for 2016-18, theory classes are to be conducted from 12th September, 2017 onwards.

Reply to observation 4 is false, as it is evident from the photos taken on the day of Surprise visit by the University Inspection Committee i.e on 16-09-2017 that Rishi College of Education is not existing in the sanctioned premises_

Reply to observation 5 is false as there are no traces of existence of Rishi college of Education in the premises .

Reply to observation 6, the Correspondent of Rishi College of Education, has agreed that Rishi Public School classes are running in the premises of B.Ed College.

In view of the above, there is dear evidence that, Rishi Public School was functioning in the Rishi College of Education, which is gross violation of Osmania University norms and NOTE Regulations, 2014. Therefore, the Committee, concluded that Rishi College of Education is not existing in the sanctioned premises and college is existing only on paper. Through the explanation submitted, the management of the College has tried to mislead the University by submitting wrong, false and malicious information.”

The Committee has therefore recommends for disaffiliation of Rishi College of Education, Bairagiguda, R_R_Dist. (2499) with immediate effect.”

19. Thereafter, the matter was placed before the Standing Committee of the Academic Senate on 22.02.2018 and the Standing Committee vide Item No.10, resolved as follows:

“Item No.10. Affiliation - Rishi College of Education, Bairagiguda, R.R. Dist. - Surprise visit of Inspection Committee - Certain irregularities observed Issue of Show Cause Notice - Explanation of the Management -Constitution of Committee - Recommendations of the Committee -Consideration of.

Resolved to:

- i. Approve the recommendations of the committee for disaffiliation of Rishi College of Education, Bairagiguda, R.R.Dist (2499) with immediate effect.
- ii. Ratify the action taken by the University in permitting the students to appear for the B.Ed 1st semester examinations 2017-2018,
- iii. Transfer the 1st semester / 3rd semester students to other colleges to continue their further studies.”

20. Subsequently, the matter was placed before the Executive Council of the University in its 149th meeting and the Executive Committee consisting of the Vice-Chancellor of the University, Special Chief Secretary to the Government, Commissioner of College Education and Registrar of the University resolved to approve the decision of the Standing Committee of the Academic Senate for dis-affiliation of the petitioner institution and to transfer the existing students of the College to other colleges.

21. Having regard to the above factual situation and having regard to the opportunity given to the petitioner herein and the reasons assigned by the respondents for arriving at the decision and the statement made by the Principal of Rishi Public School, this Court does not find any merit in the present writ petition. The irregularities as found by the Inspection Committee are very serious in nature and cannot be viewed lightly as the future of the students is involved. The order impugned in W.P.No.32178 of 2018, directing the transfer of the students from the petitioner college on 21.08.2018 which is a sequel to the order impugned in W.P.No.29214 of 2018 also cannot be faulted.

22. For the aforesaid reasons, the writ petitions are dismissed. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 11.12.2018
grk



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.Nos.29214 and 32178 of 2018

11.12.2018

Grk/da