

**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CWP-22242-2018 (O&M)
Date of Decision: 28.09.2018

SARASWATI VIDYAPEETH EDUCATION TRUST AND ANOTHER

... *Petitioners*

VS.

STATE OF HARYANA AND OTHERS

...*Respondents*

2.

CWP-21740-2018 (O&M)

SINGH RAM MEMORIAL COLLEGE OF EDUCATION, HISAR

... *Petitioner*

VS.

GURU JAMBESHWAR UNIVERSITY OF SCIENCE AND TECHNOLOGY,
HISAR AND OTHERS

...*Respondents*

3.

CWP-21760-2018 (O&M)

SHANTI NIKETAN COLLEGE OF EDUCATION, HISAR

... *Petitioner*

VS.

GURU JAMBESHWAR UNIVERSITY OF SCIENCE AND TECHNOLOGY,
HISAR AND OTHERS

...*Respondents*

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Salil Sagar, Senior Advocate, with
Mr. Sankalp Sagar, Mr, Sunil Kumar and
Mr. Sant Kashyap, Advocates,
for the petitioners in CWP No. 22242 of 2018.

Mr. Parveen Gupta, Advocate,
for the petitioner in CWP Nos. 21760 and 21740 of 2018.

Mr. Rishi Pal Rana, Advocate and
Ms. Savita Rana, Advocate,
for respondent Nos. 1 and 2 in CWP Nos. 21760 and 21740 of 2018.

Mr. Sandeep Jasuja, Advocate,
for the respondent-NCTE in all the writ petitions.

Mr. Rishab Gupta, Advocate,
for respondent No. 4 in CWP No. 22242 of 2018.
and for respondent No. 2 in CWP No. 21740 of 2018.

RAKESH KUMAR JAIN, J.

This order shall dispose of three connected writ petitions bearing **CWP No. 22242 of 2018** (1st Petition) titled as Saraswati Vidyapeeth Education Trust and Another Vs. State of Haryana and Others, **CWP No. 21740 of 2018** (2nd Petition) titled as Singh Ram Memorial College of Education, Hisar Vs. Guru Jambheshwar University of Science and Technology, Hisar and Others and **CWP No. 21760 of 2018** (3rd Petition) titled as Shanti Niketan College of Education, Hisar Vs. Guru Jambheshwar University of Science and Technology, Hisar and Others as the issue involved in all these petitions is common.

Insofar as the 1st petition is concerned, the petitioner No. 1 is running/managing petitioner No. 2-College, which is a private self financed College. Petitioner No. 2 was recognized/permitted vide order dated 22.09.2007 for imparting B. Ed. Course with annual intake of 100 students by the National Council for Teacher Education (NCTE) under the National Council for Teacher Education Act, 1993 (hereinafter referred to as 'the Act'). It is averred in the petition that petitioner No. 2 had introduced Post Graduate Course in Education (M.Ed.) in the year 2010. Petitioner No. 2 was given permission by the NCTE on 05.06.2015 for the additional intake of 100 students in B.Ed. course, making the total intake to 200 seats and revised recognition order was passed for conducting B.Ed. programme of two years' duration with an annual intake of 200 students for four basic units of 50 students each from the academic session 2015-2016.

Petitioner No. 2 was earlier affiliated to Kurukshetra University, Kurukshetra but vide order dated 25.04.2016, of the Director, Department of

CWP-22242-2018, CWP-21740-2018 and CWP-21760-2018

Higher Education, Haryana, all the B.Ed. Colleges in the State of Haryana were affiliated to the Chaudhary Ranbir Singh University, Jind (Respondent No. 4) except the constituent Colleges of Education and Departments of other State Universities. Petitioner No. 2 applied to the Dean of the Colleges of respondent No. 4-University on 19.01.2017 with a request to decrease the B.Ed. intake in the academic session 2016-2017 to 100 seats referring to some financial and other problems but it was mentioned therein that they would have the intake of 200 students in the next academic session i.e. 2017-2018. It is further averred that the petitioners had never approached NCTE for reduction of its seats from 200 to 100 and had only requested the affiliating-University in this regard. However, in the year 2017 when academic session 2017-2018 was in process, the petitioners were not allowed by the respondent-University for the intake of 200 students and its 100 seats remained vacant causing extensive loss to them. In the Session 2018-2019 also, respondent No. 4 has shown the intake capacity of petitioner No. 2-College to 100 students and this led to the filing of the present writ petition.

Vide order dated 07.09.2018 passed by this Court, the petitioners were allowed to hold the counselling of students for 200 seats but permission was not granted for admission of the students till further orders.

Learned counsel for the petitioners has submitted that respondent No. 4 is only the affiliating University whereas, recognition/permission for the intake of students has to be given by the NCTE which has been granted by them after due inspection etc. In support of this contention, learned counsel for the petitioners has also relied upon the decision of the Hon'ble Supreme Court rendered in the case of "**Maa Vaishno Devi Mahila Mahavidyalaya** Vs. **State of Uttar Pradesh and others**; (2013) 2 Supreme Court Cases 617. In this

regard, para 59 of the said decision of the Hon'ble Supreme Court has been referred to which is reproduced as under:-

“59. The above enunciated principles clearly show that the Council is the authority constituted under the Central Act with the responsibility of maintaining standard of education and judging upon the infra-structure and facilities available for imparting such professional education. Its opinion is of utmost importance and shall take precedence over the views of the State as well as that of the University. The concerned Department of the State and the affiliating University have a role to play but it is limited in its application. They cannot lay down any guideline or policy which would be in conflict with the Central statute or the standards laid down by the Central body. State can frame its policy for admission to such professional courses but such policy again has to be in conformity with the directives issued by the Central body. In the present cases, there is not much conflict on this issue, but it needs to be clarified that while the State grants its approval, and University its affiliation, for increased intake of seats or commencement of a new course/college, its directions should not offend and be repugnant to what has been laid down in the conditions for approval granted by the Central authority or Council. What is most important is that all these authorities have to work ad idem as they all have a common object to achieve i.e. of imparting of education properly and ensuring maintenance of proper standards of education, examination and infrastructure for betterment of educational system. Only if all these authorities work in a coordinated manner and with cooperation, will they be able to achieve the very object for which all these entities exist.”

Learned counsel for the respondent-University has submitted that the petitioners themselves had asked for reduction of the intake capacity of students from 200 to 100 which was accepted by the University but the petitioners had never thereafter approached the respondents for the increase in the intake capacity. It is further submitted that for the purpose of imparting education to 200 students of B.Ed., 31 teaching staff i.e 30 teaching staff and 1

Principal is required whereas the faculty of petitioner No. 2-College on its official website as on 12.09.2018 is only of 12 teachers.

In this regard, learned counsel for the petitioners has submitted that the anxiety of the University about the non-availability of the faculty may be there but the petitioners could not have employed more faculty members without increasing the intake capacity because it would cause financial loss to them but the Court is assured by learned counsel appearing on behalf of the petitioners that the faculty would be appropriately provided as per norms if the petitioners are allowed to admit the students to the extent of 200.

Insofar as the 2nd and 3rd petitions are concerned, same issue has been raised by the petitioner(s) therein which has been opposed by the respondent(s)-Guru Jambheshwar University of Science and Technology, Hisar but learned counsel appearing on behalf the NCTE has submitted that the petitioners did not submit any request for reduction in the intake capacity nor they have submitted any affidavit in that regard. It is also submitted that the University cannot reduce the Units of the petitioner(s)-College(s) on its own. Thus, keeping in view the stand taken by the NCTE that the increase or decrease of the Units or the capacity of intake of the students is within the purview of NCTE and not the respondent-University and there is no evidence on record brought by the respondents that the petitioner(s) had ever applied to the NCTE for the purpose of reduction or the NCTE had ever passed any such order of reducing the intake of the petitioner(s)-College(s), the respondent-University, by itself, cannot debar the petitioner(s) from the intake of students, permitted by the NCTE. In the past, it was a temporary phase of the petitioner(s) when they had requested the respondent-University for allowing them to admit students lesser than their capacity may be because of the

CWP-22242-2018, CWP-21740-2018 and CWP-21760-2018

financial constraints or any other problem but it does not mean that the petitioner(s) have given up their right of admitting the students as per their recognition/permission given by the NCTE to them.

However, Insofar as the anxiety of the respondent-University about the non-availability of the faculty is concerned, learned counsel for the petitioners has given a genuine offer that after the admissions are given as per their right of intake of students, the petitioner(s)-College(s) would provide the faculty etc. in accordance with the norms set down which may be inspected by the respondent-University for their satisfaction but before the admission is permitted, the faculty cannot be increased.

Thus, keeping in view the aforesaid facts and circumstances, I am of the considered view that all the three writ petition are meritorious and as such the same are hereby allowed and the respondent-Universities are directed to allow the petitioner(s) to admit the students as per their entitlement, on the basis of the recognition/permission granted by the NCTE. The petitioner(s)-College(s) in turn are directed to provide faculty as per norms. The university shall also have a right to inspect the petitioner(s)-College(s) after the intimation is given by the petitioner(s) about the faculty having been provided and all the necessary arrangements have been made by them so that the education of the students may not suffer after their admission.

September 28, 2018

Ess Kay

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No