

HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 42 of 2019**

- Prabir Sengupta S/o Shri R.B. Sen Aged About 55 Years R/o Sarju Bagicha, Azad Nagar, Bilaspur District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Principal Secretary, Department Of Higher Education, Mantralaya Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. Atal Bihari Vajpayee University Bilaspur Through Its Registrar, Gandhi Chowk, District Bilaspur Chhattisgarh.
3. Snatak Mahavidyalaya Shikshan Samiti Through Its Secretary, D.P. Vipra Collage, Near Old High Court, District Bilaspur Chhattisgarh.
4. D.P. Vipra Collage Through Its Principal, Near Old High Court, District Bilaspur Chhattisgarh.
5. Governing Body Of D.P. Vipra Collage Constituted Under Collage Code-Statute 28 Through The Secretary, D.P. Vipra Collage, Near Old High Court, District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Sunil Pillai, Advocate
For Respondent No.1/State	:	Ms. Richa Shukla, Dy. Government Advocate
For Respondent No.2/University	:	Shri Sudeep Agrawal, Advocate
For Respondents No.3 to 5/College	:	Shri B. P. Sharma and M.L. Sakat, Advocates

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Goutam Bhaduri, Judge****Order on Board****Per, Goutam Bhaduri, Judge****21.06.2019**

1. The instant petition concerns a issue of closure of an stream of subject of Psychology. The petition is filed as *pro bono publico* with the averments that Respondents No.3 to 5, D.P. Vipra College at Bilaspur, is running a course of Psychology for last many years in the College and all of a sudden, have decided to close the said subject for which the education is being imparted. It is contended on behalf of the Petitioner that since it is the only College in the area wherein the course of Psychology is being studied. By closure of said course in the College, the public at large would be largely affected and students interested to study on such subject would be denuded of their right to study the same.

2. It is therefore prayed that the direction may be given that the College to continue the said subject of Psychology. It is further contented that the College receives grant-in-aid, therefore, in order to close any subject on which they are imparting the education, they have to seek prior approval of the Executive Council. Reference is made to the amount received by the College by grant-in-aid and reference is further made to Section 53 of the Chhattisgarh Non-Government Colleges and Institutions in Higher Education (Establishment and Regulation) Act, 2006 (hereinafter referred to as 'the Act, 2006'). It is stated that Section 53 of the Act, 2006 mandates that the Non-Government Institution cannot be closed without the notice as have been contemplated under the statute. It is further contented that since no such compliance of Section 53 of the Act, 2006 was made, therefore, the College cannot of its own close a particular subject or discontinue it as it continued for past many years. It is further submitted that the College Code- Statute 28 also provides that no teaching department or teaching post shall be abolished without the prior approval of the Executive Council. Consequently, if the subject of Psychology is closed, it will lead to closure of teaching department or teaching post, which will be against the Statute 28 of the College Code.
3. The reply of the Respondents have been filed. In order to appreciate the submission, sub section (2) and (17) of Section 3 of the Act, 2006 would be relevant. The said Sections are reproduced hereinbelow :
 - “3.(2) “Aided College” means any college or institute aided financially regularly by the maintenance grant sanctioned by the Government of Chhattisgarh.
 - (17) “Maintenance/Salary Grant” means that grant payable regularly for the teachers and employees of the aided colleges by the State Government for their salaries and allowances

etc.”

4. The reading of the aforesaid definition would reveal that “Aided College” means any college or institute aided financially regularly and the definition would show that it cannot be read in isolation and Maintenance/Salary Grant which is defined in sub section 17 of the Act, 2006 would be of much relevance. Maintenance of salary specifically purports that the grant payable regularly for the teachers and employees of the aided colleges. Thereby in order to encompass a particular teacher who is getting the salary under Government aid, it has to be specifically put forth and has to be pleaded and proved by document that particular department, teachers are getting the salary from Government aid. There cannot be an uniform or omnibus application of the fact by picking up the amount which is being paid by the Government to the Respondent-Society. Further more, the perusal of Annexure-P/3 which shows that the grant-in-aid which is paid to the institution would show that the grant in aid for period of 2013-2014 was about more than 3 crores which subsequently reduced in 2014-2015 to 1.5 crores, meaning thereby the grant-in-aid was drastically reduced. Consequently, who are the teachers who receives the salary by grant-in-aid is not clear. There is no document on record to show that the teachers of the department of Psychology were getting the salary from grant-in-aid paid by the Government and in absence of any particular no presumption can be granted.
5. The correspondence which is sought to be quashed is dated 26.03.2019 purports that the Principal has reported that since the comparative number of students have reduced drastically in the Psychology over past years, therefore, it would not be feasible for the Society / the College to run and continue the department of Psychology further. The letter contains a

instruction that further admission to the stream of Psychology may not be done. In the return of the College and the Society, they have also placed on record that the salary was being paid to the teachers from the private funding and have projected the fact that the number of students have been reduced from time to time in past years, which has resulted into financial loss to the Society. The University further stated that the department of Psychology is being run by D.P. Vipra College on self finance scheme and no grant-in-aid is being given to the teachers for the department of Psychology. Therefore, the University has expressed that it has no role to play of approval or sanction to continue such department.

6. Being so, if the directions are issued to continue the courses of Psychology, despite the fact that the students are not available and the Society has sustained continuous financial loss, this Court will step into shoes of the Management to control and run the courses, which are otherwise the Society or the College do not want to run. In order to continue a particular subject necessarily there has to be teachers and payment of salary to them are crucial nature. If salary fund is not being generated because of lack of students, we are afraid that Court cannot take on role to direct to continue such course when the management itself do not want to continue the same. No statutory violation to close a particular stream of Psychology has been brought to our notice.
7. In the said circumstances, the direction as sought for cannot be issued to the College and accordingly the writ petition is dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge