

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2734 of 2019

Sai Shanti Shikshan Samiti Bhilai -Durg, Through Its Chairman, Smt Sarita Vishwakarma, W/o. P.K. Vishwakarma, R/o. F-39A B Market, Sector-6, Bhilai Durg, District - Bhilai, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Higher Education Department, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar Raipur, District - Raipur, Chhattisgarh.
2. Additional Secretary, Higher Education Department, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur, District - Raipur, Chhattisgarh.
3. Commissioner, Higher Education Department, Indrawati Bhawan, Nawa Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. C Jayant K. Rao, Advocate
For State/Respondents	:	Mr. Rahul Jha, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

14.08.2019

Heard

1. It is contended on behalf of the petitioner that on 08.06.2012, the petitioner was granted permission by the Higher Education Department under the Chhattisgarh Non-Government Colleges & Institutions In Higher Education (Establishment & Regulation) Act, 2006 to run certain courses from 2012-13 for BCA, BBA, B.Com (Computer Application), PGDCA. It is stated that because of the financial exigencies, the petitioner cannot start the courses, which was informed to the respondent and after procurement of the infrastructure, it was again informed to respondent on 14.12.2017 by Annexure P-4 and permission was sought for from the Higher Education Department. It is stated that thereafter by Annexure P-1 dated 17.07.2019 the permission to start the courses have been refused. It is contended that after permission to start the courses, the affiliation has to be obtained by the

respective University. He further submits that before issuing Annexure P-1 whereby permission to start the courses have been denied, no hearing was given as per Section 90 of the Act of 2017, which mandates that necessary opportunity of making representation has to be given. It is further contended that the petitioner has made a representation to the Secretary, Higher Education, which may be directed to be decided.

2. Be that as it may, the records would show that permission to start courses were given to the petitioner society to run the College was given by respondent by letter dated 08.06.2012 (Annexure P-3). Subsequent letter by petitioner would reveal that courses could not be started till 2017 and after procurement of the infrastructure, the petitioner again sought for permission before the Commissioner, Higher Education, thereafter the letter dated 17.07.2019 (Annexure P-1) was issued whereby the permission to start the courses were denied.
3. Sub Section (1) of Section 19 of the Chhattisgarh Non-Government Colleges & Institutions In Higher Education (Establishment & Regulation) Act, 2006 reads as under :

“19. Withdrawal of Permission- (1) Where the management of any educational institution contravenes any of the provisions of this Act and the rules framed thereunder; the Competent Authority may, for reasons to be recorded in writing withdraw the recognition of the institution or take such other action as is deemed necessary after giving to the management an opportunity of making representation against such withdrawal or action.”

4. Reading of such sub-section (1) of Section 19 of the Act of 2006 would show that withdrawal of permission can be made after giving to the management an opportunity of making representation against such withdrawal or action; thereby it goes to show that rules of natural justice has to be followed and opportunity of hearing has to be provided to the particular institution before

such permission is withdrawn. Annexure P-1 shows that such hearing has not been given and as such the representation has been made by Annexure P-6. In the facts of this case, since the opportunity of hearing was not given before issuing Annexure P-1, the same is set aside. The petitioner is given a liberty to make a representation to the competent authority within a period of 30 days along-with all the documents, thereafter, the concerned authority shall adjudicate the same on its own merits. Accordingly, the order dated 17.07.2019 (Annexure P-1) is quashed. Consequently, the writ petition stands disposed off.

Sd/-
Goutam Bhaduri
Judge