

253

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCP-2162-2019 (O&M)
DATE OF DECISION: 18.09.2019

SANT BHUMI FOUNDATION HEAD OFFICE, BATHINDA

...PETITIONER

VERSUS

R. SUBHRAMANYAM SECRETARY OF DEPARTMENT OF
HIGHER EDUCATION, NEW DELHI AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Dr. Rau P.S.Girwar, Advocate
for the petitioner.

Mr. Ashish Rawat. Advocate
for respondents No. 2 & 3.

Mr. Kanisth Ganeriwala, AAG, Punjab.

AVNEESH JHINGAN, J. (Oral)

The contempt petition has been filed alleging that the directions given by this Court on 04.08.2017 in a bunch of writ petitions, main case being CWP No. 12034 of 2015 have not been complied with. This Court disposed of the writ petition with the directions that the petitioner would submit proposed faculty within 10 days and the State of Punjab would send its final comments to National Council for Teachers Education (NCTE) on faculty as well as on other matter, as it may desire . Thereafter, NCTE had to decide the issue after considering the views of the

State of Punjab. It was further made clear that in case, no communication is

received by NCTE from State of Punjab, it would be free to decide the matter by coming to the conclusion that the State of Punjab had no objection to the proposed faculty or to the opening of the new colleges.

Respondent No. 4 has filed a reply annexing letter dated 28.08.2017 whereby the comments were sent by the State of Punjab stating that 113 private self-financed colleges are already running Diploma in Elementary education at present. It was requested that no Letter of Intent and recognition to pending cases as well as to the new cases be issued. The NCTE issued a show cause notice dated 12.02.2018 to the petitioner asking for list of faculty approved by affiliated body.

Learned counsel for the petitioner is not in a position to show that the list of faculty approved by affiliating body was submitted before NCTE. Rather a reply was submitted to the show cause notice. Considering the said reply, order dated 14.06.2018 was passed and the committee rejected the application for recognition/permission under Section 14/15 (3) (b) of the National Council for Teachers Education Act, 1993.

Learned counsel for respondents No. 2 and 3 apprises the Court that the petitioner preferred an appeal against the said order which was dismissed on 10.06.2019.

Learned counsel for the petitioner is not disputing the said fact. He argues that the application for recognition has been wrongly rejected as it was for respondent No. 4 (State Council of Education and Research and Training Director, Punjab (SCERT)) to send the list of faculty.

The argument raised is not well founded. It would be relevant to quote the directions of this Court at this stage.

“In the circumstances, I direct that in case the petitioner (s)-institutions submit their proposed faculty within 10 days

from today i.e. On or before 16.08.2017, the State of Punjab would send its final comments on the faculty as well as on any other matter it may desire to the NCTE on or before 01.09.2017. Thereafter, the NCTE would decide the issue after considering the views of the State of Punjab as mandated by the law. It is made clear that in case the NCTE does not receive any communication from the State of Punjab on or before the 05.09.2017, it would be free to come to the conclusion that the State of Punjab has neither any objection to the proposed faculty or to the opening of new college. Similarly, if the proposed faculty is not received by the State of Punjab by the 16th August, 2017 it would be deemed that the concerned institution is not interested in setting up a college.

With these directions, all the petitions stand disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stand disposed of.”

From the above, directions it is forthcoming that the directions issued had two aspects. Firstly, that in case, the petitioner-institution submits the proposed faculty with the State of Punjab, it would send its final comments on faculty as well as on the other matter, it so desired. The second aspect of the directions was that, in case, no communication was received, NCTE was at liberty to proceed with the matter, presuming that there was no objection by the State of Punjab. The State of Punjab had sent its final comment stating that no recognition should be given either to the new or pending cases as there are numerous institutions already operating in the State of Punjab. There was no positive direction to the State of Punjab to forward the list of faculty with its comments to NCTE. This is more evident with the later part of the directions by the writ Court.

There is another aspect of the matter, the grievance raised in

the contempt petition by the learned counsel for the petitioner that the NCTE erred in passing the order dated 14.06.2018 cannot be gone into the contempt proceedings. The grievance against the order passed by NCTE was raised in an appeal, which has been dismissed. The validity and merits of the order dated 14.06.2018 cannot be tested in the contempt proceedings.

The contempt petition is dismissed.

Rule issued against respondents is discharged.

18th September, 2019
shabha

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : *Yes*

Whether reportable : *Yes*