

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

139

CWP No.13965 of 2019

Date of Decision : 27.05.2019

**ASSOCIATION OF NCTE APPROVED COLLEGES TRUST AND
OTHERS**

....PETITIONERS**V/S****STATE OF HARYANA AND OTHERS****....RESPONDENTS****CORAM : HON'BLE MR. JUSTICE B.S. WALIA**

Present: Mr. Roshan Lal Gupta, Advocate for the petitioners.

Mr. Harish Rathee, Senior Deputy Advocate General, Haryana
for respondent Nos.1 & 2/*State*.

Mr. Prateek Mahajan, Advocate and
Ms. Manpreet Ghuman, Advocate
for respondent No.3/*University*.

B.S. WALIA, J. (ORAL)

[1] Petitioner No.1 i.e. Association of NCET Approved Colleges Trust and petitioner Nos.2 to 18/Colleges, members of petitioner No.1 have filed the writ petition praying for the issuance of a writ of Certiorari for quashing Communication Annexure P-4 dated 28.11.2018, undated notice Annexure P-5, Annexure P-7 dated 28.01.2019 and communication Annexure P-9 (collectively) dated 26.02.2019, whereby petitioner Nos. 2 to 18 were directed by respondent No. 3–Kurukshetra University to deposit establishment charges for the year 2018-2019.

[2] Petitioner No. 2 to 18/colleges are affiliated to respondent No.3- Kurukshetra University for B.Ed. Course being run in the said colleges w.e.f. the session 2018-2019.

[3] Grievance is that although while granting affiliation, no condition was imposed by respondent No.3 for admission to various courses to Colleges for the Session 2018-2019 with regard to charging of establishment charges by the Colleges from the students but now vide letter Annexure P-4 dated 28.11.2018, respondent No3-Kurukshetra University has demanded establishment charges from petitioner Nos. 2 to 18.

[4] On receipt of demand, the petitioners approached respondent No.3-Kurukshetra University with the plea that imposition of establishment charges was never intimated by it in the prospectus nor was any letter dated 15.06.2018, as alleged to have been sent, received from the Dean, Colleges, Kurukshetra University, requiring the Colleges to make payment of establishment charges. Grievance is that despite the aforementioned plea having been brought to the notice of respondent No3-Kurukshetra University by a delegation, respondent No.3-University failed to take the aforementioned aspect of the matter into account and issued yet another undated communication i.e. Annexure P-5, insisting upon payment of establishment charges. Thereupon, the petitioners submitted representation Annexure P-6 dated 30.11.2018 before respondent No3-Kurukshetra University but the same has not been decided till date and in the meantime respondent No.3 issued notice Annexure P-7 dated 28.01.2019, requiring deposit of establishment charges.

[5] Learned counsel contends that even respondent No.2/Director Higher Education, Haryana, issued communication Annexure P-8 dated 01.03.2019 to respondent No3-Kurukshetra University, requiring it to withdraw the imposition of establishment charges being demanded mid-session

and to levy the same only with effect from the commencement of the new Session 2019-2020.

[6] Mr. Prateek Mahajan, learned counsel for respondent No.3/University states that pursuant to communication dated 15.06.2018 from the Kurukshetra University to the Principals of Degree Colleges affiliated with Kurukshetra University, majority of the Colleges deposited the establishment charges and it is only a few Colleges, which are avoiding making payment of the establishment charges.

[7] Faced with the aforementioned position, learned counsel for the petitioners states that the respondent-Kurukshetra University has not taken a decision on the representation i.e. Annexure P-6 while at the same time in order to compel the petitioners to make payment of the Establishment charges is not issuing Roll Numbers to the students of the respective petitioner-Colleges who are to take examination in the B.Ed. Course, commencing 01.06.2019.

[8] Learned counsel contends that in view of the examinations commencing shortly, the petitioners would furnish a Bank Guarantee qua the establishment charges demanded from the petitioners under protest with the respondent-Kurukshetra University, with a prayer that the respondent-Kurukshetra University be directed to consider and decide the representation Annexure P-6 in accordance with law and encashment of the bank guarantee be made subject to the outcome of the representation to be decided by respondent No.3. In other words, it is only in the eventuality of decision adverse to the interest of the petitioners being taken by respondent No3-Kurukshetra University on consideration of representation Annexure P-6 that the bank

guarantee be made encashable by respondent No. 3 University. The same is acceptable to learned counsel appearing on behalf of respondent No.3.

[9] In the circumstances, the writ petition is ***disposed of***, by directing each of the petitioners to furnish a bank guarantee to respondent No. 3/Kurukshetra University *qua* the amount, which has been demanded from the respective petitioners/Colleges on account of establishment charges. Respondent No.3/Kurukshetra University would take a decision on the representation, Annexure P-6 in accordance with law within one week from date of submission of Bank Guarantee. Encashing of bank guarantee to be furnished by the petitioner-Colleges to respondent No.3-Kurukshetra University would be dependent upon the decision to be taken by it on the representation Annexure P-6 and it is only in the eventuality of the representation being rejected that the respondent-Kurukshetra University would be at liberty to encash the bank guarantee on account of amount claimed from the petitioner-Colleges by way of establishment charges.

[10] Needless to mention, in the eventuality of decision adverse to the interest of the petitioners being taken on the representation Annexure P-6, the petitioners would be at liberty to challenge the same in accordance with law.

[11] On furnishing of bank guarantee for the requisite amount claimed by respondent No.3/Kurukshetra University from the respective petitioner Nos. 2-18/Colleges, respondent No3-Kurukshetra University would forthwith issue Roll Numbers to the Colleges for onward transmission to the students.

(B.S. WALIA)
JUDGE

May 27, 2019
'Rajneesh'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No