

17.11.2020

Item No. 11
Court No. 03
Avijit Mitra

W.P.A. No.6372 of 2020 (Via Video Conference)

with

CAN 1 of 2020 (Old No. CAN 4949 of 2020)

with

**CAN 2 of 2020 (Old No. CAN 5507 of 2020)
(CAN not supplied)**

with

**CAN 3 of 2020 (Old No. CAN 5508 of 2020)
(CAN not supplied)**

with

CAN 4 of 2020 (Old No. CAN 5743 of 2020)

with

CAN 5 of 2020 (Old No. CAN 5744 of 2020)

with

CAN 6 of 2020 (Old No. CAN 5856 of 2020)

with

CAN 7 of 2020 (Old No. CAN 5858 of 2020)

with

CAN 8 of 2020

**In re: Dr. B.R. Ambedkar College (B.Ed.
Section) & Ors.**

- Versus -

**National Council for Teacher Education
& Ors.**

Mr. Arindam Banerjee,
Mrs. Arpita Saha,
Mr. Subhajit Chattapadhyay
For the Petitioners

Mr. Amitava Chowdhury,
Mr. M. Chowdhury,
Mr. N. Roy
For the University

Mr. Sachindra Nath Misra
For the applicant in CAN 2 of
2020 & CAN 3 of 2020 in WPA
6372 of 2020

Mr. Kamalesh Bhattacharya,
Mr. Ashok Nath,
Mr. Anindya Bhattacharya
For the intervenor in CAN 6 of
2020

Mr. Biswaroop Bhattacharya,
Mr. Pratik Majumder
For the intervenor

The present writ petition being WPA 6372 of 2020 has been preferred by Dr. B.R. Ambedkar College (B.Ed. Section) (in short, the said College) and its functionaries primarily challenging an order dated 1st February, 2020 passed by the Regional Director, Eastern Regional Committee (ERC), National Council for Teacher Education (NCTE).

Records reveal that the writ petition initially appeared before this Court on 13th August, 2020 and upon hearing the matter was again directed to appear on 17th August, 2020. Thereafter, on 29th September, 2020 a further order was passed by this Court directing enlistment of two other writ petitions along with the present writ petition on 1st October, 2020. Subsequent thereto, an application for interim orders being CAN 8 of 2020 has been filed by the writ petitioners on 3rd November, 2020.

Mr. Banerjee, learned advocate appearing for the petitioners submits that during pendency of the present writ petition a notification dated 16th September, 2020 has been issued by the

Special Secretary, Department of Higher Education directing *inter alia* that *online* admission for academic session 2020-2021 will start from 1st November, 2020. As in the impugned order dated 1st February, 2020 there is a rider restraining the said college from taking admission from the academic session 2020-2021, the name of the said college has not been incorporated in the *website* and as such it would not be possible for the said college to admit any student in the academic session 2020-2021 and as such the application for interim orders has been preferred.

He contends that while considering a dispute pertaining to the academic session 2019-2020, the said college could not have been restrained by the impugned order from taking admission in the academic session 2020-2021. The admission process had already commenced and unless the name of the said college is incorporated in the *website*, the college will suffer irreparable loss and injury.

He submits that though in terms of the earlier order of this Court dated 29th September, 2020 the other two writ

petitions have not been enlisted today, the petitioners have annexed copies of the same in the application being CAN 8 of 2020 so that there can be no hurdle towards consideration of petitioners' claim for interim order.

He argues that recognition of the B.Ed. course pertaining to the academic session 2019-2020 was refused by the impugned order in view of a dispute as regards a fire safety certificate. The authenticity of the said certificate has, however, not been doubted by the Hon'ble Appeal Court while deciding an appeal being MAT No.1822 of 2019 on 9th December, 2019. Challenging the authenticity of the said fire safety certificate though a writ petition was filed by one Sk. Sabir Ali, the interim order, as prayed for in the same was refused when the matter was heard on 26th August, 2020. In the said conspectus, the said college cannot be restrained from admitting students in the academic session 2020-2021.

Mr. Biswaroop Bhattacharya learned advocate appearing for the intervenor in

an application being CAN 4 of 2020 submits that there is a serious internal dispute between the managing committee of the said college and the applicant. Appropriate fire safety certificate is mandatorily required for recognition. The authenticity of the fire safety certificate, is yet to be decided finally and in the backdrop of such serious dispute, question of issuance of an interim order granting permission to the said college to admit students in the academic session 2020-2021, does not arise. Furthermore, the writ petition has been preferred about six months after the issuance of the order dated 1st February, 2020.

Mr. Kamallesh Bhattacharya, learned advocate appears on behalf of one Sk. Sabir, who had filed an application being CAN no.6 of 2020 and adopts the submissions of Mr. Biswaroop Bhattacharya and submits that the fire safety certificate is not genuine and on the basis of the same the said college cannot claim recognition. The signature of said Sk. Sabir Ali has also been forged in the application seeking fire safety certificate.

One Mr. Sachindra Nath Misra, appearing in-person, has filed an application being CAN 2 of 2020. He denies and disputes the contention of the petitioners and opposes the prayer for interim order.

Mr. Nandy learned advocate appears for the NCTE.

Drawing the attention of this Court to the order passed by the Hon'ble Appeal Court in M.A.T. No.1822 of 2019, Mr. Amitava Chowdhury, learned advocate appearing for the University submits that the said college is continuing without recognition. By the order in the appeal, the University was only directed to hold a supplementary examination for redressal of the grievances of the students, who had already been admitted in the said college in the academic session 2019-2020. In view of the existing deficiencies, the college cannot be allowed to admit students in the academic session 2020-2021.

In reply, Mr. Banerjee submits that due to the prevailing pandemic situation, the petitioners could not approach this

Court immediately after issuance of the impugned order. However, repeated representations were submitted but the same were not attended to.

Indisputably there is a serious dispute between the members of the managing committee of the said college and the intervenors. Serious allegations have been levelled in the applications filed by the intervenors.

Records reveal that the order impugned in the writ petition is dated 1st February, 2020. The present writ petition being WPA 6372 of 2020 has been filed before this Court on 7th August, 2020. The present writ petition was heard twice on 13th August, 2020 and on 29th September, 2020. On 13th August, 2020 it was urged on behalf of the petitioners that the admission process will begin in a week's time. However, no interim order was passed.

There exists a serious dispute pertaining to administration of the said college. The writ petition preferred by one Sk. Sabir Ali challenging the authenticity of the fire safety certificate is still pending. In

the backdrop of such dispute and uncertainty, the grant of permission to the said college to admit students in the academic session 2020-2021 would have the effect of keeping the *sword of Damocles* hanging over the students, who may apply and may be admitted in the said academic session.

In view thereof, the interim order, as prayed for in the application being CAN 8 of 2020, is refused and the said application is, accordingly, dismissed.

List the main writ petition being WPA 6372 of 2020 along with the other writ petitions being W.P.20149 (W) of 2019 and W.P. No.22102 (W) of 2019 for further hearing in the combined monthly list of December, 2020.

All parties are directed to act on a server copy of this order.

(Tapabrata Chakraborty, J.)