

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

Sr. No.206

CWP No.24910 of 2016 (O&M)

DATE OF DECISION: January 22, 2020

**JANTA KALYAN SAMITI ADMINISTRATIVE, REWARI,
HARYANA**

..PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Anil Malhotra, Advocate and
Mr. Ranjit Malhotra, Advocate,
for the petitioner.

None for respondent No.1.

Mr. Harsh Aggarwal, Advocate,
for respondent No.2 & 3.

SUDHIR MITTAL, J. (ORAL)

The petitioner is a registered Society established on 31.03.1976. Sometime in the year 1989-1990, it set up a centre for open learning and vide order dated 13.07.1990, respondent No.2-National Institute of Open Schooling (hereinafter referred to as NIOS) granted it provisional accreditation for a period of one year to enroll students for Bridge, Secondary and Senior Secondary Courses. Accreditation No.050001 was given. Thereafter, two more accreditation have been granted to facilities run by the petitioner, one for vocational training and another for open basic education. Although, the accreditation dated

CWP No.24910 of 2016 (O&M)

13.07.1990 was provisional and was for a period of one year only, respondent No.2 never asked the petitioner to either get it renewed or to get the same finalized. It continued to provide the necessary support to the centres of learning set up by the petitioner.

2. On 20.08.2015, a show cause notice was issued to the petitioner regarding the centre running the secondary and senior secondary courses, asking it to show cause why the accreditation be not withdrawn for 'inadequate infrastructure' and 'non-affiliation with any recognized board'. An interim reply dated 26.08.2015 was submitted on behalf of the petitioner wherein it was submitted that affiliation to any other recognized board was not essential and that relevant documents/details regarding lack of infrastructure be provided. In response thereto, a communication dated 23.09.2015 was sent by respondent No.2 informing the petitioner that in an inspection carried out in February, 2013, the infrastructural facilities were found inadequate and that as per norms of NIOS, a study centre must have affiliation with a recognized board. However, the report of the inspection carried out in February, 2013 was not given nor any further details regarding the lack of infrastructure were provided. Thus, the petitioner filed his final reply dated 01.10.2015 *inter alia* stating that the allegation regarding lack of infrastructure is vague as no details have been provided. In fact, respondent No.2 has permitted increase of the number of students and thus, there cannot be any lack of infrastructure. Apart from that, there is no necessity of obtaining affiliation with any other board as NIOS itself is a board established by the Government of India, Ministry of Human Resource Development and the certificates issued by it are recognized all

CWP No.24910 of 2016 (O&M)

over the country. Thereafter, without granting an opportunity of personal hearing, the accreditation of the centre imparting secondary and senior secondary education was withdrawn vide letter dated 10.11.2016. A perusal of the said letter shows that the reason given for withdrawal of the accreditation was that the petitioner had failed to fulfill the norms for accreditation.

3. Learned counsel for the petitioner has laid great stress on the issue regarding affiliation to a recognized board. He has argued that NIOS itself is a board of school education set up by the Government of India and that the certificates issued by the said board are recognized throughout the country at par with the certificates issued by the CBSE or any other state board or the Council for Indian School Certificate Examination (CISCE). Thus, insistence upon affiliation is neither legal nor logical. He has read out in extenso from the prospectus issued by NIOS for the year 2016-2017 in which, it has been publicly represented that it is one of the three national boards, the other two being CBSE and CISCE. It has also been represented that certificates issued by the said organization are accepted for higher education and Government jobs. Further, it has been represented that it is vested with the authority to impart pre-university programs, conduct examinations and certification thereof and that it is also following the national curriculum framework brought out by National Council of Education Research and Training (NCERT). For this reason, it is at par with other National and State boards of school education. A communication dated 14.09.1990 sent by the then Joint Secretary in the Ministry of Human Resource Development is also annexed with the prospectus, according to

CWP No.24910 of 2016 (O&M)

which, NIOS has the authority of holding examinations through distance and open learning system and also has the authority to certify the same. A letter dated 25.07.1991 issued by the association of Indian Universities has also been annexed wherein a resolution of the Government of India dated 14.09.1990 has been referred to whereby the NIOS has been vested with the authority to examine and certify its student.

4. In response, learned counsel for respondent No.2 submits that according to the norms and procedure for accreditation of academic study centre, there is a requirement for affiliation with a national or state school board of education so far as secondary and senior secondary education is concerned. Moreover, there are certain essentials prescribed therein such as requirements of land, school building, classrooms, teaching staff, laboratory and library facilities. The study centre of the petitioner is neither affiliated with a national/state board of school education nor does it have the requisite infrastructure and thus, the withdrawal of accreditation is legal and valid.

5. However, learned counsel for respondent No.2 has not controverted the submissions made by learned counsel for the petitioner on the basis of the prospectus for the year 2016-2017. In fact, he has admitted that NIOS is at par with CBSE & CISCE and other state boards. He, however, submits that accreditation is not equivalent to affiliation and affiliation is necessary for secondary and senior secondary education as an institution must fulfill the requirements laid down by the national/state boards of school education. He further submits that the study centre did not possess the essential infrastructure requirements as prescribed by the norms and thus, the accreditation was required to be withdrawn.

CWP No.24910 of 2016 (O&M)

6. Respondent No.2 has admitted that NIOS is at par with CBSE, CISCE and other state boards of school education. Thus, the logic for seeking affiliation with CBSE or CISCE or a state school education board is beyond the understanding of the Court. Once it has been accepted that certificates issued by NIOS are at par with those issued by CBSE or any other board of school education for the purposes of higher study or for the purposes of employment, I fail to understand why the requirement of affiliation with any other board is essential. This is like asking a school affiliated with CBSE to further get affiliated with a state board of school education. Such a requirement would be obnoxious to say the least. So far as the argument that infrastructure of a study centre should be at par with infrastructure available in schools affiliated with CBSE etc. is concerned, again, the argument is misconceived. A study centre under the scheme of open and distance learning has peculiar requirements. It cannot be equated with regular schools imparting education through contact learning. The necessary infrastructure required for schools working under the scheme of open and distance learning has been prescribed in the norms referred to by learned counsel for respondent No.2 and that takes care of necessary facilities to be provided to students. Provision of greater facilities cannot be stressed upon. Thus, it is held that the requirement of affiliation with CBSE, CISCE or a state board of school education is illogical and illegal and cannot be made binding upon institutions such as being run by the petitioner.

7. Regarding lack of infrastructure, a perusal of the show cause notice shows that general allegations regarding lack of infrastructure have

CWP No.24910 of 2016 (O&M)

been made. In its reply, the petitioner demanded specific details but no such details were provided. In the absence of details regarding lack of infrastructure, respondent No.2 could not have withdrawn accreditation on this ground. Principles of natural justice require that sufficient details must be furnished to the person against whom an order to his interest detrimental is sought to be passed so that he can set up an adequate defence.

8. For the aforementioned reasons, the writ petition is allowed and impugned order dated 10.11.2016 (Annexure P-27) is quashed. However, respondent No.2 shall be at liberty to issue a fresh show cause notice regarding lack of infrastructure giving the requisite details and proceed further with the same in accordance with law.

Pending miscellaneous applications, if any, stand disposed of.

January 22, 2020

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No