

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10771 of 2020

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Shivam College of Higher Studies, Plot No.-243, Village-Phulwaria,
PO-Baikathpur, Tehsil/Taluka-Khusrupur, Dist.-Patna, Bihar-803202
through its Principal Kamala Singh Yadav, male, aged about 41 years,
S/o Dubari Singh Yadav, R/o Mustafachak, Saidpur, Saidpur Ghazipur,
Uttar Pradesh-233304.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board, Sinha Library Road, Patna
through its Secretary.
2. The Chairman, Bihar School Examination Board, Sinha Library Road,
Patna.
3. The Secretary, Bihar School Examination Board, Sinha Library Road,
Patna.
4. The National Council for Teacher Education, Hans Bhawan Wing-II,
Bahadurshah Zafar Marg, New Delhi-110002 through its Member
Secretary.
5. The Regional Director, National Council for Teacher Education,
Eastern Regional Committee, 15 Neelkanth Nagar, Nayapalli,
Bhubneshwar-751012.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suman Kumar, Adv.
For the BSEB : Mr. Purnendu Singh, Adv.
For the NCTC : Mr. Sunil Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date : 08-10-2021

Heard the learned counsel for the petitioner,
Sri Suman Kumar, as also the learned counsel



appearing for the Bihar School Examination Board, Sri Purnendu Singh and the learned counsel appearing for the National Council for Teacher Education, Sri Sunil Kumar Singh.

2. The present writ petition has been filed for directing the respondent authorities to grant affiliation to the petitioner College for the session 2016-2018 from the Bihar School Examination Board, Patna (hereinafter referred to as the 'BSEB'), for imparting D.El.Ed. courses.

3. The brief facts of the case are that the petitioner College appears to have been established for imparting D.El.Ed. courses and had applied to the Respondent-National Council for Teacher Education (hereinafter referred to as the 'NCTE') for grant of recognition for conducting the D.El.Ed. Course, whereafter, the NCTE, finding that the petitioner college is fulfilling all the requisite norms, had, by an order dated 02.05.2016, granted recognition / permission to the petitioner College for conducting D.El.Ed. programme for two years



duration with an intake of 100 students from the academic session 2016-2017 under Clause 7(16) of the NCTE (Recognition Norms and Procedure) Regulations, 2014, subject to fulfillment of the conditions mentioned in the said order dated 02.05.2016.

4. It appears that after receipt of the recognition from the NCTE from the academic session 2016-2018, the petitioner College is stated to have submitted an application to the Respondent-BSEB for grant of affiliation, however, the affiliation has been granted by the Respondent-BSEB to conduct the D.El.Ed. courses from the academic session 2017-19 instead of the academic session 2016-2018 vide letter dated 26.09.2017.

5. The learned counsel for the petitioner, in this regard, has relied upon a judgment rendered by the learned Division Bench of this Court dated 28.3.2019 passed in CWJC No. 19046 of 2018 (***Rajendra Kishore B.Ed. College, Sughari & Ors. vs. The Bihar School Examination Board***



& Ors.) & other analogous cases, reported in 2020 (4) PLJR 829, paragraph no. 41 whereof is reproduced herein below:-

"41. We thus choose to read down Clause (xiii) which is sought to be added to Regulation 8 of '2016 Regulations' by removing the bar of session i.e. 2014-16, to cover all training sessions as until the date on which the notification was published i.e. 07.07.2018 and since on principle the Board has resolved to grant affiliation to the Training Colleges from the session the said Colleges have obtained recognition from the Eastern Regional Committee, the National Council of Teachers Education, Bhubaneswar/ National Council of Teachers Education, New Delhi, applying the same principles the Board would grant affiliation to these petitioners institutions as well from the sessions they have obtained recognition from the NCTE. That the respondent Board have at paragraph 20 of the counter affidavit showed intentions to hold examination for the academic Session 2014-16, 2015-17 and 2016-18 for the Colleges, whose past examination have been validated, the Board shall allow the students of the petitioners institutions also to participate in the Session 2016-18 unless



otherwise found ineligible to participate. Let the exercise of grant of affiliation be completed by the Board within four weeks of receipt/ production of a copy of the judgment."

6. Thus, the learned counsel for the petitioner has submitted that the petitioner College is entitled to affiliation by the Respondent-BSEB from the academic session 2016-2018 in view of the bar of Session 2014-16, in regulation 8 of the Bihar School Examination Board (Issuance of Teachers Education No Objection Certificate, Affiliation Norms and Procedure) Regulations, 2016 (hereinafter referred to as the "BSEB Regulations, 2016"), having been removed so as to cover the session up to the academic session 2016-2018, by the aforesaid judgment dated 28.03.2019 passed in the case of **Rajendra Kishore B.Ed. College, Sughari & Ors.** (supra). It is submitted that the petitioner is entitled to similar treatment as has been allowed to 44 similarly situated Colleges. It is also submitted that as far as the schedule laid down by the Hon'ble Apex Court in the case of



Maa Vaishno Devi Mahila

Mahavidyalaya v. State of Uttar Pradesh &

Ors. is concerned, the same has itself been violated by the Respondent-BSEB by giving affiliation to other Colleges retrospectively. As far as Clause 8(10) of the NCTE Regulation, 2014 is concerned, it is stated that the Respondent-BSEB has again violated the same by giving affiliation to other Colleges from retrospective effect.

7. The learned counsel for the Respondent-BSEB has submitted that the present writ petition does not disclose any details or particulars whatsoever and the petitioner has merely relied upon the judgment, rendered in the case of **Rajendra Kishore B.Ed. College, Sughari & Ors.** (supra), hence, on this ground alone, the present writ petition is fit to be dismissed.

8. The learned counsel for the Respondent-BSEB has also relied on a judgment rendered by this Court in the case of **National B.Ed. College of Higher Education vs. The State of Bihar &**



Ors., delivered on 13.8.2020 in CWJC No. 3936 of 2019, to submit that in a similar case, this Court has denied any relief to the petitioner of that case. The learned counsel for the Respondent-BSEB has further referred to the judgment rendered by the Hon'ble Apex Court in the case of **Maa Vaishno Devi Mahila Mahavidyalaya v. State of Uttar Pradesh & Others.**, reported in (2013) 2 SCC 617, relevant paragraphs whereof are reproduced herein below:-

“87. Compelled by these circumstances and to ensure that there exists no ambiguity, uncertainty and confusion, we direct and prescribe the following Schedule upon a cumulative reading of the Regulations and judgments of this Court in relation to recognition and affiliation:

87.1 Schedule for Recognition and Affiliation

87.1.1	Submission of applications for recognition in terms of Regulation 5(4)	1st September to 1st October of the year immediately preceding the relevant academic year
87.1.2	Communication of deficiencies, shortcomings or any other discrepancy in the application	Within 45 days from the date of receipt of the applications



	submitted by the applicant to the applicant in terms of Regulation 7(1)	
87.1.3	Removal of such deficiencies by the applicant	Within 60 days from the date of receipt of communication
87.1.4	Forwarding of copy of the application to the State Government/UT Administration for its recommendations/comments in terms of Regulation 7 (2)	Within 90 days from the date of receipt of the application
87.1.5	Recommendations/comments of the State Government/UT Administration to be submitted to the Regional Committee under Regulation 7(3)	Within 30 days from the date of issue of letter to it
87.1.6	If recommendations/comments are not received within 30 days, the Regional Committee shall send to the State Government/UT Administration a reminder letter for submission of the recommendations/comments	Within seven days from the date of expiry of the period of 30 days
87.1.7	State Government/UT Administration shall furnish the recommendations/	Within 15 days from the date of receipt of such reminder letter



	comments	
87.1.8	Intimation regarding inspection by the Regional Committee to the applicant under Regulation 7(4)	Within 10 days from final scrutiny of the application
87.1.9	Report by the Inspection Committee under Regulation 7(5)	20 days thereafter
87.1.10	Letter of intent to the institution with respect to grant or refusal of recognition in terms of Regulation 7(9)	10th of February of the succeeding year/relevant year
87.1.11	Time to comply with certain specified conditions, in terms of Regulations 7(10) and 7(11)	20 days from the date of issuance of letter of intent
87.1.12	Issuance of formal order of recognition	By 3rd March of each year
87.1.13	Last date for submitting proposal for affiliation	By 10th March of each year
87.1.14	Forwarding of proposal by the University to the State Government/UT Administration after inspection by expert team	By 10th March of each year
87.1.15	Comments to be	By 10th March of



	submitted by the State Government/UT Administration, if any	each year
87.1.16	Final date for issuance/ grant of affiliation for the relevant academic year	By 10th March of each year

87.2 All notices/orders/requirements/letters in terms of the above schedule or under the provisions of the Act or terms and conditions of already granted recognition/affiliation shall be sent by the authority concerned by speed post/e-mail on the address given in the application for correspondence, etc. and shall be posted on the website of the Authority/ Committee/ Council/ Government concerned.

87.3 The recognition and affiliation granted as per the above Schedule shall be applicable for the current academic year. For example, recognition granted up to 3-3-2013 and affiliation granted up to 10-5-2013 shall be effective for the academic year 2013-2014 i.e. the courses starting from 1-4-2013. For the academic year 2013-2014, no recognition shall be issued after 3-3-2013 and no affiliation shall be granted after 10-5-2013. Any affiliation or recognition granted after the



above cut-off dates shall only be valid for the academic year 2014-2015.

87.4 We make it clear that no Authority/ person/Council/ Committee shall be entitled to vary the Schedule for any reason whatsoever. Any non-compliance shall amount to violating the orders of the Court”.

9. The learned counsel for the Respondent-BSEB has thus submitted that the aforesaid time schedule determined by the Hon’ble Apex Court for grant of recognition and affiliation has to be adhered to and on failure to comply with the said schedule, the same would amount to violating the orders of the Hon’ble Apex Court. In this background, it is submitted that the petitioner institution was granted recognition by an order dated 02.05.2016 passed by the NCTE for conducting the D.El.Ed. programme from the academic session 2016-2018, however, the petitioner College applied before the Respondent-BSEB for grant of affiliation, after a delay of nine and a half months on 10.02.2017 i.e much after expiry of the last date of submitting proposal for



affiliation, since the same is to be done by 10th March of each year, which in the present case was/ is 10.3.2016, whereafter the Respondent-Board, after following the due process of law, promptly granted the affiliation to the petitioner College from the academic session 2017-2019 vide letter dated 26.09.2017.

10. The learned counsel for the Respondent-BSEB has further submitted that it would be apt to state and point out that from a bare perusal of the letter bearing 46601 dated 02.05.2016 (Annexure-2 of the Writ), it is clear that a Conditional recognition has been granted to the petitioner institute/college by the Eastern Regional Committee of the NCTE in terms of NCTE (Recognition Norms & Procedure) Regulation 2014, which is subject to fulfillment of the conditions stipulated therein; clause 3(iii) whereof reads as follows:-

“The institution shall make admission only after it obtains affiliation from the examining body in terms of clause 8 (10) of the NCTE (recognition Norms & Procedure) Regulation 2014”.



11. The learned counsel for the Respondent-BSEB has further submitted that the Hon'ble Supreme Court, in the case of *Maa Vaishno Devi Mahila Mahavidyalaya and Others* (Supra) has formulated schedule/guidelines for the purposes of recognition and affiliation process with regard to all the training courses to be run by various institutions, paragraph No. 69 whereof reads as follows:-

"69. Thus grant of recognition or affiliation to an institute is a condition precedent to running the course by the institute. If either of them is not granted to the institute, it would not be in a position to commence the relevant academic Course".

It is thus submitted that under strict adherence to the Judgment passed by the Hon'ble Apex Court and this Hon'ble Court, the process of affiliation was undertaken with respect to the petitioner. In terms of the BSEB Regulations, 2016, the affiliation to the petitioner's institution had been granted from the academic sessions 2017-19 with prospective effect since there is such provision to grant affiliation with retrospective effect.



12. The learned counsel for the Respondent-BSEB has further submitted that in a similar matter regarding affiliation, the Hon'ble Supreme Court, by an order dated 09.10.2017, passed in W.P.(C) No. 956/2017 (**Crescent School Of Education And Training & Ors. Vs. Maulana Mazharul Haque Arabic And Persian University & Anr.**), had issued directions in the following terms:-

“However, We make it clear that the University shall abide by the NCTE Regulation and the schedule fixed by Maa Vaishno Devi Mahila Mahavidyalaya VS. State of U. P. and others.”

13. The learned counsel for the Respondent-BSEB has referred to yet another similar matter, wherein also ante dating of recognition and affiliation was being prayed for, to show that the Hon'ble Supreme Court, by an Order passed in W.P. (C) No. 747 / 2018 (**R.S. College Vs The Bihar School Examination Board**), has been pleased to observe as follows:-

"As the counseling for admission is already going on, we are not inclined to pass any order (s), as prayed for as the same may affect the



academic session which is due to commence or has already commenced. Neither are we inclined to ante date the recognition and affiliation of any of the petitioners to the year 2018-2019. Writ petition and all pending applications are accordingly dismissed.”

14. The learned counsel for the Respondent-BSEB has referred to yet another identical matter being CWJC No. 3936 of 2019, wherein, this Hon'ble Court, upon considering the provisions of the BSEB Regulations, 2016, has held that in view of the schedule fixed by the Apex Court in case of **Maa Vaishno Devi Mahila Mahavidyalaya** (supra), the relief as claimed by the petitioner of the said case, cannot be granted for the academic year 2017-19. Similarly, in the present Writ petition also the petitioner's claim for according affiliation for the academic session 2016-18 is not tenable in the eyes of law, hence the present writ petition is fit to be dismissed.

15. Lastly, it is submitted by the learned counsel for the Respondent-BSEB that the D.El.Ed. exam was scheduled to begin from 06.04.2021, hence,



now no relief can be granted to the petitioner as far as the academic session 2016-2018 is concerned, apart from the fact that the respondent-BSEB cannot act contrary to the law laid down by the Hon'ble Apex Court in the case of **Maa Vaishno Devi Mahila Mahavidyalaya** (supra).

16. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that the petitioner was granted recognition by the NCTE for conducting D.El.Ed. programme of two years duration with an intake of 100 students from the academic session 2016-2017 vide order dated 02.5.2016, whereafter the petitioner had applied before the Respondent-BSEB for grant of affiliation, belatedly on 10.02.2017, when the time period prescribed by the Hon'ble Apex Court in the case of **Maa Vaishno Devi Mahila Mahavidyalaya** (supra) had already expired as far as academic session 2016-2018 is concerned, hence, the Respondent-BSEB granted affiliation to the petitioner College for running the



D.El.Ed. Course for the session 2017-2019.

17. Another aspect of the matter is that as per Regulation 8(10) of the NCTE (Recognition Norms & procedure) Regulation, 2014, admission by the concerned institution can only be made after affiliation is granted by the examining body, hence, this Court is of the view that the petitioner could not have taken admission for the session 2016-2018, pertaining to the D.El.Ed. programme, thus, on this score as well, the petitioner is fit to be non-suited. This Court further finds that the schedule prescribed by the Hon'ble Apex Court in the judgment rendered in the case of **Maa Vaishno Devi Mahila Mahavidyalaya** (supra) has also not been adhered to, as far as the session 2016-18 is concerned inasmuch as the formal order of recognition is to be issued by the NCTE by the third of March of each year, however, in the present case, the said order of recognition was issued by the NCTE only on 02.05.2016, thus, the same could be valid only for the session starting from 2017-2019. Moreover, the aforesaid schedule fixed by



the Hon'ble Apex Court prescribes the last date of submission of proposal for affiliation as 10th of March of each year or within seven days of the issuance of formal order of recognition by the NCTE, however, in the present case, the petitioner College had sat over the matter and after a delay of nine and a half months, had applied before the Respondent-BSEB for grant of affiliation, only on 10.02.2017, whereafter the same was processed by the Respondent-BSEB and the petitioner College was granted affiliation for the session 2017-2019, vide letter dated 26.09.2017, inasmuch as the last date fixed for grant of affiliation for the relevant academic year i.e. 10th March of each year, as fixed by the Hon'ble Apex Court in the aforesaid judgment, had expired as far as the academic session 2016-2018 is concerned, thus, this Court finds that the Respondent-BSEB has acted fairly in granting affiliation to the petitioner institution for the academic session 2017-2019.

18. Last but not the least, it would be unfair to the petitioner if this Court does not advert to the



judgment relied upon by the learned counsel for the petitioner, rendered in the case of **Rajendra Kishore B.Ed. College, Sughari & Ors.** (supra). In this connection, it would be relevant to, first of all, reproduce Regulation 8(xiii) of the BSEB Regulations, 2016 herein below:-

“Regulation 8(xiii)- Such Training colleges of the State of Bihar, which have been got recognition from the National Council of Teacher’s Education up to training session 2014-16 before promulgation of the National Council of Teacher’s Education Regulation, 2014 and could not have been given affiliation from the Board due to certain reasons and regular examination for the admitted students of the said Colleges has been organized and result of the same have also been published by the Board, shall deemed to be affiliated from the Board under the Bihar School Examination Board (Issuance of Teachers Education No Objection Certificate, Affiliation Norms and Procedure) Regulation, 2016 from the session of getting recognition from the Eastern Regional Committee, the National Council of Teacher’s Education, Bhuvaneshwar/ the National Council of Teachers Education, New Delhi. But



the Board shall be competent to inspect and take action against the Colleges of the said category accordingly, under the Bihar School Examination Board (Issuance of Teachers Education No Objection Certificate, Affiliation Norms and Procedure) Regulation, 2016.”

19. This Court also deems it fit and proper to reproduce paragraphs no. 22, 37 and 41 of the judgment rendered in the case of **Rajendra Kishore B.Ed. College, Sughari & Ors.** (supra) herein below:-

"22. In substance, each of the writ petitioners, i.e. whether the Teachers Training Colleges or the students who have undertaken their teachers training course in the Session 2016-18 from the Colleges, have a prayer in common and i.e. a direction to the Examining/ Affiliating Body i.e. Bihar School Examination Board to grant affiliation to the respective Colleges for the Session 2016-18 in tune with the recognition given by the NCTE for the Session 2016-17. The grievance of the petitioners in this batch of writ petitions is that even though the College in question have obtained recognition from the NCTE for the academic Session 2016-17 well within time period so prescribed and



whereafter they have also followed it up by depositing the required fee for grant of affiliation but it is because the respondent Bihar School Examination Board have delayed grant of affiliation on the pretext of Regulation being amended that the session has gone by. It is also their submission that since as per amendment to the Regulation whereby Clause (xiii) is added to Regulation 8, the Bihar School Examination Board has decided to grant affiliation to 44 Teachers Training Colleges with effect from the date they have obtained recognition from the NCTE, they should apply such principle uniformly across the Board to consider the case of the petitioners- Colleges in the same manner and the attempt by the Bihar School Examination Board to restrict the benefit only until the Session 2014-16 in respect of 44 Teachers Training Colleges whose students were allowed to appear in the examination held by the Board even in absence of grant of affiliation, is patently discriminatory and in case the respondent Board has taken a decision to validate the courses with retrospective effect then such retrospectivity needs to be extended in the case of the petitioners Colleges as well, in tune with the recognition granted by the NCTE for the



academic Session 2016-17 and accordingly.

37. Regulation 8(xiii) notified on 7.7.2018, also quoted above admits to creation of a class of such institutions whose students were allowed to appear in the examination held by the respondent Board right since 1997-98 and since the students of these institutions were permitted by the Board to appear in the examination, hence to correct their own lapses that the Board has come up with the amendment to 2016 Regulations vide incorporation of Clause (xiii) to Regulation 8 and by retrospectively granting affiliation to these institutions from the Sessions they have obtained recognition from the NCTE.

41. We thus choose to read down Clause (xiii) which is sought to be added to Regulation 8 of '2016 Regulations' by removing the bar of session i.e. 2014-16, to cover all training sessions as until the date on which the notification was published i.e. 7.7.2018 and since on principle the Board has resolved to grant affiliation to the Training Colleges from the session the said Colleges have obtained recognition from the Eastern Regional Committee, the National Council of Teachers Education, Bhuvaneshwar/ National Council of Teachers Education, New Delhi,



applying the same principles the Board would grant affiliation to these petitioners institutions as well from the sessions they have obtained recognition from the NCTE. That the respondent Board have at paragraph 20 of the counter affidavit showed intentions to hold examination for the academic Session 2014-16, 2015-17 and 2016-18 for the Colleges, whose past examination have been validated, the Board shall allow the students of the petitioners institutions also to participate in the Session 2016-18 unless otherwise found ineligible to participate. Let the exercise of grant of affiliation be completed by the Board within four weeks of receipt/ production of a copy of the judgment."

20. A bare perusal of the Order dated 02.05.2016 (Annexure- 2 of the writ petition), issued by the NCTE, clearly demonstrates that a conditional recognition has been granted to the petitioner institute by the Eastern Regional Committee of the NCTE in terms of NCTE (Recognition Norms & Procedure) Regulation, 2014, which is subject to fulfillment of the conditions as stipulated therein and one such condition stipulated in sub-clause (iii)



of clause 3 reads as follows:- “The Institution shall make admission only after it obtains affiliation from the examining body in terms of clause 8(10) of the NCTE (Recognition Norms & Procedure) Regulation 2014”, therefore the petitioner institution cannot claim to have admitted students for the academic session 2016-18, without receiving affiliation from the BSEB. In this regard, it would be apt to refer to a judgment rendered by the Hon’ble Apex Court in the case of **Anuragi Devi Degree College vs. State of U.P.**, reported in (2016) 12 SCC 517, paragraphs No. 16 to 21 whereof are reproduced herein below:-

"16. We are obliged to state here that there is justification for reproducing the above paragraphs from the aforesaid decision in Maa Vaishno Devi Mahila Mahavidyalaya case [Maa Vaishno Devi Mahila Mahavidyalaya v. State of U.P., (2013) 2 SCC 617 : 4 SCEC 775] . The Court has taken pains to explain the scheme of the Act, role of the university and the purpose of fixing a time schedule for each purpose. Certain action of the authorities can be flawed and eventually fall in the sphere of illegality. It has to be so



declared by the Court. In the case at hand, the benefit could not be extended as the appellants have not maintained the time schedule fixed by the State Government pursuant to the judgments of this Court. Therefore, the order passed by the learned Single Judge [Anuragi Devi Degree College v. State of U.P., Writ-C No. 42336 of 2015, order dated 20-8-2015 (All)] as well as the Division Bench [Anuragi Devi Degree College v. State of U.P., 2015 SCC OnLine All 6432] cannot be found fault with.

17. The controversy does not end here. The stand of the University is that the appellant College has admitted students without having the necessary affiliation for the academic session 2015-2016. This kind of conduct has become a disease, and when the conduct becomes a disaster, it is a disastrous phenomenon. While dealing with admissions without affiliation from CBSE, the Court in Sunil Oraon v. CBSE [Sunil Oraon v. CBSE, (2006) 13 SCC 673 : 5 SCEC 709] referred to earlier decisions and was constrained to state thus : (SCC p. 682, para 23)

“23. Time and again, therefore, this Court had deprecated the practice of educational institutions admitting the



students without requisite recognition or affiliation. In all such cases the usual plea is the career of innocent children who have fallen in the hands of the mischievous designated school authorities. As the factual scenario delineated against goes to show that the school has shown scant regards to the requirements for affiliation and as rightly highlighted by learned counsel for CBSE, the infraction was of very serious nature. Though the ultimate victims are innocent students that cannot be a ground for granting relief to the appellant.”

18. In Adarsh Shiksha Mahavidyalaya Vs. Subhash Rahangdale [Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale, (2012) 2 SCC 425 : 4 SCEC 347] the Court has laid down that :

“87.(xv) The students admitted by unrecognised institution and institutions which are not affiliated to any examining body are not entitled to appear in the examination conducted by the examining body or any other authorised agency.”

The Court further proceeded to direct : (SCC



p. 488, para 88)

“88. (ii) The result of the students admitted by an unrecognised institution or by an institution which had not been granted affiliation by the examining body shall not be declared. The result of the students who were admitted without qualifying the entrance examination shall also not be declared. In other words, the students admitted by the private institutions on their own shall not be entitled to declaration of their result. If any private institution had not complied with the requirements of completing the prescribed training, then the result of students of such institution shall also not be declared.”

19. In NCTE v. Venus Public Education Society [NCTE v. Venus Public Education Society, (2013) 1 SCC 223 : 4 SCEC 753] the two-Judge Bench ingeminating the anguish of the Court was compelled to observe : (SCC p. 242, para 33)

“33. ... It is urged by him that NCTE had procrastinated its decision at every stage and such delay was deliberate and, therefore, the Society was compelled to admit the students and



impart education, regard being had to the fact that there were really no deficiencies. As has been laid down in many a pronouncement of this Court that without recognition from NCTE and affiliation from the university/examining body, the educational institution cannot admit the students. An educational institution is expected to be aware of the law. The students who take admission are not young in age. They are graduates. They are expected to enquire whether the institution has recognition and affiliation. If we allow ourselves to say so, the institution had given admission in a nonchalant manner. Possibly, its functionaries harboured the idea that they had incomparable fertile mind. The students who had taken admission possibly immersed with the idea that ignorance is a bliss. It is also necessary to state that the institution had the anxious enthusiasm to commercialise education and earn money forgetting the factum that such an attitude leads to a disaster. The students exhibited tremendous anxiety to get a degree without bothering for a moment whether their effort, if any, had



the sanctity of law.”

20. Coming to the present case. As is evincible, the University has not granted affiliation as the schedule for the same was over. No appeal was preferred by the appellant College. The High Court rightly held that it cannot issue a writ contrary to the judgment of this Court. However, we observe that the University shall consider the application for affiliation, if not considered already, within a span of four weeks and if the affiliation is granted the students who had been granted admission shall be treated as students as admitted for the academic session which would be covered by the affiliation to be granted in future. We have so directed so that the appellant College would not be in a position to admit any other student after affiliation is granted.

21. Consequently, the appeal stands dismissed. There shall be no order as to costs."

21. A bare perusal of the aforesaid judgment rendered in the **Rajendra Kishore B.Ed. College, Sughari & Ors.** (supra) would show that firstly, the amendment brought in by the Respondent-Board in the BSEB Regulations, 2016,



vide notification dated 07.07.2018, by incorporating Clause 8(xiii), applies only to such training Colleges of the State of Bihar, who have got recognition from the NCTE up to the session 2014-2016 and moreover, the same deals with only such type of cases where affiliation from the Board could not be given due to certain reasons, but nonetheless, regular examination of the admitted students of the said colleges had been organized and result of the same had been published by the Respondent-BSEB. In fact, the learned Division Bench in the aforesaid judgment rendered in the case of **Rajendra Kishore B.Ed. College, Sughari & Ors.** (supra) has also read down the aforesaid Regulation 8 of the Regulations, 2016 by removing the bar of Session 2014-2016 so as to cover the academic sessions up to 2016-2018, but has clearly stated in paragraph no. 41 of the said judgment that the Respondent-BSEB would grant affiliation to the concerned institutions/colleges from the session they had obtained recognition from the NCTE,



however, restricted only to those institutions/colleges whose past examination have been validated meaning thereby that examination pertaining to the students of such institutions/colleges of the D.El.Ed. courses had earlier been organized by the Board and result of the same had also been published but affiliation could not be given to the said Colleges. Thus only in such cases, as aforesaid, deemed affiliation was to be granted by the Respondent-BSEB, however, in the present case, there is nothing on record to suggest that either the regular examination for the admitted students of the petitioner College was ever organized by the Respondent-BSEB or result of the same was published, hence, the case of the petitioner College is neither covered by Regulation 8 (xiii) of the Regulations, 2016 nor by the judgment rendered by the learned Division Bench of this Court in the case of **Rajendra Kishore B.Ed. College, Sughari & Ors.** (supra).

22. Having regard to the facts and circumstances of the case and for the reasons mentioned



hereinabove, I do not find any merit in the present case, hence, the same stands dismissed, however, without any order as to costs.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	06.08.2021
Uploading Date	13.10.2021
Transmission Date	NA

