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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. NO.19190 OF 2021

AND

W.M.P. NO.20487 OF 2021

St. Grace Lilian College of Education,
Rep. by its Chairman, Rev. Dr.J.David Livingston,
Thatthanoor, Via. Poovanoor Post,
Paruthikadu, Salem District - 636 122.

...Petitioner

-Vs-

1. The Tamil Nadu Teachers Education University,
Rep. by its Registrar,
Gangaianman Koil Street, Karappakkam,
Chennai - 600 097.
2. The Controller of Examinations,
The Tamil Nadu Teachers Education University,
Gangaianman Koil Street, Karappakkam,
Chennai - 600 097.
3. The Member Secretary,
National Council for Teacher Education,
G-7, (Near Sector, 10 Metro Station), Dwar,
New Delhi - 110 075.
4. The Southern Regional Committee,
The Regional Director,
National Council for Teacher Education,
G-7, (Near Sector, 10 Metro Station), Dwar,
New Delhi - 110 075.

...Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the orders passed by the 1st respondent in his proceeding in TNTEU/R/CC11829/Syn.Jan-Item No.34/Withdrawal/2021/186 dated 02.02.2021 and quash the same and consequently direct the respondents 1 and 2 to permit the 82 students admitted in the Petitioner B. Ed college for the ensuing 1st year examination to be held in September / October 2021 or any other dates to be fixed and publish their results.

For Petitioner : Mrs.R.Gowri for
M/s.P.Ebenezer Paul

For Respondents : Mr.U.Venkatesan
Standing Counsel for R1 & R2

Mr.R.Thirunavukarasu
Standing Counsel for R3 & R4

ORDER

This writ petition was filed challenging the proceedings of the 1st respondent dated 02.02.2021 and for a consequential direction to the 1st and 2nd respondents to continue the affiliation granted to the petitioner College for the academic year 2020-21.

2.When the matter was taken up for admission on 13.09.2021, this Court passed the following order:

The learned counsel for the petitioner shall serve on Mr.U.Venkatesan, learned standing counsel appearing on behalf of the 1st and 2nd respondents. Mr.R.Thirunavukarasu, learned standing counsel takes notice on behalf of the 3rd and 4th respondents.

2. It is seen from records that the 1st respondent University had withdrawn the affiliation that was granted to the educational institution, since the NCTE had withdrawn the approval. However,



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subsequently on appeal, the withdrawal of the recognition was set aside by the 3rd respondent and pursuant to the same, the 4th respondent through proceedings dated 19.08.2021 has directed for continuous recognition of the institution for the academic year 2020-21. In view of the same, the petitioner College made a representation to the 1st respondent University to continue the affiliation. However, the University seems to be under the impression that the earlier withdrawal of affiliation made through proceedings dated 02.02.2021 will continue for the academic year 2020-21 and the affiliation at the best can be granted only for the academic year 2021-22. Aggrieved by the same, the present writ petition has been filed before this Court.

3. In the considered view of this Court, the first respondent University has not taken into consideration the effect of Section 17(3) of the National Council for Teacher Education Act, 1993. The said provision specifically states that wherever there is a withdrawal of recognition by NCTE, the affiliating University will withdraw the affiliation only with effect from the end of the academic session commenced following the date of communication of the order. Therefore, even assuming that the order of withdrawal of recognition continues, the respondent University at the best could have withdrawn the affiliation only for the academic year 2021-22 by virtue of the provisions of the Act.

4. The learned counsel appearing on behalf of the 1st and 2nd respondents shall take note of this order and get instructions from the 1st and 2nd respondents.

5. The learned counsel for the petitioner shall immediately serve the papers on the standing counsel appearing on behalf of the 1st and 2nd respondents.

6. Post this case on 17.09.2021.



The 1st and 2nd respondents have filed a counter affidavit along with the typed set of papers. This Court also heard the learned counsel appearing on behalf of the University. On hearing the learned counsel for the University, there are certain fundamental queries that requires an answer both from the petitioner College as well as the NCTE.

3.The NCTE must explain this Court as to when an academic year starts and gets over. Similarly, the learned counsel for the petitioner has to explain as to how so many students got admitted even in March, April and May 2020 when the academic year had not even commenced and when the previous academic year 2019-2020 was yet to come to an end. This is very evident from the list of students that has been relied upon by the petitioner starting from Page No.61 of the typed set of papers. The learned counsel for the petitioner shall take instructions and report before this Court.

4.The matter was once again taken up for hearing on 01.10.2021 and this Court passed the following order:

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2.This Court had posed certain questions to the learned Standing Counsel appearing on behalf of the NCTE and also the learned counsel appearing on behalf of the petitioner.

3.The first question that was posed by this Court was seeking for explanation from NCTE as to when an academic year starts. As an answer to this question, the learned Standing Counsel appearing on behalf of the NCTE brought to the notice of this Court, the Notification of the NCTE dated 28.11.2014 and specifically relied upon Clause 11 of the Notification. A reading of Clause 11 of the Notification shows that it is the affiliating body which has to regulate the process of admission in Teacher Education Institutions by prescribing the academic calender. Therefore, the academic calender is fixed only by the affiliating University.

4.This Court thereafter posed a question to the learned counsel appearing on behalf of the University and sought for the answer. The learned Standing Counsel appearing on behalf of the University referred to the statutes of the Tamil Nadu Teachers Education University and specifically relied upon Clause 2(1) which defines an academic year. This Clause provides that an academic year means a period of twelve months commencing from the first day of July every year. It is therefore clear that an academic year as fixed by the affiliating University will normally commence from the first July of every year. The learned Standing Counsel appearing on behalf of the University submitted that the start of the academic year got disturbed due to the pandemic situation. Therefore, after a lot of deliberation by the authorities, it was ultimately decided that for the academic year 2020-21, the academic year will commence from 08.03.2021. The learned counsel submitted that as on 08.03.2021, the petitioner Institution did not have the approval from the NCTE and the University had already cancelled the affiliation by virtue of the impugned proceedings dated 02.02.2021.



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5.This Court thereafter turned its attention to the learned counsel appearing for the petitioner. The learned counsel for the petitioner fairly submitted that the students who are admitted in an academic year are normally chosen even before the commencement of the academic year, but however, the actual effect of the admission is given only after the commencement of the academic year. The learned counsel therefore submitted that no illegality was committed by the petitioner Institution insofar as admitting the students.

6.The learned counsel for the petitioner thereafter brought to the notice of this Court Section 17(3) of the NCTE Act, 1993 and submitted that after the orders were passed in the appeal by the 3rd respondent on 11.02.2021, the approval is deemed to have been revived since pursuant to the remand to the 4th respondent, the 4th respondent through proceedings dated 19.08.2021 had specifically ordered for the continuation of the recognition for the B.Ed., programme. The learned counsel submitted that this continuation of recognition will commence from the academic year 2020-21. Therefore, it was submitted that the approval will relate back to the date on which the academic year commenced for 2020-21 and Section 17(3) of the NCTE Act will start governing the situation.

7.The submissions made by the learned counsel appearing for the petitioner may not be providing an answer for the effect of the proceedings of the 4th respondent dated 19.08.2021. A careful reading of the proceedings of the 4th respondent dated 19.08.2021 makes certain conditions as a pre-requisite to enable the continuation of the recognition for the petitioner Institution. One such condition is found at Clause 8(iii). For proper appreciation, the same is extracted hereunder:

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(iii) The Institution shall make admissions only after it obtains affiliation from the examining body in terms of Clause 8(10) of the NCTE (Recognition Norms & Procedure) Regulations, 2014.

8. It is clear from the above that the continuation of recognition for the B.Ed., programme will enure in favour of the petitioner Institution only if the Institution fulfills the requirement as per the above Clause. If the same is not fulfilled, the order of permanent recognition will not take effect and consequently it cannot be said that there is a continued recognition for the petitioner Institution for the academic year 2020-21.

9. This is the most crucial question that has to be convincingly answered by the learned counsel for the petitioner. By virtue of this development, the earlier impugned order passed by the University on 02.02.2021 withdrawing the affiliation pales in to insignificance. That order was passed after taking into consideration the fact that the recognition was withdrawn by NCTE through proceedings dated 27.07.2020. However in the changed situation, the petitioner Institution must provide an answer as to how they are going to fulfill the requirement under Clause 8 (iii) which has been extracted supra. An answer for this query will ultimately enable this Court to pass final orders in this writ petition.

10. Post this case under the caption 'For Further Arguments' on 04.10.2021.

5. When the matter was taken up for hearing today, the learned counsel appearing on behalf of the petitioner submitted that Clause 8(iii) in the continuation order passed by NCTE dated 19.08.2021 specifically refers to Clause 8(10) of the NCTE Regulations, 2014. The learned counsel submitted that as per this Regulations, the respondent University will have to grant the affiliation since the recognition given to the petitioner College has been continued for a further period of two years with an annual intake of 50 students each. Therefore,



6. In the considered view of this Court, the entire scenario has changed after the continuation order was passed by the NCTE on 19.08.2021. This Court while recording the proceedings on 01.10.2021 had made it clear that the impugned order passed by the University on 02.02.2021, withdrawing the affiliation, pales into insignificance by virtue of the subsequent continuation order passed by the NCTE on 19.08.2021. After this order was passed, the petitioner Institution has also made representations to the University to continue the affiliation for the academic year 2020-21 and also to permit the students to write the examinations. This representation is admittedly pending before the respondent University.

7. This Court cannot pre-empt the decision that is going to be taken by the University and this Court cannot hear the counsel appearing on either side in order to ascertain the nature of decision that will be taken by the respondent University. This Court cannot step into the shoes of the University and take a decision and it will be fit and proper if the decision is exclusively left to the wisdom of the respondent University. Even though submissions were made on either side as to the purport of Clause 8(iii) of the continuation order, this Court does not want to render any finding on the same since, the respondent University has to take a decision based on the continuation order dated 19.08.2021.

8. In view of the above discussion, there shall be a direction to the 1st respondent to consider the representation made by the petitioner Institution on 27.08.2021 and deal with the same in line with the continuation order dated 19.08.2021 and also the Regulations under the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2009. If the 1st respondent wants any clarification, they can also call upon the petitioner Institution to give the explanation and provide the necessary materials to take a decision. The 1st respondent shall take a decision on the representation made by the petitioner on 27.08.2021, within a period of one week from the date of receipt of copy of this order. Such a short time is fixed by this Court by taking into consideration the fact that the affiliation pertains to the academic year 2020-21.



9.This writ petition is disposed of with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

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Sub Assistant Registrar

ssr

To

1. The Registrar,
The Tamil Nadu Teachers Education University,
Gangaianman Koil Street, Karappakkam, Chennai - 600 097.
2. The Controller of Examinations,
The Tamil Nadu Teachers Education University,
Gangaianman Koil Street, Karappakkam, Chennai - 600 097.
3. The Member Secretary,
National Council for Teacher Education,
G-7, (Near Sector, 10 Metro Station), Dwar,
New Delhi - 110 075.
4. The Southern Regional Committee,
The Regional Director,
National Council for Teacher Education,
G-7, (Near Sector, 10 Metro Station), Dwar,
New Delhi - 110 075.

+1cc to M/s.P.Ebenezer Paul, Advocate, S.R.No.51644
+1cc to Mr.U.Venkatesan, Advocate, S.R.No.51397

W.P. No.19190 of 2021
and W.M.P. No.20487 of 2021

MG(CO)
RLP(05/10/2021)