

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16620 of 2017

***Educational Agency, Radhakrishna
Sanskrit Mahavidyalaya, Balasore***

.... ***Petitioner***

Mr. P.K. Khuntia, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***

Mr. P.C. Das, ASC

Mr. S.N. Nayak, Advocate

(For O.P. No.4)

**CORAM:
JUSTICE A.K. MOHAPATRA**

ORDER

28.11.2022

Order No.

05.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel appearing for the State-Opposite Parties No.1 to 3 as well as learned counsel appearing for the Opposite Party No.4. Perused the record.
3. This writ petition has been filed by the Petitioner with a prayer to quash the impugned decision under Annexure-5, so far as the Petitioner-Institution is concerned, by holding that the same is contrary to Section 5 and 6 of the Orissa Education Act, 1969 and the rules made thereunder and further the same is also violative of Article 14 of the Constitution of India with further prayer to direct the Opposite Party No.2 to correct the order under Annexure-1 by treating the

temporary recognition granted to the Petitioner-Institution for Upasastri and Sastri courses w.e.f. the Academic Session 2005-06 as permanent recognition from the Academic Sessions 2005-06 instead of 2012-13.

4. It is submitted by the learned counsel for the Petitioner that being aggrieved by the decision of the High Power Committee taken in their meeting held on 17.4.2017 under Annexure-5 thereby rejecting the genuine claim of the Petitioner-Institution for grant of permanent recognition for Upasastri and Sastri courses from the Academic Session 2005-06 instead of 2012-13 is illegal, arbitrary and discriminating. It is further contended that the Opposite Parties have extended the same benefits in respect of the similarly situated institutions. However, the preset Petitioner is concerned, the Petitioner-Institution has been discriminated and such benefits have not been extended to the Petitioner, which is illegal and arbitrary one. It is further submitted by referring the letter dated 18.7.2016 under Annexure-6 that similarly situated institutions having granted permanent recognition for Upasastri and Sastri courses w.e.f. 2005-06 instead of 2008-09 and for Sastri w.e.f. 2005-06 instead of 2011-12. Such benefit has been extended to Anchalika Sahajoga Sanskrit Mohavidyalaya, Palli, Bhadrak. Further, learned counsel for the Petitioner has also filed an interim application bearing I.A. No.15268 of 2022. On perusal of the said I.A., it is seen that the Petitioner has annexed order dated 02.06.2022 passed by the

Hon'ble Minster of Cabinet, Agriculture & Farmer's Empowerment, Fisheries & Animal Resources Development, Higher Education, Odisha in Appeal Case No.MHE(Sanskrit)-0028/2018 wherein a decision has been taken by the appellate authority to the effect that the appellant's case has been allowed permanent recognition from the Academic Session 2005-06. In such view of the matter, learned counsel for the Petitioner submits that the Petitioner's institution also be granted permanent recognition at par with those institutions who have been granted permanent recognition w.e.f. the Academic Session 2005-06.

5. Learned Additional Standing Counsel appearing for the State- Opposite Parties No.1 to 3, on the other hand, submits that they have filed a counter affidavit. In the counter affidavit, the State has taken stand that the Petitioner-Institution does not fulfill the eligibility criteria. He further submits that the appeal of the Petitioner has also been disposed of by the appellate authority by taking into consideration the eligibility criteria of the Petitioner. He further submits that the appellate authority has not committed any error in passing the impugned order. Accordingly, prays for dismissal of the writ petition.

6. Mr. S.N. Nayak, learned counsel appearing for the Opposite Party No.4 submits that the decision has to be taken by the State Government, so far grant of permanent recognition is concerned. However, he does not dispute the fact that similar situated institutions

have been granted permanent recognition w.e.f. the year 2005-06 by the State Government. It is further contended that in the event the State Government grant permanent recognition, then the University has no objection to the same as grant of permanent recognition comes within the exclusive domain of the Government and University has no role in such matter.

7. Having heard the learned counsel for the parties and considering their rival contentions, this Court is of the considered view that the Petitioner-Institution has been discriminated thereby violating Article 14 of the Constitution of India and, as such, similarly situated institutions have been granted permanent recognition w.e.f. the Academic Session 2005-06. The latest one being by the Appellate Authority, the Minister himself vide order dated 02.06.2022 in the case of Dr. Arta Ballav Mohanty Adarsh Sanskrit & Yoga Mahavidyalaya, Naganpur, Dist.-Kendrapara. Further, this Court observes that the conduct of the Appellate Authority, as it appears, not consistent in respect of similar situated colleges.

8. Therefore, the impugned order dated 17.4.2017 under Annexure-5, so far the same relates to the Petitioner-Institution, is hereby set aside. Further, the Opposite Party No.2-Director, Higher Education, Odisha is directed to consider the case of the present Petitioner and in the event it is found that the Petitioner-Institution

stand in the similar footing with the above noted two colleges, then the Petitioner shall also be treated at par with those colleges and similarly benefit be extended to the Petitioner's colleges, otherwise the same would amount to discrimination. Accordingly, this Court directs the Opposite Parties No.1 and 2 to take a decision in the matter within a period of two months from the date of production of certified copy of this order keeping in view the case of the colleges referred to hereinabove and in the event it is found that the Petitioner-College is eligible, the similar benefit be extended to the Petitioner-College within one month from the date of taking decision. The decision so taken by the authorities shall be communicated to the Petitioner within a period of two weeks from the date of taking such decision.

9. With the aforesaid observation and direction, this writ petition stands disposed of.

(**A.K. Mohapatra**)
Judge

Debasis