

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.26273 of 2011

***Regional School of Secondary Training
and Pharmaceutical Science***

Petitioner

Mr. Chandakant Nayak, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. B.A. Prusty,
Standing Counsel for School and Mass Education

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

Order No.

**ORDER
14.03.2022**

10. 1. The challenge in the present petition is to the constitutional validity of Sections 7-E and 7-F of the Odisha Education Act ('the OE Act') which read as follows:-

“7-E. Notwithstanding anything to the contrary contained in this Act, on and after the commencement of the Orissa Education (Amendment) Act, 1989, the State Government shall not accord permission for establishment of any Private Secondary Training School or Private Training College or recognise any School or College established, if any, prior to the said date.

7-F. Notwithstanding anything contained in this Act or the rules made thereunder or in any judgment, decree or order of any Court, the State Government shall not be bound to accord permission for establishment of any private Secondary Training School or Private Training College, or recognise any such school or College

established, if any, prior to the 14th day of August, 1989 and non-recognition of such school or college shall not be questioned in any Court of Law or otherwise be open to challenge.”

2. Earlier the vires of Section 7-E of the Act was upheld by the Division Bench of this Court in ***Governing Body of Baliapal College for Physical Education v. State of Odisha: 72 (1991) CLT 161.***

3. In the counter affidavit filed in response to the present petition, apart from pointing out that the above decision covers the issue against the Petitioner, it has been stated that there is another judgment pertaining to the very Petitioner, holding against the Petitioner as regards its prayer to take on new students for the Certificate Training Course. That decision is ***State of Odisha v. All Orissa Private Secondary Training Schools Management Association 2011 (1) OLR 287.***

4. The third fact, is mentioned in para-9 of the counter affidavit, and which has not been disputed by the Petitioner by filing any rejoinder affidavit. The said para-9 reads as under :-

“9. It is apposite to mention here that the students of unrecognized institutions cannot appear in C.T. Examinations as per Chapter-IX of the Regulations of Board of Secondary Education, Orissa wherein it has been provided that no school, which is not recognized by the Board, shall be permitted to present candidate for any examination conducted by the Board. The present petitioners institution admittedly is an unpermitted and unrecognized institution and accordingly, the students of the petitioners institution cannot be permitted to appear in the C.T. examination and further the present petitioners institution also cannot seek for permission and recognition by the State Government in view of the restriction imposed by way of Section 7-E and Section 7-F of the Orissa Education Act, 1969.”

5. Learned counsel for the Petitioner states that since the matter was not listed before the Court after the counter affidavit was filed in 2017, he could not file any rejoinder.

6. This Court is unable to appreciate the above contention. Filing of the rejoinder was not dependent on the Petition being listed in the Court.

7. Learned counsel for the Petitioner then seeks time to file a rejoinder. This Court does not consider the request of the Petitioner to be reasonable since there was sufficient time in all these five years to file a rejoinder.

8. Learned counsel for the Opposite Party further points out that apart from the fact that Sections 7-E and 7-F of the OE Act do not permit establishment of a Teacher Training Institution by private bodies, the issue of establishing a teachers' training institution is under the domain of the Central Government by virtue of Section 14 of the National Council for Teacher Education Act, 1993 read with Regulation 7(5) of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 framed under Section 32(2) of the National Council for Teacher Education Act, 1993.

9. In view of all the above facts, there is no merit in the petition and it is accordingly dismissed. All pending applications are disposed of.

10. Issue urgent certified copy as per Rules.

(Dr. S. Muralidhar)
Chief Justice

(A.K. Mohapatra)
Judge