

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16619 of 2017

Educational Agency

....

Petitioner

Mr.S.K.Das-2
Advocate

-versus-

State of Odisha & others

....

Opposite Parties

Mr. B.P.Tripathy,
Addl. Govt. Advocate

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
12.10.2022.

Order No.

10.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned Addl. Government Advocate for the State.
3. The Petitioner Institution was granted temporary recognition for Upasastri and Sastri courses w.e.f. 2005-06 on the ground that it did not possess the necessary arrangements and facilities such as infrastructure etc. Such temporary recognition was also granted in a next Academic Session i.e. 2006-07 and continued till 2012-13 when permanent recognition to Upasastri course was granted with 64 seats by order dated 5th August, 2013. Similarly permanent recognition to Sastri course with 64 seats was granted for the Academic Session 2013-14 by order dated

1st June, 2016. Being aggrieved by the non-grant of permanent recognition w.e.f. 2005-2006 despite the fact that all the deficiencies had been rectified/removed by the Institution, it filed an appeal before the Government against such inaction. The said appeal being, Appeal Case No.MHE (+3)-50/2016 was disposed of by the appellate authority vide order dated 21st November, 2016 by remanding the matter to the High Power Committee (HPC) for further action.

4. Pursuant to the order of the appellate authority, the HPC considered the case of the Petitioner Institution and in its meeting held on 15th April, 2017, did not allow the claim of the Institution on the ground that antedation of permanent recognition is not permissible under Rules. The said decision of the HPC was communicated by letter dated 17th April, 2017 of the Government (Annexur-5), which is impugned in the present Writ Petition.

5. Heard Mr. D.K.Mohapatra, learned counsel for the Petitioner and Mr. B.P.Tripathy, learned Addl. Government Advocate for the State.

6. It is submitted by Mr. Mohapatra that the impugned order is on the face of it bad in law as no reason whatsoever has been cited therein for rejecting the claim of the Petitioner. It has also not been clarified as to which Rule prevents antedation of permanent recognition. It is also contended by Mr. Mohapatra that no opportunity of personal hearing was afforded to the

Institution even though the same is mandated by law. It is further contended that several other Institutions have been granted similar benefits.

7. Mr. B.P.Tripathy, on the other hand, contends that the very fact that the HPC in its resolution has indicated that antedation of permanent recognition is not permissible under the Rules implies that adequate reason has been given and therefore, there is no justified reason to interfere with the said order.

8. Reference to Rule 6 (10) of the Odisha Education Act would be apposite at this stage, which reads as follows:-

“10. Any applicant aggrieved by an order refusing to accord recognition, may within one month from the date of communication of such order file a review petition before the Committee constituted under Sub-section (4). The Committee after calling for such information and causing such further inquiry as may be necessary and after giving an opportunity of being heard to the petitioner shall take decision and dispose of the petition.”

9. A bare reading of the aforequoted Rule makes it clear that an opportunity of hearing is mandatorily required to be given to the concerned applicant before passing any order. In the instant case, it is claimed by the Petitioner Institution that all the deficiencies pointed out by the authorities have been rectified in the mean time, which is evident from the fact that the Institution has received permanent recognition from the

Academic Session 2012-13 onwards. It is further claimed that there is no provision in the statute which prohibits antedation of permanent recognition.

10. The appellate authority having remanded the matter to the HPC, it was incumbent upon it to consider the claim in the proper perspective with due application of judicial mind to the facts and law involved and to pass a lawful order. The same not having been done, this Court has no hesitation in holding that the impugned order cannot be sustained in the eye of law.

11. For the foregoing reasons therefore, the Writ Petition is deposed of by quashing the impugned order in so far as it relates to the Petitioner Institution only, with further direction to the HPC to consider and dispose of the claim of the Petitioner Institution strictly in accordance with law after granting due opportunity of hearing to its representative. Such exercise shall be concluded within a period of six weeks from the date of communication of this order or on production of certified copy thereof by the Petitioner. It is however, needless to mention that the Court has not expressed any opinion on the merit of the case.

12. Urgent certified copy of this order be granted on proper application.

AKB

(Sashikanta Mishra)
Judge

