



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13478 of 2020 & 9817 of 2022

and

W.M.P(MD)Nos.11238 of 2020, 9889 of 2021, 7033, 7034 and 8479 of 2022

W.P.(MD)No.13478 of 2020:-

Vellasamy Nadar, Correspondent,
Dr.Vellasamy Nadar Teacher Training Institute,
Dr.T.Vellasamy Nadar, Nagar,
Thittai Road, Manakkarambai,
Ramapuram Post, Thanjavur – 613 003.

... Petitioner

v.

- 1.The Director,
National Council for Teacher Education,
Wing II, Hans Bhawan 1,
Bhadur Shaw Zafar Marg,
New Delhi – 110 002.
- 2.The Regional Director,
The Southern Regional Committee,
National Council for Teacher Education,
1st Floor, CSD Building, HMT Post,
Bangalore – 560 013.
- 3.The Director,
State Council of Educational Research and Training,
College Road, Subba Road Avenue,
Nungambakkam, Chennai – 600 006.



4.The Principal,
District Institute of Education and Training,
Aduthurai – 612 101,
Thanjavur District.

5.The Secretary to Government
School Education (ERT) Department,
The Secretariat, State of Tamil Nadu,
Chennai – 9.

... Respondents

*(R5 is impleaded vide order dated 16.04.2021 in
W.M.P.(MD)No.3130 of 2021 in
W.P.(MD)No.13478 of 2020 by NAVJ)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned G.O.(Ms) No.87, School Education (ERT) Department, dated 28.05.2018 issued by the 2nd respondent and the consequential impugned order in Na.Ka.No.1731/E1/2019 dated 21.10.2019 issued by the 3rd respondent and quash the same G.O.No.87/2019 to the extent including the self financed institution like out institute viz., Dr.Vellasamy Nadar Teacher Training Institute in it and also the said consequential impugned order dated 21.10.2019 passed by the 3rd respondent and direct the 3rd respondent to approve the admission of students to the 1st year Diploma in Teacher Education (D.T.Ed) Course in the said institute.

*(Prayer is amended vide order dated 16.04.2021
in W.M.P.(MD)No.3225 of 2021 in
W.P.(MD)No.13478 of 2020 by NAVJ)*



For Petitioner : Mr.C.Dhanaseelan

For Respondents : Mr.Su.Srinivasan,
Standing Counsel for R1 & R2,
Mr.V.Om.Prakash,
Government Advocate for R3 to R5.

W.P.(MD)No.9817 of 2022:-

1.P.Anitha

2.K.Shylaja

... Petitioners

Vs.

- 1.The Secretary to Government
School Education (ERT) Department,
The Secretariat, State of Tamil Nadu, Chennai – 9.
 - 2.The Director, National Council for Teacher Education,
Wing II, Hans Bhawan 1, Bhadur Shaw Zafar Marg,
New Delhi – 110 002.
 - 3.The Regional Director, The Southern Regional Committee,
National Council for Teacher Education,
1st Floor, CSD Building, HMT Post,
Bangalore – 560 013.
 - 4.The Director,
State Council of Educational Research and Training,
College Road, Subba Road Avenue,
Nungambakkam, Chennai – 600 006.
 - 5.The Principal, District Institute of Education and Training,
Aduthurai – 612 101, Thanjavur District.
 - 6.The Correspondent, Dr.Vellasamy Nadar Teacher Training Institute,
Dr.T.Vellasamy Nadar, Nagar,
Thittai Road, Manakkarambai, Ramapuram Post,
Thanjavur – 613 003.
- ... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 4th and 5th respondents to grant approval for the admission of the petitioners at the 6th respondent institute for the academic year 2019-2020 and 2020-2021 respectively.

For Petitioners : Mr.S.Sivakumar

For Respondents : Mr.V.Om.Prakash,
Government Advocate for R1, R4 & R5.
Mr.Su.Srinivasan,
Standing Counsel for R2 & R3.
Mr.C.Dhanaseelan for R6

COMMON ORDER

Heard the learned counsel for the writ petitioners, the learned standing counsel and the learned Government Advocate for the official respondents.

2.Both the writ petitions are interlinked. The petitioners in W.P.(MD)No.9817 of 2022 are students of Dr.Vellasamy Nadar Teacher Training Institute, Thanjavur. The first petitioner joined the course in the year 2020-2021 ; the second petitioner joined the course in the year 2021-2022. It is a two years course. The petitioners could not write the examinations because the respondents 4 and 5 declined to approve the admission of the petitioners.

The reason for non-grant of approval is traced to G.O.(Ms) No.87 School



Education (ERT) Department dated 28.05.2019. While the students seek relief for themselves, the management has filed W.P.(MD)No.13478 of 2020 questioning the applicability of said G.O to self-financing institutions.

3.The learned Government Advocate submitted that since the admission strength of students in the Institute in question fell below the prescribed minimum number, the relief sought for cannot be granted. In the counter affidavit filed by the official respondents, it has been submitted that out of 211 self-financing teacher training Institutes, only 48 self-financing teacher training Institutes have student enrollment above 30%. Considering the decrease in the admission of students in the Diploma in Elementary Education course, the Government issued G.O(Ms)No.87 School Education (ERT) Department, dated 28.05.2019 to the effect that if the admission of students for the academic year 2019-20 in the institutions conducting Diploma in Elementary Education course is less than 30% of the sanctioned strength granted by the National Council of Teacher Education, such institutions shall not be permitted to admit students from the academic year 2020-21 onwards. However, the second year students in those institutions shall be permitted to complete the course in the same institutions and thereafter steps shall be taken to close such Institutions. The learned Government Advocate justified the said G.O on the ground that the



Government is releasing a substantial sum of money towards aid and if there is no sufficient number of students, the object and purpose of granting aid stood defeated.

4.The issue raised in these writ petitions is no longer res integra. In ***Self Financing Private Teacher Training Institutes Association rep.by its President T.V.K.Babu v. State of Tamil Nadu (2011) 5 MLJ 605***, a question arose whether the State being the affiliating body can refuse affiliation with reference to any of the factors which have been considered by the NCTE while granting recognition to the Private Self-financing Teacher Training Institutes. Following the decision reported in (2011) 4 SCC 527 (Chairman Bharatiya Educational Society v. State of H.P), the Hon'ble Division Bench of the Madras High Court held that since the Central Act is operating in the field, the State cannot issue any guidelines to the contrary. The Hon'ble Supreme Court in the decision reported in (2013) 2 SCC 617 (***Maa Vaishno Devi Mahila Mahavidyalaya v. State of U.P***), held as follows :

“79.....In the normal circumstances, the role of the State is a very formal one and the State is not expected to obstruct the commencement of admission process and academic courses once recognition is granted and affiliation is found to be acceptable.”



This judgment was followed in *State of Rajasthan v. LBS B.Ed. College* (2016) 16 SCC 110.

5. Section 17 of the National Council of Teacher Education Act, 1993 empowers the Regional Committee to take action against the erring institute if the provisions of the Act are contravened. It can withdraw recognition and once recognition is withdrawn, the Institution concerned shall discontinue the course or training in teacher education. Thereafter, affiliation also will be cancelled by the concerned university or the examining body. Thus, the power to take action is expressly conferred only on the Regional Committee. While so by the impugned G.O, the State government arrogates to itself the power to close down the Teacher Training Institutions both aided as well as self-financing if the admission norms are not met. In the case on hand, I am not concerned with aided Institutions. Only one self-financing institution is before me.

6. The eleven judges bench of the Hon'ble Supreme Court in T.M.A. Pai Foundation and ors v. State of Karnataka and ors (2002) 8 SCC 481 held that all citizens have a right to establish and administer educational institutions under Article 19(1)(g) of the Constitution of India. The petitioner in



WP(MD)No.13478 of 2020 is not receiving any aid or financial assistance from the State. He had established the Teacher Training Institute after complying with all the statutory formalities. The Institution can be ordered to be closed down only if action is taken under Section 17 of the NCTE Act, 1993. De hors the said provision, there is no other means of directing closure. The impugned G.O is not only in conflict with the statutory scheme laid down in the NCTE Act but is also violative of the fundamental right of the petitioner. When the activities of the writ petitioner have no financial implications for the State, directing its closure by citing the admission strength is clearly unreasonable. I hold that the impugned G.O is not applicable to self-financing Teacher Training Institutes like the petitioner in W.P.(MD)No.13478 of 2020. It is stated that the students concerned were allowed to write the first year examinations pursuant to the interim direction given by this Court but their results have not been declared. Since the writ petitions have been allowed, the authority are directed to publish the results forthwith and without any delay.

7. These writ petitions are allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

27.06.2022

Index : Yes / No, Internet : Yes/ No
ias/skm

Issue order copy on 04.07.2022



To

1. The Director, State Council of Educational Research and Training,
College Road, Subba Road Avenue, Nungambakkam, Chennai – 600 006.
2. The Principal, District Institute of Education and Training,
Aduthurai – 612 101, Thanjavur District.
3. The Secretary to Government,
School Education (ERT) Department,
The Secretariat, Chennai – 9.



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G.R.SWAMINATHAN, J.

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and
W.P.(MD)No.9817 of 2022**

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