

19.10.2023
SL No.3
Court No.8
(gc)

**MAT 1985 of 2023
CAN 1 of 2023**

**Bhakta Bala B.Ed College
Vs.
The Baba Saheb Ambedhkar
Education University & Ors.**

Mr. Kishore Datta, Sr. Adv.,
Mr. Srijib Chakraborty,
Mr. Aditya Mondal,
...for the Appellant.
Mr. Joydip Kar, Sr. Adv.,
Mr. Soumya Majumder,
Mr. Kallol Basu,
Mr. Amitabrata Roy,
Mr. Arkadipta Sengupta,
...for the University.
Mr. Sauvik Nandy,
...for the N.C.T.E.

1. We have heard the learned Counsel for the parties. The issue is with regard to the renewal of affiliation of the appellant. The appellant has been recognized by the N.C.T.E. and pursuant thereof, they applied for affiliation before the respondent No.1. The respondent No.1 on verification of all record granted affiliation to the appellant on 13th May, 2016. Prior thereto, the appellant was affiliated to University of Kalyani. This year, the respondent No.1 has refused to renew the affiliation on the ground of non-fulfilment of the undertaking furnished on 23rd January, 2022 and 23rd April, 2022.

2. Mr. Kishore Datta, learned Senior Counsel appearing on behalf of the appellant has produced few documents to show that save and except the fire safety certificate which the appellant is expected to receive in course of this month, all other deficiencies have been removed and/or rectified.
3. Mr. Datta has further submitted that the University cannot insist on terms de hors the requirement of the authority recognizing the institution and the role of the Examining Body is limited to ensure that the terms of recognition are not breached. Mr. Datta in this regard has relied upon a decision of the Hon'ble Supreme Court in ***Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of Uttar Pradesh & Ors.*** reported at **(2013) 2 SCC 617 Paragraphs 69 and 70** to emphasise the distinction between recognition and affiliation. Our attention is also drawn to Paragraph 87 of the said judgment where the different timeline was set to comply with various requirements.
4. Per contra, Mr. Joydip Kar, learned Senior Counsel appearing on behalf of the University has submitted that in spite of repeated opportunities being given to the

College, various deficiencies still persist and there is no reasonable explanation offered by the College in not complying with the undertakings furnished in the year 2022. It is further submitted that the application for grant of fire licence was rejected on 17th May, 2023.

5. Mr. Kar has further submitted that the Examining Body is entitled to put conditions which may be in addition to the conditions for grant of recognition. Mr. Kar has referred to the decision of the Hon'ble Supreme Court in ***A.P.J. Abdul Kalam Technological University & Anr. Vs. Jai Bharath College of Management And Engineering Technology & Ors.*** reported at ***(2021) 2 SCC 564 (Paragraphs 46 and 47)*** to argue that it would be open for the University to dilute the norms and standards prescribed by N.C.T.E. Mr. Kar has also referred to Clause 5.3 of the N.C.T.E. Regulation, 2014 to show that terms and conditions of service of teaching and non-teaching staff including selection procedure pay scales, age of superannuation and other benefits shall be as per the policy of the State Government/Affiliating Body. It was in

this context, Mr. Kar has submitted that the decision of the Hon'ble Supreme Court in ***Maa Vaishno Devi*** (supra) cannot be applied to the facts and circumstances of this case in view of Regulation, 2014 which could not have been considered by the Hon'ble Supreme Court as it was not existing at the relevant point of time. It is further submitted that by reason of Regulation, 2014, the power has been given to the Affiliating Body indicated above in terms of Clause 5.3.

6. Mr. Sauvik Nandy, learned Counsel appearing on behalf of the N.C.T.E. submits that N.C.T.E. on being satisfied that the College has fulfilled all the criteria granted recognition but he admits that there has been no regular inspection in terms of Section 13 of the N.C.T.E. Act read with Regulation, 2014.
7. It is not in dispute that the College was given initial affiliation by the University of Kalyani and thereafter since 2016 by the respondent No.1. There are allegations and counter-allegations with regard to the fulfilment and non-fulfilment of various obligations forming part of the affiliation. Few documents produced by the appellant

before us, prima facie, shows that some compliance has been made. The admission for the Academic Session 2023-2025 is going to close on and from 4th November, 2023. In view of the objection raised by the University, the admission process could not be commenced.

8. We feel that an opportunity should be given to the College to rectify defects or deficiencies as the case may be on the basis of the report to be prepared under the authority of N.C.T.E.
9. We, accordingly, direct a joint inspection of the College concerned on or before 30th November, 2023. All record as may be asked for and required by the N.C.T.E. in consultation with the University shall be produced for inspection. It is also important to find out whether the College authorities have fulfilled the conditions of recognition. In the event there is any breach of the conditions, N.C.T.E. would be at liberty to derecognize the institution irrespective of the fact that the academic session has commenced. It would be the responsibility of the College concerned to decide whether they should proceed with admission for the Academic Session 2023-

2025 with provisional affiliation. In the event any deficiencies with regard to the recognition and affiliation are found during inspection, the N.C.T.E. and the College shall give three months' time to remove the remaining defects or all the deficiencies as the case may be and found lacking during inspection. If during the said period the College fails to fulfil the conditions as might be stipulated by N.C.T.E. in consultation with the University, the recognition or the affiliation may be withdrawn.

10. There shall be a provisional renewal of the affiliation till 31st March, 2024 or the time period within which the deficiencies, if any, are required to be removed, whichever is earlier.
11. In view of the aforesaid facts and circumstances of this case, we granted this relief to the College.
12. In view of this order, the University shall immediately provide the link to the College on an undertaking to be provided by the College accepting this order.
13. All admissions for the time being should be provisional and subject to the order in the pending writ petition.

14. With the aforesaid observation, the appeal and the application stand disposed of.
15. However, there shall be no order as to costs.
16. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)