

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

201

CWP-20173-2021

Date of decision: 18.10.2023

Mehar Chand College of Education

..... Petitioner

Versus

State of Punjab and another

..... Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE NIDHI GUPTA**

PRESENT: Mr. Sameer Sachdeva, Advocate for the petitioner.

Mr. Abhay Pal Singh, DAG, Punjab.

NIDHI GUPTA, J.

1. The petitioner-College has preferred the present writ petition under Articles 226/227 of the Constitution of India, seeking direction in the nature of certiorari for quashing the impugned order dated 20.09.2021 (Annexure P-7) and all consequent proceedings, issued by respondent No. 2 at the belated stage in complete defiance and contravention to the parent Punjab Government Notification dated 23.04.2012 (Annexure P-1) governing the ETT Course, whereby the left over vacant seats for sessions 2020-2022 are directed to be left vacant.

2. Briefly put, it is the petitioner's case that the petitioner is a reputed private college running various Diploma, Degree, and Post Graduate Education Courses including Diploma in Elementary Education/

D.El. Ed. (ETT Course) (2 years) for the last several years with duly granted recognition for the said purpose by the NCTE, State and the Affiliating Body i.e. the State Council of Education Research and Training (hereinafter referred to as the SCERT). The State of Punjab has notified a Policy dated 23.04.2012 (Annexure P-1) for setting up Institute providing D.El.Ed. (ETT Course), according to which, 40% of the seats are management quota seats to be filled up by the colleges at their own level. For the remaining 60% seats, admissions are to be made through Common Entrance Test/counseling to be held by the SCERT and in case, all the seats are not filled up through counseling conducted by the SCERT, the remaining seats are to be filled up by the institutes in accordance with the transparent procedure adopted for filling up the management quota seats.

3. In the year 2013, a dispute had arisen regarding filling up of the left over 60% seats leading to filing of CWP No.16312 of 2013 and the same was disposed of by this Court vide order dated 25.10.2013 (Annexure P-2) on the basis of a statement made by the Director, SCERT with the direction that “...*your institution is allowed to fill up remaining vacant seats as per stream and category mentioned above, strictly according to merit and in a transparent manner and according to Punjab Govt. Notification No. 12/1/2011-2 Education 5/861 dated 23-4-2012*”. Till 2020, all admissions in ETT Course qua leftover vacant seats are made as per above, with full concurrence of the State authorities.

4. In accordance with main notification, notice for admission for the academic session 2020-2022 was issued on 28.01.2021

(Annexure P-3). However, due to ongoing Pandemic Covid-19, the admission schedule got totally disturbed and lastly, the admissions were made in July, 2021. Vide letter dated 12.07.2021 (Annexure P-4), the respondents approved the admissions to be made against 40% management quota seats as per Government orders. However, as per letter dated 28.07.2021 (Annexure P-6), out of remaining 60% seats to be filled through Government Counseling, not even a single seat was filled up qua the petitioner-College. After the end of 3rd counseling, out of the 30 (60% quota) left over vacant seats, the petitioner college filled up 12 seats from amongst the desirous students at their own level as per prevalent past practice. In this regard, the necessary information regarding admission to management quota seats and left-over vacant seats was duly sent to the Department along with the letter dated 28.07.2021 (Annexure P-6). However, the Assistant Director, SCERT, in supersession of the aforesaid Government Notification dated 23.04.2012 (Annexure P-1) and in complete defiance thereto, vide order dated 20.09.2021 (Annexure P-7) impugned herein, declared that no left over vacant seats are allowed to be filled up and Department shall entertain the claim of only 40% management quota seats filled up by the petitioner-College and those filled through common counseling. Hence, the present writ petition.

5. Upon notice, written statement on behalf of respondents has been filed by way of affidavit of Dr. Amandeep Kaur, Assistant Director (Affiliation) O/o Director, State Council of Education Research and Training, Punjab, Mohali.

6. Learned counsel for the petitioner-College, reiterated the above, noticed facts and, *inter alia*, submitted that vide the impugned order dated 20.09.2021 (Annexure P-7), the respondents were not justified in curtailing the education prospects of students and simultaneously, allowing the infrastructure and staff to go waste. It is submitted that the petitioner-College and the students cannot be made to suffer on account of lapses and co-ordination breakdown *inter se* the respondents. Thus, it is prayed that impugned order dated 20.09.2021 (Annexure P-7) and all consequent proceedings issued by the office of respondent No. 2, at belated stage in complete defiance and contravention to the parent Punjab Government Notification dated 23.04.2012 (Annexure P-1) governing the ETT Courses, may be quashed and the petitioner-College may be permitted to fill up the leftover vacant seats to ensure that the maximum opportunity is available to the college and students to initiate the education courses.

7. No other argument is raised on behalf of the petitioner.

8. *Per contra*, learned counsel for the State vehemently refuted the above submissions of learned counsel for petitioner, while simultaneously raising the preliminary objection that the notification for admission in two-year Diploma in Elementary Education for the academic sessions 2020-2022 was issued on 28.01.2021 (Annexure P-3) and since the period of two years for which the admissions have been sought has already elapsed, therefore, no cause of action arises/survives in the present petition.

9. It is further submitted by learned counsel for the State that the contention of learned counsel for the petitioner that the respondent department is superseding the parent notification dated 23.04.2012 (Annexure P-1) and causing harassment to the students, staff and college management is irrelevant and without any basis. It is stated that the notification dated 28.01.2021 (Annexure P-3) is the policy decision for admission in two-year Diploma in Elementary Education Course. The Department issues notification every year for admission in two year Diploma in Elementary Education program which is in continuation to previous notification(s) since 23.04.2012 (Annexure P-1). It is submitted that with the objective to raise the quality and quantity of teaching education as per the 2014 Regulations issued by the National Council for Teacher Education (NCTE), all residual powers including amending this policy and directing the affairs of D.El.Ed. (ETT) institutes, vests with the Department of School Education, Government of Punjab. It is also submitted that the NCTE is the statutory body of teaching education; and for the State of Punjab, Department of School Education on 30.04.2011 has notified SCERT, as the nodal agency in the State for admission in Diploma in Elementary Education (D.El.Ed.) (ETT) Institutes.

10. Learned counsel for the petitioner is unable to dispute or controvert the aforesaid submissions made by learned counsel for the State.

11. Without going into the merits of the matter, and primarily, in view of the above admitted fact that in the present case, the notification for admission in two-year Diploma in Elementary Education for the

academic sessions 2020-2022 was issued on 28.01.2021 (Annexure P-3) and since the period of two years for which the admissions have been sought has already elapsed, it is therefore, held that no cause to action arises to entertain the present petition, and the same stands disposed of, accordingly.

**(RITU BAHRI)
ACTING CHIEF JUSTICE**

**(NIDHI GUPTA)
JUDGE**

18.10.2023
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Whether speaking/reasoned Yes/No

Whether Reportable Yes/No