

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1167 of 2018 (O&M)

Reserved on: 06.07.2023

Pronounced on:21.07.2023

Tara Rani ...Appellant

Vs

State of Punjab and others ...Respondents

2. LPA No.262 of 2020 (O&M)

Sarabjit Singh ...Appellant

Vs

State of Punjab and others ...Respondents

3. LPA No.372 of 2020 (O&M)

Manjit Singh and others ...Appellants

Vs

State of Punjab and others ...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

HON'BLE MR. JUSTICE SANJIV BERRY

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate
for the appellant in LPA No.1167-2018.

Mr. Amit Shukla, Advocate
for the appellant in LPA-261-2020.

Mr. Madhav Pokhrel, Advocate
for the appellants in LPA-372-2020.

Mr. Ramandeep Pandher, Sr. DAG, Punjab.

Mr. Varinder Singh Rana, Advocate
for respondent No.6 in LPA-372-2020.

Ms. Payal Mehta, Advocate and
Mr. H.C. Arora, Advocate
for respondent No.7 to 10 in LPA-372-2020.

Mr. Anshul Jindal, Advocate and
Mr. Anshul Sharma, Advocate
for respondents No.11 to 13 in LPA-372-2020.

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JAISHREE THAKUR J.

1. By this common order, this Court proposed to dispose of three LPAs bearing Nos.1167 of 2018, 261 of 2020 and 372 of 2020 filed by the appellants seeking to challenge judgements dated 27.04.2017 and 27.01.2020 respectively passed by the Ld. Single Judge. For the sake of brevity and keeping in view the fact that question for consideration in all three aforesaid appeals is similar, facts are being enumerated from LPA No.1167 of 2018.

2. In brief facts are that appellant-Tara Rani after passing her 10+2 examination in the year 2008, undertook Elementary Teacher Training Regular Course (2 years) from Singhania University, Rajasthan, which she completed in the year 2010 by securing 69.56% marks. Thereafter, the appellant also cleared Punjab State Teacher Eligibility Test Paper-I in the year 2015 and secured 94 marks in the said examination. On 09.11.2015, respondent No.3 issued an advertisement inviting applications for recruitment to 3522 posts of ETT Teachers, which were later on increased to 4500 vide corrigendum dated 13.01.2016. The minimum educational qualification prescribed for the said post was; (i) Matric/10+2 and (ii) Training/Elementary Teacher Training two years course of Punjab State or from any other State or Union Territory equivalent and recognized by Punjab Government. In addition to the above mentioned qualification, it is mandatory to pass the PSTET-I under RTE Act by the candidates for the post of ETT Teachers. As per the advertisement, selection to the post of ETT was to be made solely on the basis of marks obtained by the

candidates in PSTET-I test. The appellant herein being fully eligible competed for the said posts. In pursuance to the selection process, two lists were issued by the respondents on 27.05.2016. In the first list, names of those candidates were included, whose names were cleared by the selection committee and name of the appellant figured at Sr. No.5565 in the said list. The second list contained names of those candidates against whom some objections had been raised by the selection committee. Thereinafter, in pursuance to the merit list prepared by the respondents, appointments were offered to the candidates, who had scored 95 or above marks in PSTET-I. On 09.12.2016, a waiting list was also issued of the candidates, who had secured 94 marks. Despite the fact that appellant had scored 94 marks in PSTET-I test and no objection was raised qua her, name of the appellant was not included in the waiting list. Aggrieved against the said action of the respondents, the appellant approached this Court vide CWP No.51 of 2017, which has been dismissed by the Ld. Single Judge vide judgment dated 27.04.2017 on the ground that Degree of ETT obtained by the appellant from Singhania University had not been given recognition by the National Council of Teacher Education (hereinafter referred to as NCTE) for the session 2008-2010 through regular mode and therefore, the degree of the appellant was not a recognized degree and she was not held eligible for consideration for appointment to the post of ETT Teacher. Aggrieved against the judgment passed by the Ld. Single Judge, the appellant preferred the instant intra court appeal.

3. The writ petitions preferred by appellants (LPA Nos.261 of 2020 and 372 of 2020) were dismissed by the Ld. Single Judge in terms of the judgment dated 27.04.2017 passed in Tara Rani's case i.e. appellant in LPA No.1167 of 2018.

4. Mr. D.S. Patwalia, learned Senior Advocate assisted by Mr. Kannan Malik, Advocate appearing for the appellant in LPA No.1167 of 2018 would submit that

respondent No.5-Singhania University is an entity established under the statute and therefore, having power to confer degrees/diplomas and certificate, it did not require recognition from any other statutory body including NCTE. It was argued that NCTE was established under the National Council for Teacher Education Act, 1993 (hereinafter referred to as the 1993 Act), which itself carves out a distinction between an 'institution' imparting education and the University established under a statute. In this regard, reliance has been placed upon Section 4 (e) and (n) of the 1993 Act, which defines 'institution' and 'university' respectively. Further, Sections 12 and 14 of the NCTE Act clearly manifest that it is only the institution as defined under the said Act requires recognition from the NCTE and not a University. In support of his argument, learned senior counsel appearing for the appellant would rely upon the judgment passed by the Hon'ble Supreme Court in ***Bharathidasan University and others Vs. All India Council for Technical Education and others (2001) 8 SCC 676***. He further relied upon the judgment rendered by the Rajasthan High Court in S.B. Civil Writ Petition No.9198 of 2017 titled as ***Shanti Lal Vs. State of Rajasthan and others*** decided on 21.02.2018 and other connected matters wherein the Rajasthan High Court while dealing with the similar issue raised qua very same University i.e. Singhania University has held that the respondent No.5-University is a University established under the statute and therefore, needs no recognition by any other authority. While arriving at the said conclusion, the Rajasthan High Court relied upon the judgment rendered by the Hon'ble Supreme Court in ***Dr. B.L. Asawa Vs. State of Rajasthan and others AIR 1982 SC 933***.

5. Learned counsel appearing for the appellants in LPA Nos.261 and 372 of 2020 argued that the Ld. Single Judge dismissed writ petitions filed by the appellants in terms of judgment dated 27.04.2017 passed in Tara Rani's case and

therefore, they adopt the same arguments as raised by the learned Senior Counsel in LPA No.1167 of 2018.

6. Per contra, Mr. Pander, Sr. DAG, Punjab supported the judgments passed by the Ld. Single Judge by contending that respondent No.5-University in LPA No.1167 of 2018 was not granted recognition by NCTE to run ETT course for the session 2008-2010 either through regular mode or through distance education mode, which factum had been fortified by the NCTE vide its letter dated 20.04.2017 and therefore, the candidature of the appellants had rightly not been considered for the post of ETT Teacher.

7. We have heard learned counsel for the parties and have perused the paper book as well as the case laws cited and found merit in the arguments raised by counsel appearing for the appellants.

8. Section 1 (4) of NCTE Act, 1993 shows that the provisions of the said Act shall apply to the following:-

(a) institutions;

(b) students and teachers of the institutions;

(c) schools imparting pre-primary, primary, upper primary, secondary or senior secondary education and colleges providing senior secondary or intermediate education irrespective of the fact, by whatever names they may be called; and

(d) teachers for schools and colleges referred to in clause (c).”

9. The terms ‘institution’ has been defined under clause (e) of Section 2, which means an institution which offers courses or training in teacher education and clause (n) defines ‘University’, which means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956 and includes an institution deemed to be a University under Section 3 of that Act.

Meaning thereby, the Legislature while enacting the 1993 Act, had deliberately and intentionally distinguished terms 'institution' and 'University' and defined them separately. As per Section 1 (4), Act *ibid* applies to institutions and does not include University in specific words. In the judgment passed by the Hon'ble Supreme Court in ***Bharathidasan University's case*** (supra), the question of law that arose for consideration was whether a University created under a statute should seek prior approval of the All India Council for the Technical Education to start a department for imparting a course or programme in technical or a technical institution as an adjunct to the University itself to conduct technical courses of its choice and selection and the Hon'ble Supreme Court while deliberating on various provisions of the All India Council for Technical Education Act, 1987 (hereinafter referred to as AICTE Act) held that a 'technical institution' as defined under the AICTE Act cannot be a University and if that was the intention, there was no difficulty for the Legislature to have merely provided a definition of 'technical institution' by not excluding 'University' from the definition thereof. Therefore, power to grant approval for starting new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned, which is covered by Section 10 (k) of the AICTE Act, would not cover a 'University' but a technical institution. In the *lis* at hand also, an institution cannot include University and since the 1993 Act applies on institution and not on University, there was no need to take recognition of NCTE to run ETT course by the respondent No.5-University.

10. Even the National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2005, which lay down the procedure for grant of recognition together with norms and standards for various teacher training programmes, talks about form of application for grant of recognition of Teacher

Education Institutions/permission to start a new course or increase in intake where under the heading **General particulars/information**, it seeks information qua name of the **Institution**. However, in the application form for grant of recognition of B.Ed. and M.Ed. Teacher Education, under the heading **General particulars/information**, it seeks information qua name of the **University**. Therefore, in the aforesaid Regulations itself terms of 'institution' and 'University' have been used separately. In appendix-5 of the said Regulations, which prescribes norms and standards for Elementary Teacher Education Programme, everywhere word 'institution' is used and not 'University'. Therefore, in the opinion of this Court, the provisions of 1993 Act with respect to Elementary Teacher Education Programme applies on institutions and not on University and thus, there was no need for respondent No.5-University to take recognition for running the said programme. An identical issue came up for consideration before the Rajasthan High Court in **Shanti Lal's case** (supra) where the appointment of the petitioners therein to the post of Teacher Grade-III had been withheld on the ground that Singhania B.Ed. College Pacheribari, Jhunjhunu, Rajasthan affiliated by the very same University i.e. Singhania University though had recognition by NCTE for B.Ed. Course but no recognition for any Teacher Training Course had been granted by NCTE to the Singhania University. The Rajasthan High Court while relying upon the judgment passed by the Hon'ble Supreme Court in **Dr. B.L. Asawa** (supra) has held that the Singhania University is a University established under the statute and therefore, it is automatically recognized and need no recognition by any other authority. Therefore, for imparting Elementary Teacher Education Programme, respondent No.5-University need not take any recognition from NCTE.

11. In view of the aforesaid facts and circumstances, judgments passed by the Ld. Single Judge dated 27.04.2017 and 27.01.2020 are set aside. Consequently, all three Letters Patent Appeals are allowed. Respondent-State is directed to consider the candidature of the appellants herein for the post of ETT Teacher and offer appointment letter to them, in case they are found meritorious and otherwise eligible, within a period of two months from the date of receipt of certified copy of this order. Needless to say, if appointed, appellants herein will be entitled to all notional benefits.

(JAISHREE THAKUR)
JUDGE

(SANJIV BERRY)
JUDGE

July 21, 2023
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No