

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Harish Tandon**

And

The Hon'ble **Justice Prasenjit Biswas**

MAT 1459 of 2024

With

CAN 1 of 2024

Sundarban Minority B.Ed. College

-Versus-

State of West Bengal and Ors.

For the Appellant : **Mr. Avik Ghatak,
Ms. Gopa Biswas,
Mr. Ratikanta Pal,
Ms. Sampriti Saha,
Ms. Swati Dey.**

For the State : **Mr. Swapan Kr. Dutta,
Mr. Rajat Dutta.**

For the University : **Mr. Amitabrata Ray,
Mr. Akradipta Sengupta.**

For the NCTE : **Ms. Asha G. Gutgutia.**

Hearing Concluded On : **18.11.2024**

Delivered on : **24.12.2024**

Prasenjit Biswas, J:-

1. The order passed by the learned Single Bench of this Court dated 09.07.2024 in WPA 12649 of 2024 is assailed in this appeal.
2. The appellant/writ petitioner filed an application before this Court with a prayer for giving direction upon the respondent authorities for granting affiliation to the petitioner/college for the session 2023-24 and for providing link in favour of the college for the affiliation for such session in respect of B.Ed Course and with a further prayer to set aside the notice dated 03.04.2024 issued by the respondent university.
3. The affiliation for the academic year 2023-24 was not renewed by the respondent authorities finding certain deficiencies in the conditions imposed for such affiliation. For such reasons the writ petition was filed by the present appellant which was dismissed by the learned Single Bench on the ground that the appellant college could not remedied the deficiencies as pointed out by the respondent university. It appears that three criteria have been fixed for renewal of affiliation of the appellant college with the respondent university but the college has failed to satisfy the necessary criteria as given by the respondent university. Firstly, the college did not produce the safety certificate, secondly, there is doubt about the faculty who are teaching in the college out of them

some are found to be teaching elsewhere and the third, is that the salary of the teachers have not been paid directly to the account of the faculty teachers.

4. By passing the impugned order learned Single Bench did not accede to the prayer of the petitioner in respect of renewal of affiliation for the session 2023-24 but liberty was given to the college authority to cure all the deficiencies and to apply for affiliation/ renewal of affiliation for the next terms onward. Being aggrieved and dissatisfied with the said impugned order the present appeal has been preferred at the behest of the appellant/college.

5. At the time of hearing our attention was drawn to the communication dated 02.07.2024 issued by the university wherein colleges affiliated with them was directed to remove the deficiencies and communicate the same to the university for the purpose of providing link to college. In view of such stand point of the university a direction was passed by this Bench on 19.08.2024 upon the appellant college giving permission to remove the deficiencies as pointed out by the respondent university within a week from the said date of order and university was directed to take a conscious decision if the appellant college removed the deficiencies as mentioned hereinabove. In the said order the respondent university was directed to take a decision including the physical inspection of the college if so warranted.

6. On the next date of hearing, it was argued on behalf of the university that they have already conducted eight interviews for appointment of the faculty member. It was submitted by the college authority that four persons have already been joined and more faculty members were contemplated to join

after being adjudged successfully. The point was raised by the university that the appellant college had not communicated that the faculty members have been paid directly in their account which is refuted by the counsel for the college. It is said by the appellant college that all the dues of the faculty members have already been paid off and there is no due on account of the college.

7. As the issue of remittance of the honorarium/salary of the faculty member through electronic mode was not solved, the view of this Bench was that the solution could have been found on inspection at the college. The stand was taken by the university that the list of faculty members submitted by the college is not in tune with the NCTE guidelines relating to the staff pattern and according to them there is a short fall of one faculty member as the Liberian cannot come under the academic faculty in the terms of the NCTE guidelines. On that score the College was directed by passing an order of this Bench to approach the university for appointment of one faculty member in respect of category where there was a shortfall and the university was directed to take immediate steps to undertake an interview and communicate the decision to the college. During pendency of this appeal this Bench took into consideration of the fact that the tussle between the university and the college has a cascading effect on the education of the student and accordingly the respondent authorities were directed to streamline the procedure so that the education of the students would not be affected or hamper in any way.

8. On the last date of hearing of this appeal it is submitted by the respondent authority that for the academic session of the year 2023-24 the college has not fulfilled the criteria as set out by the respondent university. So, for the academic year 2023-24 this college had no authority to admit the students. It is admitted position that there is no affiliation for the academic session for the year 2023-24 and it was very much within the knowledge of the appellant, despite that the appellant college admitted the students for the session 2023-24. It was within the very knowledge of the appellant that renewal of affiliation for that academic session was not given by the respondent university as the criteria set out by the university could not be fulfilled by the appellant/college. The respondent-university noticed some deficiencies and discrepancies in the college for getting affiliation for the session 2023-24 and it was duly brought to the notice of the appellant college. Although deficiencies and discrepancies were highlighted to the appellant college but they did not take any step to cure those deficiencies and discrepancies and as such the link has not been provided to the college.

9. It is discerned from the materials on record that the appellant college knew that the university raised some queries despite that the college authority admitted the students for the academic session 2023-24 and thereafter session was started. It is conceded by the learned Advocate for the appellant that the session was started in the month of November, 2023 and the admission was made offline although there is a clear mandate by the respondent University that admission for the academic session should always be made online mode.

When there is specific mandate by the university that the admission should be made online mode then the appellant college authority could refrain themselves from admission of students offline.

10. We are conscious about the academic interest of the students but undoubtedly there is a fault on the part of the appellant college and virtually they played with the academic life of the students which they cannot do. It is apparent from the materials on record that the appellant college knew very well that the respondent university raised some queries in respect of deficiencies and discrepancies of the said college despite knowing the said mandate of the university, the appellant college went on to admit the students for the academic session 2023-24. So, the appellant college has willfully violated the terms set out by the university and the appellant college could take steps at the earliest to cure those deficiencies.

11. In view of above facts and circumstances and discussion made above we are not inclined to interfere with the impugned order passed by the learned Single Bench of this Court dated 09.07.2024.

12. Accordingly, the impugned order passed by the learned Single Bench dated 09.07.2024 in connection with WPA 12649 of 2024 is hereby affirmed.

13. The present appeal sans merit and is liable to be dismissed.

14. The appeal being no. MAT 1459 of 2024 is hereby dismissed but without any order as to costs.

15. Consequently, the application if any filed in connection with this appeal is also dismissed.

16. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

I agree.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)