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W.P.(MD)No.5092 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5092 of 2024

and

W.M.P(MD)Nos.4874 & 4878 of 2024

The Secretary,
St.Justin's College of Education,
No.161, Kamaraj Salai,
Madurai District – 625 009.

... Petitioner

Vs.

1. The National Council for Teacher Education,
Rep. by its Secretary,
Hans Bhawan, Wing II,
Bahadur Shahzafar Marg,
New Delhi – 110 002.
2. The Regional Director,
Southern Regional Committee(SRC),
National Council for Teacher Education,
G-7, Sector-10(Near Sector-10 Metro Station),
Dwarka, New Delhi – 110 075.
3. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Higher Education,
Fort St. George, Chennai – 600 009.
4. Tamil Nadu Teacher Education University,
Rep. by its Registrar,
Gangaianman Koil Street,
Karapakkam, Chennai – 600 005.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding of the 2nd respondent SRC in withdrawing the



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recognition of petitioner's college for conducting and B.Ed (Additional Intake) programme w.e.f., 2022-2023 academic session onwards in and in F.SRO/NCTE/APS08882/B.Ed-AI/(TN)/2021/29599 dated 27.12.2021 and consequential impugned order of the 1st respondent NCTE in APPLSRC 202214320 dated 12.07.2022 in rejecting the appeal, quash the same and further direct the respondents 1 and 2 to restore the recognition for the B.Ed (Additional Intake) programme conducted in the petitioner's college w.e.f., 2022-2023 academic session onwards.

For Petitioner : Mr.Isaac Mohanlal, Senior counsel,
for Ms.A.Amala.

For R-1 & R-2 : Mr.Su.Srinivasan

For R-3 : Mr.K.S.Selvaganesan,
Additional Government Pleader

For R-4 : Mr.F.Deepak

ORDER

The petitioner-institution has been imparting teaching education since 1968. It was duly recognized by National Council for Teacher Education also. The petitioner is running B.Ed course as well as M.Ed course. In this case, I am concerned with B.Ed course alone. The Southern Regional Committee of NCTE passed order dated 27.12.2021 withdrawing recognition granted to the petitioner for conducting B.Ed – AI programme of two years duration with effect from the academic session 2022-23 onwards. Aggrieved by the same, the petitioner filed appeal



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before the appellate authority. The appellate authority vide order dated 12.07.2022 confirmed the withdrawal order passed by the original authority. Challenging the same, the petitioner filed W.P (C) No.15153 of 2022 before the Delhi High Court at New Delhi. An interim order was passed in favour of the petitioner on 02.11.2022. Based on the same, the petitioner admitted students for the academic session 2022-23. The petitioner admitted 54 students (50 basic + 4 additional) for the academic session 2023-24. Since for the four students admitted under the additional intake category, hall tickets have not been issued, the petitioner filed WP(MD)No.4316 of 2024 before this Court. Since the petitioner had parallely invoked the jurisdiction of the Delhi High Court challenging the order withdrawing recognition, I declined to entertain the writ petition. I, however, granted liberty to the petitioner to withdraw the writ petition filed before the Delhi High Court and move this Court for relief. Availing the said liberty granted by this Court, the present writ petition came to be filed.

2.The learned Senior Counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition and called upon this Court to grant relief as prayed for.



3.The learned standing counsel appearing for NCTE raised several objections. The first objection was that this Court permitted the petitioner to file fresh writ petition provided the petitioner withdrew the writ petition filed before the Delhi High Court with liberty to file fresh writ petition on the same cause of action. It is pointed by him that WP(C)No.15153 of 2022 was dismissed on 28.02.2024 but liberty to file fresh writ petition on the same cause of action was not granted. The learned standing counsel would contend that failure to obtain liberty from the Delhi High Court would come in the way of maintaining this writ petition. He also faulted the conduct of the petitioner-institution. Laying considerable stress on Section 17(3) and (4) of the NCTE Act, he contended that the very admission of students for the year 2023-24 was an act of blatant illegality. He also laid emphasis on the fact that though the petitioner obtained interim order for the year 2022-23, when a similar application was filed, it was dismissed on 10.10.2023. He pointed out that by then the petitioner had already admitted some students and this fact was not brought to the notice of the court. More than anything else, the petitioner having obtained recognition for conducting B.Ed – AI programme of two years duration with an annual intake of 100 students each for two basic units, the petitioner was obliged to have commensurate faculty strength. He also pointed out that so long as the order dated 13.05.2015 was not modified or cancelled, the petitioner cannot demand continuance of



recognition by having lesser faculty strength. The learned standing counsel drew my attention to the following observation made by the appellate authority :

“The Appeal Committee noted that the appellant institution is running B.Ed with two units, B.Ed (Additional intake) and M.Ed (One Unit). The submitted faculty approved by the affiliating body is not sufficient for undertaking the said teacher education programmes as per prevailing Regulations. It has also been noted that the appellant in the appeal has submitted that the recognition granted for Additional Intake of B.Ed vide order dated 13.05.2015 needs to be cancelled. In this respect, no evidence has found that the appellant has ever requested SRC to cancel the additional intake of B.Ed”.

My attention was also drawn to the decisions of the Hon'ble Supreme Court made in Civil Appeal No.104 of 2012 (Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale and ors) and in Writ Petition (Civil) No.276 of 2012 (Maa Vaishno Devi Mahila Mahavidyalaya v. State of U.P). The learned standing counsel for the fourth respondent adopted the stand of the learned counsel appearing for NCTE. The respondents pressed for dismissal of the writ petition.

4.I carefully considered the rival contentions and went through the materials on record. The petitioner-institution did not spring up yesterday. It is 56 years old. It is run by a religious congregation. The learned



Senior Counsel appearing for the petitioner was at pains to impress upon this Court that the petitioner cannot be compared with other commercial institution where money making is the sole motive. It is also submitted that the fees charged by the petitioner are nominal and that it is catering to the needs of those coming from socially backward and oppressed communities. There is no reason for me to doubt any of these assertions.

5.Coming to the merits of the case, it is beyond dispute that the petitioner has been having an annual intake of 100 students for the first year for all these years. After the introduction of new regulations in the year 2014 by NCTE, 50 students are considered as one unit. All that the petitioner wanted was recognition for running two basic unites for first year. It is seen that one basic unit is under aided stream while the second basic unit for the first year is under unaided stream. The management appears to have some conceptual confusion. The recognition order dated 13.05.2015 issued by NCTE enclosed at page no.72 of the typed set of papers reads as follows :

“5.NOW THEREFORE, in the light of the above and in terms of Section 14(3) of NCTE Act and in accordance with the Regulations, 2014, the Southern Regional Committee, NCTE hereby grants recognition to St.Justins College of Education, No.161, Kamarajar Salai, Madurai – 625 009, Tamilnadu for conducting B.Ed-AI programme of two years



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duration with an annual intake of 100 students each for two basic units from the academic session 2015-16 subject to fulfilment of the conditions mentioned at 4.(I) and 4.(II) herein before 31st July, 2015 and those mentioned at 4.(III), 4.(IV) before 31.10.2015.”

In fact, the petitioner ought to have written to NCTE seeking amendment of the said order. They should have called upon NCTE to permit them to run their first year with two basic units. They did not do so. The management was at fault. They probably kept quit because the subsequent order dated 03.07.2015 enclosed at P.No.74 of the typed set of papers reads as follows :

“4.NOW THEREFORE, in the light of the above and in terms of Section 14(3) of NCTE Act and in accordance with the Regulations, 2014, the Southern Regional Committee, NCTE hereby grants recognition to St.Justins College of Education, No.161-A, Kamarajar Salai, Madurai – 625 009, Tamilnadu for conducting B.Ed programme of two years duration with an annual intake of 100 students each for two basic units from the academic session 2015-16 subject to fulfilment of the conditions mentioned herein before 31.10.2015.”

They probably thought that in view of the issuance of the order dated 03.07.2015, the earlier order dated 13.05.2015 automatically got rescinded. In any event, the management did not take advantage of the



earlier order dated 13.05.2015 at any point of time. All along the petitioner's maximum intake for the first year of B.Ed course was only 100 or less. I must also note that the petitioner in the affidavit filed in support of this writ petition had sought for two basic units for B.Ed alone. Therefore, the case of the petitioner should be tested only on the basis that the petitioner had only two basic units for their B.Ed course. The regulations stipulate that for a basic unit of 50 students (100 students in two years), the full time faculty strength shall be 7 and 3 professional support staff. But if students for two years is 200, ie., for two basic units, the number of faculty shall be increased to a minimum of 15. In this case, I have already noted that the petitioner is having two basic units and that therefore, the faculty strength should not be less than 15. It is beyond dispute that the petitioner had faculty strength of 17. The original authority (SRC of NCTE) proceeded on the premise that the petitioner was having two basic units + two additional units for the first year. The SRC's resolution proceeds on the premise that the faculty list submitted by the institution was sufficient for one unit B.Ed programme. In fact, the faculty was sufficient for two basic units. It was obviously not sufficient for additional intake beyond two basic units. The faculty staff were fully qualified. But this list was not approved by the affiliating body. It is seen from the record that all these appointments were subsequently approved.

It is well settled that the approval will relate back to the dates of



appointment. Though I would not apply the doctrine of relation back in normal circumstances, taking into account the interests of students, I hold that the faculty staff should be considered as approved faculty staff from the dates when they were originally appointed. There is yet another consideration. The petitioner had admitted only 54 students for the year 2023-24 even though their sanctioned intake has been 100 (for two basic units).

6.As regards the conclusion regarding additional intake, the petitioner clarified the position before the appellate authority. But the appellate authority did not show any lenience only on the ground that the petitioner failed to write to NCTE. As rightly pointed out by the learned Senior Counsel for the petitioner, there was no occasion therefor. The order dated 03.07.2015 issued by NCTE had automatically superseded the earlier dated 13.05.2015 which spoke of additional intake.

7.The other two reasons given in the impugned order are rather trivial and they need not be taken note of. I cannot, of course, overlook the other contention advanced by the learned standing counsel for NCTE. The management challenged the impugned orders before the Delhi High Court. It obtained interim order on 02.11.2022 for admitting students for the year 2022-23. It did not have any interim order in its favour for the



year 2023-24. I fail to understand as to how the management felt emboldened to admit students for the subsequent year. This is not expected from an institution like the petitioner. I have to necessarily censure the petitioner-institution for its conduct. In fact, I would have even imposed cost on the petitioner but I refrain from doing so since it is strongly submitted by the learned Senior Counsel for the petitioner that the petitioner is not a profit making institution.

8.The other objection advanced by the learned standing counsel no doubt is insurmountable. I must confess that my own order stares at my face. But the spirit of the earlier order passed by me on 23.02.2024 in WP(MD)No.4316 of 2024 is that the petitioner should not indulge in forum shopping (which they did). I was of the view that when the writ petition filed before the Delhi High Court was pending, they cannot parallelly invoke the jurisdiction of this Court. But now that impediment has gone. The Writ Petition filed before the Delhi High Court was withdrawn. But when the petitioner sought liberty, the Delhi High Court did not express any opinion thereon. In matters such as this which concerns the interest and welfare of students, one has to look beyond technicality. Even though the contention of the learned standing counsel is well founded, for the sake of students, I am inclined to hold that this writ petition is maintainable even though the petitioner failed to obtain liberty from the

Delhi High Court.



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9. In this view of the matter, the impugned orders are set aside. The matter is remitted to the file of the second respondent. The second respondent will issue notice to the petitioner and the petitioner shall place all the relevant materials for the consideration of the second respondent. The second respondent is at liberty to verify the correctness of the particulars to be furnished by the petitioner herein and pass an appropriate order. This shall be done as expeditiously as possible.

10. The learned Senior Counsel for the petitioner points out that exams are scheduled to be held from 06.03.2024. Since the order passed by the NCTE withdrawing recognition from the petitioner-institution has been set aside by me, the fourth respondent is directed to immediately open the web portal. This shall be done immediately. The petitioner is permitted to upload the list of students admitted for the year 2023-24. The same shall be uploaded by the fourth respondent.

11. With this direction, this writ petition is allowed. No costs. Connected miscellaneous petitions are closed.

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Internet : Yes/No
Index : Yes/No
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Issue order copy immediately.



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To

1. The Secretary,
The National Council for Teacher Education,
Hans Bhawan, Wing II, Bahadur Shahzafar Marg,
New Delhi – 110 002.
2. The Regional Director,
Southern Regional Committee(SRC),
National Council for Teacher Education,
G-7, Sector-10(Near Sector-10 Metro Station),
Dwarka, New Delhi – 110 075.
3. The Secretary,
Department of Higher Education,
Fort St. George, Chennai – 600 009.
4. The Registrar,
Tamil Nadu Teacher Education University,
Gangaiamman Koil Street,
Karapakkam, Chennai – 600 005.



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G.R.SWAMINATHAN, J.

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