

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP-4401-2023 (O&M)
Reserved on: 06.08.2024
Date of decision: 14.08.2024

ASSOCIATION OF SELF FINANCED COLLEGES OF
EDUCATION, PUNJAB ..Petitioner

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

2. CWP-4720-2023 (O&M)

SHIV SHAKTI COLLEGE OF EDUCATION ..Petitioner

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

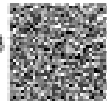
Present: Mr. Sameer Sachdeva, Advocate for the petitioner.
Mr. Salil Sabhlok, Senior Deputy Advocate General, Punjab.

* * * *

ANIL KSHETARPAL, J.

1. Factual matrix:-

1.1 With the consent of learned counsel for the parties, two connected writ petitions, CWP-4401-2023 (Association of Self Financed Colleges of Education, Punjab Vs. State of Punjab and others) and CWP-4720-2023 (Shiv Shakti College of Education Vs. State of Punjab and others) involving identical issue shall stand disposed of by common order.



1.2 CWP-4401-2023, filed by the Association is treated as the lead case for the purpose of noticing facts.

1.3 A writ in the nature of certiorari to quash notice dated 13.02.2023 (Annexure P-14) and all related proceedings in the above regard with further direction to allow concerned students of Elementary Teacher Training (ETT), 2021-2023 session for training practice without any embargo, has been prayed for.

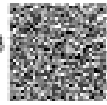
1.4 In order to comprehend the issues involved in these two civil writ petitions, relevant facts, in brief, are required to be noticed.

1.5 On 23.12.2012, Government of Punjab notified policy for setting up institutes providing Diploma in Elementary Education (in short 'D.El.Ed. or ETT), which was published in its Gazette on 23.04.2012.

Clause II of the notified policy reads as under:-

“II. To ensure a steady flow of skilled teachers in different subjects of school education:

- Admission shall be made on merit as per the policy of the State Government.*
- The seats in the private D.El.Ed. (ETT) Institutes duly recognized by NCTE and affiliated with SCERT Punjab, Chandigarh shall be divided in the ratio 60:40. Whereas 40% seats shall be in the management quota for which the institutes shall be free to admit students through an appropriate transparent and fair examination system duly approved by the SCERT Punjab in advance.*
- For the rest of 60% seats, the admission shall be made through Common Entrance Test to be conducted every year by SCERT Punjab, Chandigarh or any other selection process as per the policy of the State Government. The reservation policy as notified by the department of welfare shall be applicable on these seats.*
- If above mentioned 60% of seats are not being filled up by SCERT Punjab through Common Entrance Test or otherwise, private D.El.Ed. (ETT) Institutes will be allowed to fill up vacant seats through their own above mentioned system.*



- *No private D.El.Ed. (ETT) Institutes shall refuse to admit students as a part of any special scheme or measure initiated by the Government of Punjab for admitting any special category candidates in D.El.Ed. (ETT) courses.*
- *Date of common entrance test will be announced by the SCERT/Punjab Government before 15th of July every year.*
- *After getting recognition from NCTE, private D.El.Ed. (ETT) Institutes will have to apply for the affiliation one month prior to the last date of application for Common Entrance Test.*
- *The Director SCERT, Punjab shall have the power to formulate and implement methodology, fee structure and procedure for Common Entrance Test for admission into D.El Ed. (ETT) Institutes in Punjab.*

To raise the quality and quantity of teacher education as per the National Curriculum Fram Work in order to implement RTE Act in the State of Punjab.”

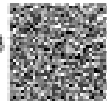
1.6 For the purpose of admission to Diploma in Elementary Education in Session 2021-2023, notification dated 19.07.2021, was issued by Government of Punjab. The relevant parts of the notification read as under:-

“Admission to Diploma in Elementary Education (D.El.Ed.) Course in Government and Private affiliated institutions as per National Council for Teachers Education (Recognition Norms and Procedure) Regulations 2014 through combined merit based centralized admission process to be undertaken by director, State Council of Education Research and Training (SCERT), director Public Instructions Secondary and Elementary Education Punjab, vidya Bhawan, School Education Board, Block E, 6th Floor, Mohali-160062.

ACADEMIC SESSION: *The Academic Session 2021-23 will commence from 01st September, 2021.*

WORKING DAYS

- a. There shall be at least two hundred working days each year exclusive of the period of examination and admission.*
- b. The institutions shall work for a minimum of 36 hours in a week, during which physical presence in the*



institution of all the teachers and student teachers is necessary to ensure the availability for advice, guidance, dialogue and consultation as and when required.

c. The minimum attendance of student teachers shall be 80% for the course work including practicum and 99%, for school internship.

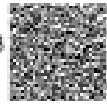
FILLING OF D.ELED SEATS IN PRIVATE INSTITUTIONS:-

As per the policy, 60% of seats in private institutions will be filled on the basis of combined merit through centralized online conseling by the SCERT and remaining 40% seats of management quota will be filled by the concerned institutions subject to fulfillment minimum qualification mentioned in this notification. The concerned institution will take the permission from SCERT before starting the admission process for the 40% management seats.

NO MID-TERM FILLING OF SEATS:- *There shall be no mid term filling up of vacancies caused due to any reason whatsoever.”*

1.7 Vide order dated 11.02.2022, 40% of the total seats were allowed to be filled by the management under Management Quota. It appears that the State Government failed to fill 60% of the total intake capacity on the basis of combined merit through centralized online counselling by State Council of Education, Research and Training (SCERT). Representation submitted by the Management for permitting them to grant approval for filling up the unfilled 60% seats for the Session 2021-2023 was rejected on 27.05.2022 by the Director. Three writ petitions challenging communication dated 27.05.2022 were allowed on 22.08.2022 by the High Court and the operative part of the aforesaid judgment reads as under:-

“The writ petition is accordingly, allowed. The State is directed to transfer the un-filled 60% quota seats to the management quota to enable the private institutions to fill them up at their own level strictly in accordance with merit. Record of admission shall be maintained so that it is available for scrutiny at a later date in case question is raised regarding fairness of the process.”



1.8 The Government accepted the aforesaid judgment and vide communication dated 10.10.2022, the management was permitted to take steps for filling the 60% seats till 21.10.2022. However, in the aforesaid letter, the following note was given:-

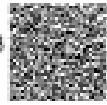
“Note: During this session there is no permission to fill forty percent seats of the management quota.”

1.9 In violation of the directions issued by the Director, State Search Education and Training Council (SSETC), the colleges admitted not only 60% but also admitted 32 students from management quota. In these two writ petitions, the prayer is to regularize admission of those 32 students.

2. Arguments put forth by the learned counsel for the parties:-

2.1 While relying upon the High Court's order passed on 22.08.2022, the petitioners submit that the 100% seats were permitted to be filled up by the management and hence 32 students who have already been admitted and have studied for a period of one year should be regularized failing which these seats would be left unused. He further submits that despite the interim order passed by the Division Bench, the students have not been able to participate for teaching practice.

2.2 Per contra, learned counsel for the respondent while drawing the attention of the Court to various communications, submitted that the course for the Session 2021-2023, commenced on 10.03.2022, whereas, the last date for sending complete data of admitted students in the college was 13.03.2022. He submits that with respect to admission of 32 students, the petitioner's clarification application was withdrawn and Civil Original Contempt Petition No.1309 of 2023 (titled as Modern College of Education

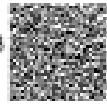


Vs. Jaspreet Talwar IAS and another), complaining non-compliance of order dated 22.08.2022, has been dismissed.

3. Analysis and conclusion:-

3.1 This Court has considered the submissions of learned counsel for the parties and analyzed, evaluated and appreciated the arguments of learned counsel for the parties.

3.2 It may be noted here that Diploma in Elementary Education is a two year course and the dispute is with regard to academic Session 2021-2023. As per notification, the academic session was to commence from 01.09.2021. The students were required to attend classes for a period of 200 working days each year, exclusive of the period of examination and admission. Minimum attendance of students is required to be 80% for course including practicum. In the notification it is provided that no mid-term filling up of vacancies caused due to any reason whatsoever shall be permitted. No doubt, petitioners were permitted by the High Court to admit students in the seats falling under category of 60% i.e. State Quota. However, this Court did not permit the petitioners to fill vacancies under the Management Quota. Argument of the petitioners counsel that they were permitted to fill up 100% seats at their own level is not acceptable particularly when the High Court only permitted them to fill the vacancies falling in 60% quota. While issuing notification on 19.07.2021, it was notified that no mid-term filling up of seats shall be permitted due to any reason whatsoever. While permitting the petitioners to admit students pursuant to the order of the Court, it was clearly indicated that no admission shall be made in 40% seats of the Management Quota. The petitioners violated the essential condition. They never called in

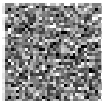


question the correctness of the aforesaid note in the communication dated 21.10.2022. Additionally, the students have not come to the Court. The petitioners cannot be permitted to capitalize on their own defaults. Now, a period of nearly three years has elapsed from the date the session was to commence on 01.09.2023. Even if it is assumed that with regard to vacancies falling in 60% seats, the session started on 21.10.2022, still nearly two years have elapsed. The alleged students have not been permitted to sit in first year examination.

3.3 There is another dimension of these two cases. In October, 2022, the petitioners alleged to have admitted the students, however, they never filed any case complaining that they have not been permitted to write examination in the year 2023. The managements of the institutes have come through these two writ petitions.

3.4 The submission of the petitioners that the seat would go waste is not sustainable because once there was categoric prohibition that no mid-term filling up of vacancies shall take place, it was not appropriate for the managements to admit the students. The students comprising of 60% State Quota have been admitted pursuant to the order of the Court, however, there is no corresponding order with respect to vacant seats in the Management Quota.

3.5 The last submission of learned counsel appearing on behalf of the petitioner also holds no firm ground particularly when the Division Bench on 08.12.2023 only directed the respondents to consider issuing roll numbers to Management Quota students. In fact, there was no positive direction to issue roll numbers to 32 students. On 10.01.2024, the students



who had attended classes for 200 days were allowed to provisionally write the final examination, subject to decision of the writ petition. Admittedly, these students have not been permitted to write their examination for first year.

3.6 Additionally, the learned counsel appearing on behalf of respondents submit that there is no authentic record to prove that these students have attended the classes for 200 days. Learned counsel appearing on behalf of the State is not in a position to verify this fact. Hence, the disputed questions of fact are also involved.

4. Decision:-

4.1 Consequently, finding no merit, both the writ petitions are dismissed.

4.2 All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

August 14th, 2024
Ay

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No