

CWP-20342-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-20342-2023 (O&M)
Date of decision: 22.02.2024

Haryana Self-Finance Private Colleges Association

..... Petitioner

versus

**The State Council of Educational Research & Training (SCERT)
Haryana and others**

..... Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Rajiv Atma Ram Senior Advocate with
Mr. Arjun Pratap Atma Ram, Advocate
for the petitioner.

Mr. Deepak Balyan, Additional AG Haryana.

Mr. Karan S. Gill, Advocate
for the respondent No.5.

Mr. Arun Gosain, Senior Government Counsel-UIO
for respondent No.6.

Deepak Sibal, J. (Oral)

1. The National Education Policy 2020 (for short – the 2020 policy) was framed by the Ministry of Human Resource Development, Government of India which aimed to address the many growing developmental imperatives of our country in the field of education. The policy proposed to revise and revamp all aspects of education structures including its regulation and governance to create a new system which should be aligned with the aspirational goals of the 21st century. The emphasis was laid in the 2020 policy on the development of the creative potential of each individual and it was based on the principle that education must develop not only cognitive

capacities but also social, ethical and emotional capacities and dispositions. It also aimed at nurturing the rich legacy of this country and to help re-establish teachers at all levels as the most respected and essential members of our society as also to empower and help them to do their job as effectively as possible. The 2020 policy further aimed to provide all students a quality education system with particular focus on historically marginalized, disadvantaged and underrepresented groups.

2. Implementation of the 2020 policy was to be led by multiple bodies in a synchronized and systematic manner. It was to rope in various bodies including the Ministry of Human Resources and Development, Government of India, the Union and State Governments, Education related Ministries and regulatory bodies of school and higher education etc. The implementation of the 2020 policy was to be in a phased manner. Since education was a concurrent subject, implementation of the 2020 policy required joint monitoring and collaborative implementation between the Centre and the States.

3. With regard to teacher education, the 2020 policy aimed that by the year 2030 the minimum degree qualification for teaching would be a 4-year integrated B.Ed. course which would teach knowledge content and pedagogy as also include strong practicum training. The 2-year B.Ed. programmes would also be offered by the same multidisciplinary institutions offering the 4-year integrated B.Ed. course and would be intended for only those who have already obtained the Bachelor's Degrees in other specialized subjects. B.Ed. programmes could also be suitably adapted as one year B.Ed. programmes but these courses would be offered only to those who have completed the equivalent of 4-year multidisciplinary Bachelor's Degree or

who have obtained a Master's degree in a specialty and wish to become a subject teacher in that specialty. All B.Ed. degrees were to be offered only by accredited multidisciplinary higher education institutes offering the 4-year integrated B.Ed. programmes.

4. The 2020 policy further provided that special shorter local teacher education programmes would also be available at BITEs, DIETs or school complexes themselves for eminent local persons who could be hired to teach in the schools etc. and that this would be for the purpose of promoting local professions, knowledge and skills. As per the 2020 policy shorter post B.Ed. certification courses would also be made widely available at multidisciplinary colleges and universities.

5. The State of Haryana was of the view that since the 2020 policy aimed at degree courses to be the only qualification for teaching, it passed an order dated 07.11.2022 through which a decision was taken to discontinue, in the entire State, the course of Diploma in Elementary Education course (for short the diploma course).

6. The petitioner-association challenged the decision of the State dated 07.11.2022 through filing of writ petition before this Court being CWP-5280-2023 – Haryana Self-Finance Private Colleges Association Registered and another vs. State of Haryana and others. On being put to notice, the learned State counsel stated before a coordinate Bench that the member institutes of the petitioner-association were already holding a valid recognition to impart education in the diploma course by the National Council of Teacher Education (for short NCTE) and since for withdrawal of such recognition the authority or power was only with the NCTE, the State would consider its decision dated 07.11.2022 to be a recommendation made by it to the NCTE

and wait for the final nod from the NCTE as also that in the meanwhile the State would not act on its decision dated 07.11.2022. After recording the stand of the State, the coordinate Bench, through its order dated 24.03.2023, disposed of the petitioner's writ petition.

7. When in spite of the afore referred statement by the learned State counsel made before this Court on 24.03.2023 the member institutes of the petitioner-association were not permitted to make admissions to the diploma course, the petitioner again knocked the doors of this Court through CWP-16369-20023 – Haryana Self-finance Private Colleges Association vs. State Council of Education Research & Training, Haryana and others. During the pendency of this petition, this Court found that a representation made by the petitioner against the action impugned through the petition was already pending with the State and therefore, through order dated 31.07.2023, this Court disposed of the petitioner's petition with a direction to the Director, Elementary Education, Haryana (for short – the Director) to take a decision on the petitioner's representation.

8. In line with the directions given by this Court on 31.07.2023, through order dated 04.09.2023 the Director rejected the petitioner's representation as he was of the view that continuance of the diploma course was not in consonance with the 2020 policy. It is in these circumstances that the petitioner once again approached this Court through the instant petition to challenge therein the earlier order of the State dated 07.11.2022 through which the State had decided to discontinue the diploma course and the order of the Director dated 04.09.2023 through which the Director had reiterated the State's decision dated 07.11.2022.

9. On 10.10.2023 this Court issued notice in the instant petition. Learned State counsel entered appearance on behalf of the State of Haryana and stated that the State shall stick to the undertaking given on behalf of the State as had been recorded in the order of this Court dated 24.03.2023 passed in the writ petition filed earlier by the petitioner being CWP-5280-2023. On 24.03.2023 the State had stated before this Court that the NCTE would have the final nod in the decision to discontinue the imparting of education of the diploma courses by the member-institutes of the petitioner association and that the State shall abide by such decision to be taken by NCTE.

10. In the instant proceedings the NCTE has filed an affidavit as per which the 2020 policy is to be implemented in a phased manner and therefore, presently the diploma courses could continue to be imparted as they were continuing in all the other States in the country.

11. The Government of India did not file any written response to the present petition. However, Mr.Arun Gossain, who appeared on its behalf clearly stated before us that for the courses like the diploma courses which statutorily come under the purview of the NCTE it is only the NCTE which could take a decision as to when and how to implement the 2020 policy with regard to these courses.

12. Learned counsel for the parties have been heard at length and with their able assistance the record of the case has also been examined.

13. Through order dated 07.11.2022 the State ordered the immediate discontinuance of the imparting of diploma courses in the State of Haryana as according to the State teaching of these courses was not in consonance with the 2020 policy. Such order was challenged by the petitioner-association through filing of a writ petition being CWP-5280-2023 – Haryana Self-

Finance Private Colleges Association Registered and another vs. State of Haryana and others. During the course of hearing of this petition the learned State counsel appeared before this Court and on 24.03.2023 stated that the order passed by the State on 07.11.2022 be treated only as a recommendation made by the State to the NCTE and that the final decision in this regard would be taken by the NCTE which the State would wait for and abide by. It was further stated that in the meanwhile the State would not act upon its recommendation/ decision dated 07.11.2022. After recording the statement made on behalf of the State, on 24.03.2023 itself, this Court disposed of the petitioner's petition through the following order:-

“This petition has been filed by the petitioners being aggrieved by the impugned recommendation/decision dated 07.11.2022 (P-3), whereby the State of Haryana has discontinued Diploma in Elementary Education (D.El.Ed.) Course in all Government and SelfFinanced Colleges in the State of Haryana, w.e.f. academic session 2022- 23.

As the matter regarding approval of the aforesaid recommendation/decision of the State is pending before the National Council for Teachers Education (NCTE), which is the competent authority to approve or withdraw the recommendations, specifically withdrawal under Section 17 of the NCTE Act, learned State counsel sought time to seek instructions as regards implementation of the decision dated 07.11.2022, vide order dated March 16, 2023.

Learned Additional Advocate General, Haryana, on instructions from Assistant Director PS (E), Elementary Education, Haryana, and while referring to the communication dated 22.3.2023, submits that the authorities, being aware of the fact that withdrawal of recognition of such course is within the competence and authority of NCTE, have decided to await the decision of the National Body (NCTE), before taking further

steps, pursuant to their recommendation/decision dated 07.11.2022.

The said communication/letter dated 22.03.2023 is taken on record as Annexure X.

Taking the statement of learned State counsel on record that the authorities are not acting upon the recommendation/decision, dated 07.11.2022 and would await the decision of NCTE, before proceeding further, the writ petition is disposed of.” (emphasis supplied)

14. Contrary to their stand taken as above, the State of Haryana continued not to permit the member institutes of the petitioner-association from imparting education in the diploma courses in the State of Haryana occasioning the filing of the instant petition at the petitioner's behest. On 10.10.2023, at the time of issuance of notice in the instant petition, learned State counsel put in appearance and submitted before this Court that the State would abide by the undertaking given before this Court on 24.03.2023. In this regard interim order dated 10.10.2023 passed by a coordinate Bench may be referred to which reads as under:-

“Issue notice of motion.

Mr. Deepak Balyan, learned Additional Advocate General, Haryana, enters appearance on behalf of the State of Haryana, whereas Mr. Ashish Rawal, Advocate, and Mr. Arun Gosain, learned Senior Government Counsel, appear on behalf of respondent No.5 – NCTE and respondent No.6 – UOI, respectively. An additional copy of the petition be provided to them. They pray for time to file reply.

Learned Additional Advocate General, Haryana, on instructions, submits that the matter is under active consideration of the authorities. He fairly states that the State will stick to the

undertaking given by the State, as recorded in the order dated 24.03.2023 (P-12) passed by this Court in CWP-5280-2023.

As prayed, adjourned to 07.11.2023.”

(emphasis supplied)

15. Thus, it has been the consistent stand of the State that its decision dated 07.11.2022 to discontinue the running of diploma courses in the State of Haryana was only recommendatory in nature and that the final decision on the same was to be taken by the NCTE with which the State shall abide.

16. The NCTE has filed an affidavit through which this Court is informed that the 2020 policy is to be applied in a phased manner and as on date the NCTE has no objection to the running of the diploma course in the State of Haryana as also that in spite of the 2020 policy, having been framed, at this stage, the NCTE permits the running of these courses. In this regard paragraph Nos.9 and 10 of the said affidavit by the NCTE are relevant which read as under:-

“9. That further it is submitted that even in meeting dated December 6, 2023 held in compliance of directions given by this Hon’ble Court, the NCTE has specifically clarified/ stated that NCTE has not released any notification/ order regarding closure of the D.El.Ed. courses and D.El.Ed courses will continue and the diploma of the students pursuing the D.El.Ed courses will be held valid. The NEP-2020, as stated above, will be implemented in a phased manner. In the present case, the decision to close down the D.El.Ed course has been taken by the respondent State of Haryana itself in its own wisdom.

10. That it is further humbly submitted that as per office records only the State of Haryana has taken to a decision discontinuance the E.El.Ed. course in India. In other words, as

per records, no State other than State of Haryana has taken a decision to discontinue D.El.Ed. course as of now.”

17. The framer of the 2020 policy is the Government of India on whose behalf a categorical statement has also been made before us that for the courses which come under the purview of the National Council for Teacher Education Act, 1993, it is only the NCTE which would be competent to take a decision as to when these courses have to be phased out to implement the 2020 policy.

18. The impugned decision has been taken by the State of Haryana purportedly to implement the 2020 policy. In this regard it was undesirable for the State to take a unilateral decision. Prior thereto all the stake holders like the Government of India and statutory regulatory bodies covering these courses should have been consulted. The State has acted prematurely.

19. Even otherwise, it is not disputed that as on date, all the member institutes of the petitioner-association hold valid recognitions by the NCTE as also possess all the necessary permissions by the State/Universities to impart education in the diploma courses. Neither the recognition nor the permission(s) have been withdrawn. No notice was also given by the State to the member institutes of the petitioner-association before throwing the axe on the diploma courses being run by the member institutes of the petitioner-association for many years prior to the impugned decision.

20. In the light of the afore discussion, we are of the view that the impugned decision taken by the State of Haryana dated 07.11.2022 and the decision of the Director dated 04.09.2023 are unsustainable. Resultantly, they are set aside. However, our order shall not preclude the competent

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authority(s) to take steps in the future to implement the 2020 policy, in accordance with law.

21. The writ petition is allowed in the above terms.

(Deepak Sibal)
Judge

22.02.2024
gk

(Deepak Manchanda)
Judge

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