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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-3245-2019 (O&M)

Date of decision: January 14, 2025

Association of NCTE approved Colleges Trust

....Petitioner

versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUDHIR SINGH**

Present:- Mr. H.S. Hooda, Advocate for the petitioner.

Dr. Satya Vir Arya, National President of petitioner-Association
in person (**through video-conferencing**).

Mr. Naveen S. Bhardwaj, Additional AG Haryana.

Mr. Kuldeep Sheoran, Advocate,
Mr. Nishant Hooda, Advocate,
Mr. Tanvir, Advocate and
Mr. Arun Khatri, Advocate for respondents No.3 and 6.

Mr. Prateek Mahajan, Advocate for respondent No.4.

Mr. Amit Rao, Advocate and
Mr. Akshay Panghal, Advocate for
Mr. Anurag Goyal, Advocate for respondent No.5.

Mr. Puneet Gupta, Advocate and
Mr. Ravindra Singh, Advocate for respondent No.7.

SHEEL NAGU, CHIEF JUSTICE (ORAL)

The present petition has been filed by an Association of Colleges
which has been approved by the National Council for Teacher Education (for
short 'NCTE') and has sought following reliefs:-

“Civil Writ Petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari, quashing the impugned letters dated 24.01.2017, 19.12.2017, 21.11.2018, 27.11.2018, 19.12.2018 & 08.01.2019, (Annexure P-4 to Annexure P-9 (respectively)), issued by respondent No.3 and may also issue writ of mandamus directing the respondents No.2 to 7 not to compel the petitioner’s-colleges to pay continuation fees, inspection fees and course extension fees annually/yearly and not to inspect colleges on annual basis as the colleges of the petitioner’s trust have their permanent affiliation and recognition by the competent authority, Northern Regional Committee, National Council for Teacher Education, Jaipur (Presently its office shifted to New Delhi), right from the date the causes were established and start functioning, for conducting the courses, as per the National Council for Teacher Education Act, 1993 and subsequently recognized by respondents No.3 to 7, the recognized the universities, who had granted the affiliation/ recognition, however on provisional/yearly basis, by way of charging, continuation fees, inspection fees and course extension fees for a particular session, these action/order/direction issued by the said respondent-universities are arbitrary being contrary to section 14, 15 & 30 of The National Council for Teacher Education Act, 1993.

AND/OR

It is also further prayed that the respondents No.3 to 7 may be restrained compelling the petitioner’s-colleges for renewal/ inspection.

AND/OR

It is also further prayed that the respondents No.3 to 7 may be restrained compelling the petitioner’s-colleges for renewal/inspection every year as the petitioner colleges are permanently approved by Northern Regional Committee, National Council for Teacher Education, Jaipur (Presently its office shifted to New Delhi).

AND/OR

Further prayed that the operation of the impugned letters dated 24.01.2017, 19.12.2017, 21.11.2018, 27.11.2018, 19.12.2018 & 08.01.2019, (Annexure P-4 to Annexure P-9 (respectively)) be stayed during the pendency of the writ petition, in the interest of justice.

2. The grievance of the petitioner-Association primarily appears to be that the examining body i.e., respondent No.3/University is carrying out inspections more frequently than mandated by regulations.

3. It is submitted that respondent No.3 has issued various inspection notices and carried out inspections vide Annexures P-4 to P-9. It is contended by learned counsel for the petitioner that once members of the petitioner-Association are recognized by the NCTE, the examining body i.e., respondent No.3/University does not have any role to play so far as affiliation is concerned.

4. After hearing learned counsel for the rival parties, this Court is of the considered view that learned counsel for the petitioner appears to be laboring under misconception that once a college has been recognized by the NCTE, the necessary fall out of the said recognition is an affiliation, which does not require any separate application of mind or inspection.

5. This Court draws inspiration from Clause 38.1 (17 to 25) of the Schedule to Statute:37 of the Maharishi Dayanand University, Rohtak. For ready reference and convenience, the said Clause is reproduced herein below:-

“(17) The Academic Council/Executive Council shall cause every recognised college to be inspected from time to time by one or more competent persons authorised by it in this behalf.

Provided that each college shall be inspected ordinarily once in every three years, and at other times where in the opinion of the Academic Council/Executive Council, such inspection is necessary.

(18) In the beginning of each financial year the Academic Council/Executive Council, on the recommendation of the Vice-Chancellor, may appoint inspection committee for colleges to be inspected during that year.

- (19) *An inspection committee shall, ordinarily consist of two members and no person shall be given more than two inspections. One of the members of the inspection committee in the case of a science college, will ordinarily be a science man and in the case of training professional college, will belong to the particular profession in which the college is recognised.*
- (20) *The convener of the inspection committee shall be appointed by the Vice-Chancellor inspection and he will be responsible for arranging the inspection.*
- (21) *The members of the inspection committee shall be paid travelling and halting allowance of the class to which they are entitled according to normal rules, and in addition an inspection fee of Rs, 100/- per college.*
- (22) *The inspection will be directed primarily to the purpose of ascertaining:-*
- a) if the conditions of recognition prescribed by the University are complied with;*
 - b) that adequate measures are taken to ensure efficiency as regards:-*
 - i) qualifications of, and duties performed by the members of the staff;*
 - ii) instruction, residence and supervision of students;*
 - iii) accommodation for classes and administrative offices;*
 - iv) furniture, apparatus and sanitary arrangements;*
 - v) library;*
 - vi) registers for various purposes; and*
 - vii) other similar matters.*
 - c) if the rules concerning the science practical are being complied with and the laboratories are properly fitted with requisite apparatus, gas and water supply.*
- (23) *The report of the inspection committee shall be submitted in printed form prescribed by the University within 10 days of the date of inspection to the Registrar for consideration by the Academic Council/Executive Council.*
- (24) *If the report calls for any action by the Academic Council/Executive Council, the Academic*

Council/Executive Council shall specify the points on which it considers the college deficient and fix time, which may be extended for sufficient reasons, within which the college shall take action necessary to comply with the direction of the Academic Council/Executive Council.

- (25) i) *Each College shall have a managing committee known as governing body consisting of not more than 21 and not less than 11 members. The president, vice-president, treasurer, general secretary and secretary shall be the office bearers of the governing body. The first four shall be elected by the general body of members of the society/trust running the college. The principal shall be the ex-officio member-secretary of the governing body. Of the remaining sixteen members 11 shall be nominated by the president, one by the University, one by the State Govt., and three shall represent the staff. In cases where the governing body consists of less than 21 members, the number falling in each of the above categories will be determined on a proportionate basis, the representation of the University and the Govt. remaining invariable. As soon as the governing body is constituted, the names of the members will be communicated to the University and the director of higher education Haryana by the secretary. The life of the governing body shall be three years and fresh election shall be held after every three years. The election shall be held under the supervision of an observer to be appointed by the University who shall certify that the election has been held properly and according to rules. In case the elections are not held at the end of the period stipulated above, the University shall be competent to constitute a new governing body. The constitution, election and personal of the governing body shall be subject to the approval of the University. The change in the constitution on the above lines shall be a pre-condition for the release of maintenance and other grants. Applications for grants, accompanied with certificates that the salaries of the employees have been paid and all other conditions relating to affiliation and such grants have been complied with shall be routed through the University.*

If in inquiry, it is found that a recognised non-govt. college is not being properly administered, the Executive Council, may authorise the Vice-Chancellor to appoint additional representatives or

representatives of the University on the managing body of the college for such period as may be prescribed by the Executive Council, If the representative of the university are not invited to a meeting of the managing body and or/a meeting of the governing body is held without the presence of the University representative, the proceedings of that meeting shall be regarded as invalid. In case, the University representative does not attend a meeting even after having confirmed his presence in writing the proceedings of such meeting shall be valid. There must be at least three meetings of the governing body in a year i.e. one per term.

T.A. and D.A. of University representatives shall be paid by the college concerned.

¹Note: “Managing Committee” means the Managing Committee of an affiliated college or colleges and includes a person or body of person for the time being entrusted with the management of the affairs of such college or colleges.”

6. From a bare perusal of the aforesaid Clause, it is obvious that that frequency of inspection prescribed under the said Statute of “once in every three years” is subject to the expression “ordinarily”, which obviously means that said frequency of once in every three years is not exhaustive. Thus, the inspection can very well, in the given facts and circumstances, be carried out with more or less frequently than once in every three years.

7. Learned counsel for respondent No.5/MDU University, Rohtak has placed reliance upon the Apex Court judgments in **Maa Vaishno Devi Mahila Mahavidyalaya versus State of U.P. and other, 2013 (2) SCC 617** and **Chairman, Bhartia Education Soc. and another versus State of H.P. and others, 2011 (4) SCC 527**. The relevant paragraphs of **Maa Vaishno Devi Mahila Mahavidyalaya’s case (supra)** are reproduced below for ready reference:-

“42. The non-obstante language of Section 16 requires the affiliating body to grant affiliation only after recognition or permission has been granted by the NCTE. The provisions of Section 16 give complete supremacy to the expert body/NCTE in relation to grant of recognition. In fact, it renders the role of other bodies consequential upon grant and/or refusal of recognition. When the NCTE is called upon to consider an application for grant of recognition, it has to consider all the aspects in terms of Section 14(1)(a) of the NCTE Act. The amplitude of this provision is very wide and hardly leaves any matter relatable to an educational institution outside its ambit. To put it simply, the NCTE is a supreme body and is vested with wide powers to be exercised with the aid of its expertise, in granting or refusing to grant recognition to an educational institution. The NCTE is the paramount body for granting the approval/recognition not only for commencing of fresh courses but even for increase in intake, etc. The Council has to ensure maintenance of educational standards as well as strict adherence to the prescribed parameters for imparting of such educational courses, including the infrastructure. The provision and scheme of the NCTE Act is *pari materia* to that of the Medical Council of India Act, 1956 and the All India Council for Technical Education Act, 1987 etc.

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47. The above enunciated principles clearly show that the Council is the authority constituted under the Central Act with the responsibility of maintaining education of standards and judging upon the infra-structure and facilities available for imparting such professional education. Its opinion is of utmost importance and shall take precedence over the views of the State as well as that of the University. The concerned Department of the State and the affiliating University have a role to play but it is limited in its application. They cannot lay down any guideline or policy which would be in conflict with the Central statute or the standards laid down by the Central body. State can frame its policy for admission to such professional courses but such policy again has to be in conformity with the directives issued by the Central body. In the present cases, there is not much conflict on this issue, but it needs to be clarified that while the State grants its approval, and University its affiliation, for increased intake of seats or commencement of a new course/college, its directions should not offend and be repugnant to what has been laid down in the conditions for approval granted by the Central authority or Council. What is most important is that all these authorities have to work *ad idem* as they all have a common object to achieve i.e. of imparting of education properly and ensuring maintenance of proper standards of education, examination and infrastructure for betterment of educational system. Only if all

these authorities work in a coordinated manner and with cooperation, will they be able to achieve the very object for which all these entities exist.

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55. *Now, let us examine the conflict that arises in the present cases. In terms of the provisions of the Act, the Regional Committee is required to entertain the application, consider State opinion, cause inspection to be conducted by an expert team and then to grant or refuse recognition in terms of the provisions of the Act. Once a recognition is granted and before an Institution can be permitted to commence the course, it is required to take affiliation from the affiliating body, which is the University.*

56. *Thus, grant of recognition or affiliation to an institute is a condition precedent to running of the courses by the Institute. If either of them is not granted to the institute, it would not be in a position to commence the relevant academic courses. There is a possibility of some conflict between a University Act or Ordinance relating to affiliation with the provisions of the Central Act. In such cases, the matter is squarely answered in the case of Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (supra) where the Court stated that after coming into operation of the Central Act, the operation of the University Act would be deemed to have become unenforceable in case of technical colleges. It also observed that provision of the Universities Act regarding affiliation of technical colleges and conditions for grant of continuation of such affiliation by university would remain operative but the conditions that are prescribed by the university for grant and continuation of affiliation must be in conformity with the norms and guidelines prescribed by the NCTE.*

57. *Under Section 14 and particularly in terms of Section 14(3) (a) of the Act, the NCTE is required to grant or refuse recognition to an institute. It has been empowered to impose such conditions as it may consider fit and proper keeping in view the legislative intent and object in mind. In terms of Section 14(6) of the Act, the examining body shall grant affiliation to the institute where recognition has been granted. In other words, granting recognition is the basic requirement for grant of affiliation. It cannot be said that affiliation is insignificant or a mere formality on the part of the examining body. It is the requirement of law that affiliation should be granted by the affiliating body in accordance with the prescribed procedure and upon proper application of mind. Recognition and affiliation are expressions of distinct meaning and consequences. In the case of **Chairman, Bhartia Education Society v. State of Himachal***

Pradesh & Ors. [2011(2) S.C.T. 739 : (2011) 4 SCC 527], this Court held that the purpose of recognition and affiliation is different. In the context of the Act, affiliation enables and permits an institution to send its students to participate in public examinations conducted by the examining body and secure the qualification in the nature of degrees, diploma and certificates. On the other hand, recognition is the licence to the institution to offer a course or training in teaching education. The Court also emphasised that the affiliating body/examining body does not have any discretion to refuse affiliation with reference to any of the factors which have been considered by the NCTE while granting recognition.

58. *The examining body can impose conditions in relation to its own requirements. These aspects are (a) eligibility of students for admission; (b) conduct of examinations; (c) the manner in which the prescribed courses should be completed; and (d) to see that the conditions imposed by the NCTE are complied with. Despite the fact that recognition itself covers the larger precepts of affiliation, still the affiliating body is not to grant affiliation automatically but must exercise its discretion fairly and transparently while ensuring that conditions of the law of the university and the functions of the affiliating body should be complementary to the recognition of NCTE and ought not to be in derogation thereto.*

59. *In the case of St. John Teachers Training Institute v. Regional Director, National Council for Teacher Education [2003(1) S.C.T. 921 : (2003) 3 SCC 321], this Court attempted to strike a balance between the role played by the NCTE, on the one hand and affiliating body and State Government, on the other. Once the affiliating body acts within the fundamentals of Section 14 of the Act, possibility of a conflict can always be avoided.”*

The relevant paragraphs of the **Chairman, Bhartia Education**

Soc.’s case (supra) are reproduced below for ready reference:-

“15. The purpose of ‘recognition’ and ‘affiliation’ are different. In the context of NCTE Act, ‘affiliation’ enables and permits an institution to send its students to participate in the public examinations conducted by the Examining Body and secure the qualification in the nature of degrees, diplomas, certificates. On the other hand, ‘recognition’ is the licence to the institution to offer a course or training in teacher education. Prior to NCTE Act, in the absence of an apex body to plan and co-ordinate development of teacher education system, respective regulation and proper maintenance of the norms and standards in the teacher education system, including grant of ‘recognition’ were

largely exercised by the State Government and Universities/Boards. After the enactment of NCTE Act, the functions of NCTE as 'recognising authority' and the Examining Bodies as 'affiliating authorities' became crystallized, though their functions overlap on several issues. NCTE Act recognizes the role of examining bodies in their sphere of activity.

16. Section 14 of the NCTE Act requires recognition of the institution by the NCTE, before the institute could offer any course or training in teacher education. Sub-section (4) of Section 14 provides that every order granting or refusing recognition to an Institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government. Sub-section (6) of section 14 requires every Examining Body on receipt of the order under sub-section (4), grant affiliation to the institution, where recognition has been granted; or cancel the affiliation of the institution, where recognition has been refused. Section 16 of NCTE Act provides that notwithstanding anything contained in any other law for the time being in force, no examining body shall grant affiliation whether provisional or otherwise, to any institution, or hold examination for a course or training conducted by a recognized institution, unless the institution concerned has obtained recognition from the Regional Committee of NCTE under section 14 or permission for a course or training under section 15 of the Act.

17. Sub-section (6) of section 14 no doubt mandates every examining body to grant affiliation to the institution on receipt of the order of NCTE granting recognition to such institution. This only means that recognition is a condition precedent for affiliation and that the examining body does not have any discretion to refuse affiliation with reference to any of the factors which have been considered by the NCTE while granting recognition. For example, NCTE is required to satisfy itself about the adequate financial resources, accommodation, library, qualified staff, and laboratory required for proper functioning of an institution for a course or training in teacher education. Therefore, when recognition is granted by NCTE, it is implied that NCTE has satisfied itself on those aspects. Consequently, the examining body may not refuse affiliation on the ground that the institution does not have adequate financial resources, accommodation, library, qualified staff, or laboratory required for proper functioning of the institution. But this does not mean that the examining body cannot require compliance with its own requirements in regard to eligibility of candidates for admissions to courses or manner of admission of students or other areas falling within the sphere of the State government and/or the

examining body. Even the order of recognition dated 17.7.2000 issued by NCTE specifically contemplates the need for the institution to comply with and fulfil the requirement of the affiliating body and state government, in addition to the conditions of NCTE. We extract below conditions 4, 5 & 6 of the order of recognition issued by NCTE in this behalf :

“4. The admission to the approved course shall be given only to those candidates who are eligible as per the regulations governing the course and in the manner laid down by the affiliating University/State Government.

5. Tuition fee and other fees will be charged from the students as per the norms of the affiliating University/State Government till such time NCTE regulations in respect of fee structure come into force.

6. Curriculum transaction, including practical work/activities, should be organized as per the NCTE norms and standards for the course and the requirements of the affiliating University/Examining body.”

“The examining body can therefore impose its own requirements in regard to eligibility of students for admission to a course in addition to those prescribed by NCTE. The state government and the examining body may also regulate the manner of admissions. As a consequence, if there is any irregularity in admissions or violation of the eligibility criteria prescribed by the examining body or any irregularity with reference to any of the matters regulated and governed by the examining body, the examining body may cancel the affiliation irrespective of the fact that the institution continues to enjoy the recognition of the NCTE. Sub-section (6) of section 14 cannot be interpreted in a manner so as to make the process of affiliation, an automatic rubber-stamping consequent upon recognition, without any kind of discretion in the examining body to examine whether the institution deserves affiliation or not, independent of the recognition. An institution requires the recognition of NCTE as well as affiliation with the examining body, before it can offer a course or training in teacher education or admit students to such course or training. Be that as it may.”

8. From a bare perusal of the aforesaid judgments and statutory provisions, it is obvious that the act of “recognition” and that of “affiliation” are two distinct concepts. The competent authority empowered to recognise and affiliate are also distinct. In regard to affiliation, the examining body (i.e.

the University) is the competent authority which herein has carried out various inspections at the frequency of once a year, which cannot be termed as violative of any particular statutory provision or statute of the University.

9. From the aforesaid analysis, it is quite evident that despite the law in regard to distinct concepts of affiliation and recognition, having been settled through various decisions of Apex Court, the petitioner-Association has filed this petition knowing very well about the consequences. Such frivolous and vexatious piece of litigation deserve to be discouraged and curbed since it leads to wasting precious time and energy of this Court which could have been utilized for deciding more pressing matters.

10. Consequently, the petitioner is liable to be saddled with exemplary cost.

11. This petition stands dismissed with exemplary cost on the petitioner-Association of Rs.4 lakhs to be deposited in the account of “Poor Patient Welfare Fund” in PGIMER, Chandigarh.

12. Pending application(s), if any, shall also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(SUDHIR SINGH)
JUDGE

January 14, 2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No