
(2010) 04 SHI CK 0065
In the High Court Of Himachal Pradesh
Case No : CWP No. 4545 of 2009

Anita Suman

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Citation : (2010) 04 SHI CK 0065

Hon'ble Judges : Kurian Joseph, C.J;R.B. Misra, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—It is submitted that the Petitioner joined the third Respondent-Institute for JBT during the academic session 2003-05. At the time when the Petitioner joined the Institute, the Institute had affiliation and recognition by the H.P. Board of School Education and National Council for Teachers Education (NCTE), respectively. But, it is seen that the affiliation was withdrawn after the admission of the Petitioner. It is also submitted that the third Respondent-Institute had recognition by the NCTE all through. It is now pointed out that the Institute has since been granted affiliation for the session 2008-10.

2. In a similar situation, it is seen from Annexure-PF, that the Supreme Court had granted the relief of permission to take the examination as and when the Board conducts the examination after approval. The order reads as follows:

Heard both sides.

The Petitioner joined Respondent No. 4 Institute in JBT course. The grievance of the Petitioner is that she was not allowed to appear for the Board examination with the Institute as the Respondent Institute has no affiliation for the year 2002-2004. Learned Counsel appearing for the 4th Respondent submits that the application for affiliation was already pending with the Board and the Board had in fact allowed students for being admitted to 4th Respondent. As and when the college takes the approval of the Board and conducts the examination the Petitioner Ms. Bhawna Sharma may be allowed to participate in the examination.

In the above directions the SLP is disposed of.

3. Learned Advocate General on the basis of instruction, however points out that the Government has taken a policy decision to permit 149 candidates who are similarly situated and who had undergone the JBT during the academic session 2002-04 and 2003-05, for which period there was no affiliation, to be admitted for JBT in twelve DIETs of the State for the session 2010-12 and they will be permitted to sit for the examination after the completion of the training. The learned Advocate General has supplied a copy of the instruction and the same is taken on record.

4. Apparently, the Government has not taken into consideration the order passed by the Supreme Court as extracted above. If a student sought admission in an Institute at a time when it had affiliation and in case that student had completed the training of the required two years and in case the Institute is recognized by the NCTE and in case the affiliation is withdrawn only after admission and in case the Institute has no dispute that student had completed the two years of training, in such circumstances, it will be highly unreasonable, if not unfair to require the student again to undergo training of two years for the purpose of appearing in the examination in the same Institute to which the affiliation has since been granted. Therefore, in the case of the Petitioner, since the affiliation was there at the time of admission and since the Petitioner is also similarly situated and the Petitioner is covered by the direction issued by the Apex Court, it is only appropriate that the Petitioner is permitted to take examination conducted by the H.P. Board of School Education, after the approval is granted to the third Respondent-Institute, since according to the third Respondent, the Petitioner had already completed two years of JBT. Ordered accordingly.

5. With the above observations, the writ petition is disposed of, so also the pending application(s), if any.