
(1995) 08 PAT CK 0037
In the Patna High Court
Case No : C.W.J.C. No. 10863/94

Bharat Seva Samiti

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 25-08-1995

Acts Referred:

Citation : (1995) 08 PAT CK 0037

Final Decision : Dismissed

Judgement

Nagendra Rai, J.—Heard.

2. The Petitioner Bharat Sewa Samiti Chandwara has filed the present writ application for a direction to the Respondent State and its officers to grant recognition of the college in question from retrospective date, i.e., from 1982, under the provisions of Bihar Non Government Physical Training College and Non Government Primary Teachers Education College (Control and Regulation) Act, 1982 (hereinafter referred to as the Act).

3. The Petitioner's case is that Bharat Seva Samiti was registered under the Co-operative Societies Act, vide Annexure-2, and prior to that on 7-12-1979 it decided to establish a Physical Training College at village Chandwara, Hazaribagh, to be known as Bharat Seva Samiti Dwara Sanchalit Sharirik Shikshan Prashikshan Maha Vidyalaya, Chandwara and the said College started functioning from 1-1-1980. In 1983 the College shifted to Hazaribagh and thereafter an application was filed by the office bearers of the College for grant of recognition under the aforesaid Act. In the meantime, in 1985 again the College was shifted to Chandwara and it was renamed as Bharat Sewa Samiti Dwara Sanchalit Sita Ram Singh Sharirik Shikshan Prashikshan Mahavidyalaya, Chandwara. When the authority did not take any action in the matter of recognition the Petitioner came to this Court in C.W.J.C. No. 4545 of 1985 and this Court by order dated 29-11-1985 directed the Respondent-State and its officer to inspect the College in terms of the provisions of the Act and the Rules framed u/s 5 of the Act, known as Bihar Rajkiya Sharirik Prashikshan Tatha

Arajkiya Shikshan Prashikshan Mahavidyalaya Nyantran Viniyaman Niyamawali, 1983. In pursuance of the aforesaid direction by this Court an inspection was held by the Regional Deputy Director of Education, Hazaribagh, under the provisions of the Rule and he submitted a report that the College fulfils the conditions. A copy of the said report has been annexed as Annexure-4 to the writ application. Another inspection report was submitted by Respondents No. 3 and 4, namely, the Director, Student and Youth Welfare, Department of Education, Bihar, Patna and the Principal, Government Health and Physical Training College, Rajendra Nagar, Patna, respectively, on 7-1-1987, vide Annexure-5, wherein they did not recommend the College for recognition. On the basis of the said report, the Addl. Secretary, Yuva Karya, Khel and Sanskritik Department, Bihar, Patna, by order dated 6-7-1987, communicated the decision of the State of Bihar rejecting the prayer to recognise the College, a copy of the said order has been annexed as Annexure-6 to the writ application. In the meantime, it appears that students of 1984-85 batch of the Petitioner-College filed an application in this Court for permission to appear in the examination, which is being C.W.J.C. No. 56/83. This Court allowed them to fill up Form and appear in the examination, entirely at their own risk.

4. Again the Petitioner filed C.W.J.C. No. 2338/88 for a direction to the State Government to consider the question of recognition and this Court directed the State to take a final decision with regard to recognition matter on the basis of the inspection report already submitted before the State Government. A copy of the said order has been annexed as Annexure-9 to the writ application. According to the Petitioner, when the aforesaid order was not complied with, a contempt application was filed but the same was withdrawn. Again the Petitioner filed C.W.J.C. No. 5929 for a direction to the State Government to grant recognition and the said writ application was dismissed on 17-7-89, vide Annexure- 27, on the ground that the State Government has already rejected the prayer of the Petitioner for recognition on the basis of the report submitted by the Committee constituted by the State Government. Against the said order the Petitioner moved before the Supreme Court in S.L.R No. 11113/83 and the apex Court disposed of the same with a direction that "the Petitioner will make an application for inspection of the College in question before the authority concerned along with requisite amount of Rs. 1000/-. On such application being made the State of Bihar will have an inspection of the College and will decide the question of recognition within a period of three months from the date of receipt of the said application.

5. It is asserted on behalf of the Petitioner that in terms of the order of the Supreme Court fee was deposited and an application was filed for recognition, thereafter the college was inspected on 4-3-1991, but no decision was taken. Then the Petitioner again filed C.W.J.C. No. 175/92 (R) for a direction to the State Government to take a decision and this Court by order dated 21-1-92, as contained in Annexure-28, disposed of the said writ application with a direction to the concerned Respondent to take appropriate decision before commencing of

the examination scheduled to be held from 12th February, 1992. If the recognition is granted, the students of the Petitioner-Institution duly registered shall be permitted to take examination and they shall be permitted to fill up the Form and deposit necessary fees, even if the last date has expired. After the aforesaid order, the name of the College was changed and it became Ramesh Prasad Yadav Physical Training College, Chandwara at Chanadih, Jhumri Tilaiya. Thereafter on 1-10-1992 an Inspection Committee inspected the College, considered the records and recommended for recognition of the College, vide Annexure- 22. Again the College was Inspected by an Inspection Team on 19-7-1993 and it also recommended for recognition of the College, vide Annexure-23. Thereafter, the Government of Bihar, Yuva Karya Khel Evam Sanskriti Department, issued a notification dated 14-1-1994 granting temporary recognition of the College for imparting training in the C.P. Ed. and D.P Ed. for 1990- 91 to 1992-1993 batches. A copy of the said order has been annexed as Annexure- 25 to the writ application.

6. According to the Petitioner as it has applied for recognition in the year 1982 and the students were admitted and was getting training since then, the recognition should have been granted from 1982 and granting temporary recognition for a limited period, as stated above, is arbitrary and impermissible in law.

7. A counter affidavit has been filed on behalf of the State wherein it has been stated that the Petitioner applied for recognition and when the prayer was not granted he moved this Court and the Supreme Court. It is also submitted that the College was inspected on two dates. In the first inspection, held by the Inspection Committee it was found that one of the Principals of Health and Physical Education, who was a member of the said Committee, was not present, so again an inspection was held by the Full inspection Committee and a report was submitted on 28-2-1986 and on the basis of the same the impugned order has been passed.

8. It is stated that the inspection Committee inspected the College and after perusal of the record found that there was no arrangement of proper training for the students before the session 1990-91. Before the session 1990-91 the College did not take admission of the students in proper way. From the session years 1982-83 to 1989-90 training was not imparted to this students and taking into consideration the aforesaid facts recognition was granted from 1990-91 to 1992-93.

9. The only grievance of the Petitioner is that the recognition should be made from retrospective date, i.e. from 1982-83 session on the ground that the recognition matter is pending since then.

10. A large number of ill-equipped private teachers training colleges were established in the State. The institutions were opened/established as a business concern and not as a centre for imparting training to the teachers. The State

Government being cognizant of the aforesaid fact enacted Bihar Non Government Physical Training Colleges and Non Government Teachers Training Colleges and Non Government Primary Teachers Education Colleges (Control and Regulation) Act, 1982. Section 2 of the said Act provides that:

(1) No person or institution or committee shall-

(a) without the previous permission of the State Government which the State Government may accord on such terms and conditions as it may deem fit and where previous permission has been accorded subject to such terms and conditions as may be determined by the State Government without fulfilling these terms and conditions, organise, maintain, manage or promote any school or college for undertaking, conducting, providing for or imparting physical training or physical education or teachers training or teachers Education by way of training.

(b) admit or offer to admit to a courses of studies leading to the examination for the award of a degree, diploma or certificate in branches of "teachers" examining or in allied branches of teachers" training of any University or Body incorporated by any law of the Central or the State Government.

(c) provide for instruction, lecture, tutorial or practical training in education whether or not it may lead to any examination or the award of a degree, diploma or certificate.

(2) The decision of the State Government, as to whether the terms and conditions laid down by the State Government have been completely fulfilled or not shall be final and binding.

11. The State Government also framed Rules in the year 1983 known as Bihar Arajkiya Sharirik Prashikshan Tatha Arajkiya Sikshak Prashikshan Mahavidyalaya (Niyantaran Avam Biniaman) Niyamawaii in exercise of power u/s 5 of the Act, which contained the provisions for inspection etc. for the purpose of grant of recognition. However, in the year 1987 the aforesaid rule was confined only to the Non Government Physical Training College and a new Rule known as Bihar Arajkiya Sikshan Prashikshan Avam Arajkiya Prathmik Sikshak Siksha Mahavidyalaya Niyantaran Avam Viniyam Niyamawaii, 1987, was framed which contains an elaborate provision with regard to the conditions to be fulfilled by the training college before grant of recognition. It also contains the provisions for constitution of Inspection Committee to inspect the college and submit report before taking decision in the recognition matter. Rule 4 clearly provides that admission of the students before the grant of recognition will be invalid and they shall not be permitted to sit in the examination.

12. Thus, it is clear that before establishing an institution for imparting physical training or teachers training or primary teachers education, prior permission has to be obtained from the State Government. Establishing an Institution for imparting training without permission or recognition of the State Government is

an offence under the provisions of the Act. The aforesaid Act was enacted with a view to see that the teachers training colleges are properly equipped so that the trained teachers after leaving the institution may serve the cause of education. If the Institutions are not well equipped and are established without any facilities, then the teachers coming out from such Institutions, without proper education or training, will be of little help in the field of education for imparting better teaching to the pupil.

13. The Supreme Court in the case of N.M. Nageshwaramma and Others Vs. State of Andhra Pradesh and Another, has held as follows:

The Teachers Training Institutes are meant to teach children of impressionable age and Court cannot let loose on the innocent and unwary children, teachers, who have not received proper and adequate training. True they will be required to pass the examination but that may not be enough. Training for a certain minimum period in a properly organised and equipped Training Institute is probably essential before a teacher may be duly launched.

14. In the present case, no doubt, the Petitioner has been agitating the question of recognition since 1982 and it is being claimed that the students were admitted and were being imparted training since 1982-83, but the Inspection Team constituted under the Rules which visited the college found that the Institution did not fulfil the requisite condition for grant of recognition prior to 1991, the reasons for the same have already been Stated above. If the Government after considering the aforesaid facts has decided not to recognise the Institution prior to 1991, no fault can be found with the aforesaid decision. This Court cannot issue any direction to the State Government to recognise the Institution from retrospective date when the report of the Inspection Team shows that the Institution did not fulfil the condition, as provided under the Act and the Rules for grant of recognition from an earlier date. Thus, the prayer of the Petitioner for granting recognition from retrospective date cannot be allowed.

15. It is to be mentioned that an intervention petition was filed by Bharat Sewa Samiti for its addition as party Respondent on the ground that it is a real Samiti and not the Petitioner. The said petition was filed after the matter was heard and the case was reserved for orders. In that view of the matter, prayer of the intervener for addition as party cannot, be allowed.

16. In the result, there is no merit in the writ application and the same is dismissed.