
(2017) 04 JH CK 0049
In the Jharkhand High Court
Case No : 2293 of 2017

Binod Kumar Mandal

APPELLANT

Vs

The State of Jharkhand, &Ors.

RESPONDENT

Date of Decision : 26-04-2017

Acts Referred:

Citation : (2017) 04 JH CK 0049

Hon'ble Judges : Aparesh Kumar Singh

Bench : SINGLE BENCH

Advocate : Indrajit Sinha, Suraj Singh, ?Binod Singh, ?Dr. Ashok Kr. Singh, ?
P.A.S. Pati

Final Decision : Disposed

Judgement

1. Heard counsel for the petitioner, NCTE and University.

2. Petitioner is a Trust registered on 29.09.2011 in the office of Sub Registrar, Giridih (Annexure-1). It was granted recognition for conducting B.Ed Course with annual intake of 100 students for one year from the academic session 2014-15, as per decision of Eastern Regional Committee, National Council for Teacher Education dated 07 / 08.06.2013. Petitioner approached the Hon"ble Supreme Court in the Writ Petition (C) No. 407/2013 complaining that recognition has been allowed from the academic session 2014-15 only, though it should operate from 2013-14 also. Writ petition was disposed of with a direction that recognition would apply for

the sessions 2013-14 and 2014-15 (Annexure-2). The revised recognition order was

accordingly issued on 14.08.2013. The National Council for Teacher Education (Recognition, Norms & Procedure) Regulations, 2014 dated 28.11.2014 made it mandatory for existing Institutions to convert their Units into composite Institutions,

meaning thereby the Institution offering Multi Teaching Education Programme. The

Government of Jharkhand accepted the recommendation for petitioner's affiliation

for the academic session 2013-14 vide order dated 11.05.2016 (Annexure-5) and also communicated its approval to the affiliation of the petitioner college for the academic session 2016-18. NCTE granted recognition to the petitioner Institute for

conducting B.Ed programme for the session 2015-16 vide order dated 22.05.2015 (Annexure-6). Thereafter, petitioner made on-line application for grant of recognition of Teacher Education Programme for the academic session 2017-19 on 24.05.2016 for the course of Diploma in Elementary Education (D.El.Ed) within the

time prescribed by the NCTE (Annexure-7)

4. Petitioner's application was considered in 231 st meeting held on 28 / 29.01.2017 and was asked to remove certain deficiencies. Petitioner claims to have

removed the deficiencies by his reply dated 04.02.2017. Thereafter, meetings were

held by the NCTE and the matter was placed before the Committee in its 237 th meeting held on 9 / 11.04.2017 and finally in 238 th meeting held on 18 / 20.04.2017

in which, NCTE has decided to constitute a visiting team for inspection of the college.

5. In this factual background, petitioner has approached this Court for a direction upon the Respondent NCTE to take a decision on the question of recognition of Teacher Education Programme for B.Ed and D.El.Ed courses for the

academic session 2017-19, apprehending that delay on the part of NCTE in taking a

decision, would defeat the whole exercise as the deadline prescribed by the Hon"ble

Supreme Court for taking such a decision has been extended from 03.03.2017 to 02.05.2017 vide order dated 02.03.2017 passed in I.A. No. 16/2017 in Writ Petition

(Civil) No (S). 276/2013 (Annexure-11). Learned counsel for the petitioner therefore

has heavily pressed the prayer for issuance of appropriate direction upon the Respondents.

6. Learned counsel for the Respondent University submits that there are no formality or acts to be done at the level of the University at this stage. NCTE as per

its Act and mandate of the Hon"ble Supreme Court, is however obliged to take a decision and adhere to the time line.

7. Learned counsel for the NCTE submits that though, written instructions have not been furnished, but as per telephone instructions, petitioner's case was placed in

236th and 237th meeting and finally in 238th meeting, it was taken up whereunder, a visiting team has been constituted. It is submitted that as per NCTE

Regulation specifically 7(7) relating to processing of applications, inspection shall be caused on any day after ten days from the date of communication by the Regional Office. The Regional Committee shall ensure that inspection is conducted ordinarily within thirty days from the date of its communication to the Institution.

The Institution shall be required to provide details about the infrastructure and other

preparedness on the specified proforma available on the website of the Council to the visiting team at the time of inspection along with building completion certificate

issued by the competent civil authority, if not submitted earlier. It is submitted that

NCTE has taken up the matters pending before it chronologically and in terms of Regulation. Learned counsel for the NCTE submits that after completion of these processes only, a final decision can be taken.

8. Considered the submission of the learned counsel for the parties and perused the relevant materials on record. It is no gainsaying that a statutory body like NCTE

empowered to grant or refuse recognition to a Teachers Training Institution, is also

under a duty to carry out the mandate of law, as per the Act and Regulation made thereunder. In this context, the observation made by the Hon"ble Supreme Court in

the case of Ex-Capt. Harish Uppal Versus Union of India and others [(2003) 2 SCC 45] is profitable to be quoted hereunder:

"30. No body or authority, statutory or not vested with powers can abstain from exercising the powers when an occasion warranting such exercise arises. Every power vested in a public authority is coupled with a duty to exercise it, when a situation calls for such exercise. The authority cannot refuse to act at its will or pleasure....."

It also cannot be gainsaid that NCTE can escape the responsibility of adhering to the

strict time line laid down by the Supreme Court in the case of Maa Vaishno Devi

Mahila Mahavidyalaya versus State of Uttar Pradesh and others [(2013) 2 SCC

617. The deadline of 03rd March 2017, laid down in the said judgment, has however

been relaxed in the present year by an interim order passed

in the same writ petition Writ Petition (C) No. 276/2012 on I.A. No. 16/2017. (Copy

of the order dated 02.03.2017 has been enclosed as Annexure-11). In those circumstances, NCTE is bound to decide such an application made within a time, as

per the deadline laid down. Para-87.4 and 88 of the Report in the case of Maa Vaishno Devi (Supra), quoted hereunder, has also been placed by the learned counsel for the petitioner in support of this contention.

"87.4. We make it clear that no Authority / person/Council/Committee shall be entitled to vary the Schedule for any reason whatsoever. Any non-compliance shall amount to violating the orders of the Court.

88. In all the appeals and petitions before us, the basic issue is whether the university and the State Government were justified in rejecting the application or not granting application for affiliation on the ground that there was a cut-off date and/or the conditions of recommendation/affiliation had not been satisfied. In some cases, serious disputes have been raised with regard to the fulfillment of the conditions of recognition and/or affiliation. As far as the reason in relation to cut-off date is concerned, we cannot find any fault with the view taken by the authorities concerned. 10Th of May has been provided as the cut-off date, after which no affiliation for the current academic year would be granted. This, being the law stated by this Court, is binding on all concerned, including any authority. The authorities have rightly acted in declining to entertain and /or refusing affiliation to the institutions being beyond the cut-off date. Adherence to the Schedule was the obligation of the authorities and the institutions cannot raise any grievance in that regard. The said time schedule must become operative in all respects and nobody should be permitted to carve out exceptions to this mandatory direction."

9. Therefore, it is deemed appropriate at this stage, without commenting on the merits of the claim of the petitioner, to issue a direction upon the Respondent NCTE

to take a decision in the matter of grant of recognition for Teacher Education Programme for B.Ed and D.El.Ed course for the academic session 2017-19 on or before the cut-off date prescribed by the Hon"ble Supreme Court i.e. 02.05.2017. Needless to say, petitioner shall cooperate in all manner in such exercise.

10. Writ petition is accordingly disposed of.