
(2003) 06 JH CK 0050

In the Jharkhand High Court

Case No : Writ Petition (C) No. 295 of 2003

Cambridge Trust of India

APPELLANT

Vs

Ranchi University and Others

RESPONDENT

Date of Decision : 18-06-2003

Acts Referred:

Bihar State Universities Act, 1976 — Section 21
Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 203

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Mihir Kumar Jha, Ajit Kumar and M.K. Sinha, P. Modi, G.P. I and Suresh Kumar, J.C. to A.G.G, for the Appellant; A.K. Mehta, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—This application has been preferred by the petitioner Cambridge Trust of India, Tatisilwai for issuance of appropriate writ(s)/order(s)/direction(s) or a writ in the nature of mandamus commanding upon the respondents, particularly, respondent Ranchi University and its Vice Chancellor to forthwith hold/ conduct the University Examination of the Bachelor of Engineering course of the students of petitioner - Institution for the Session 2001-02 who were initially admitted under the direction of this Court,

2. In the present case, almost all the disputes stand settled by the earlier directions of the Court dated 20th February, 2002 in WP (C) No. 208 of 2002. In pursuance of the directions of the Court, the students were admitted in 1st year Bachelor of Engineering course for the Session 2001-02, they having completed their course are now awaiting to appear in the examination to be conducted by the Ranchi University (for short - University). The State Government from its Science and Technology Department, Jharkhand has granted approval of affiliation of the College, but the only question raised whether such approval was required to be granted from the department of Human Resources of the State of

Jharkhand or the Science and Technology Department.

3. For determination of issue and to determine whether the relief as sought for is to be granted in favour of petitioner -Institution or not, it is necessary to notice certain relevant facts.

4. The All India Council of Technical Education (for short - A.I.C.T.E.) published one advertisement in the newspaper on 7th July, 2000 (Annexure 1) calling for applications for establishment of new Technical Institutions in the academic year 2001-02/2002-03. The petitioner - Institution applied and deposited requisite fee. An Inspection Committee was constituted to inspect the Institution and to submit report vide reference No. 511 dated 11th May, 2001 issued from the Department of Science and Technology of the State of Jharkhand. The Committee submitted its report in June, 2001 (Annexure 2) giving clearance in favour of petitioner.

5. The Department of Science and Technology, Government of Jharkhand, thereafter, issued "No Objection Certificate" on 28th June, 2001 which was forwarded to the A.I.C.T.E., New Delhi. Request was also made to the A.I.C.T.E. by the Government of Jharkhand from its Department of Science and Technology vide letter dated 23rd July, 2001 to grant approval in favour of petitioner - Institution. The A.I.C.T.E., New Delhi in its turn constituted a Committee to make inspection and submit report. On receipt of report, the A.I.C.T.E., vide its letter dated 5th September, 2001 granted approval to petitioner - Cambridge Trust of India, Tatisilwai to establish Cambridge Institute of Technology, P.O. Tantisilwai, district - Ranchi (for short - Institute). It was pleased to accord approval to establish Institute for the academic year 2001-02 for the following courses and intake as given below, with specific conditions that the admission shall be made through the Central counselling by the Government of Jharkhand only :

Course(s) Intake Level Period of Approval

Computer Science & Engg. 45 Degree (4 years) 2001-02

Electronics & Comm. Engg. 45

Civil engg. 45

Mechanical Engg. 45

Total 180

6. The petitioner requested the Department of Science and Technology, Government of Jharkhand, vide letter dated 10th September, 2001 to take steps to recommend the names of students selected for admission through Combined Entrance Test. The Department of Science and Technology, Government of Jharkhand in its turn by letter dated 8th November, 2001 requested the Controller of Examinations, Jharkhand Combined Entrance Competitive Examination Board (for short -J.C.E.C.E. Board) to recommend the name of 180 successful candidates for their admission in the Institute. The J.C.E.C.E. Board, in

its turn, by resolution dated 9th November, 2001 requested the Department of Science and Technology, Government of Jharkhand to obtain information regarding affiliation of College with the University. The University, in its turn sent a team for Inspection of the College which submitted its report. The Syndicate of the Institute being satisfied with the report resolved to affiliate the college for the Session 2001-02 and it was communicated vide letter dated 3rd December, 2001 (Annexure 8).

In the meantime, inspite of request made by the Department of Science and Technology, Government of Jharkhand, vide Memo No. 1467 dated 5th December, 2001 whereby reservation in respect to every course was indicated, the names of successful candidates were not forwarded by the Controller of J.C.E.C.E. Board, the petitioner had to move this Court in W.P.(C) No. 208 of 2002 for issuance of a writ of mandamus on the Chairman and Controller of J.C.E.C.E. Board, to send the names of successful eligible candidates for their admission in the Engineering Courses in the petitioner Institute out of the panel published by the J.C.E.C.E. Board and on the basis of examination conducted by it.

A Bench of this Court vide order and judgment dated 20th February, 2002, directed the Chairman and Controller of the J.C.E.C.E. Board to forward the names of successful candidates out of merit list for their admission in the petitioner - Institute, as per requisition of the Department of Science and Technology, Government of Jharkhand.

The students were admitted in the 1st Year Engineering Courses for the Session 2001-02. The University also nominated its Officers as members of the Managing Committee of the Institute. The Government of Jharkhand from its Department of Science & Technology approved the affiliation vide Memo No. 1598 dated 26th November, 2002.

The A.I.C.T.E. also granted extension of approval for admission in the Institute for the subsequent Session 2002-03. vide letter dated 3rd June, 2002. In the broacher of the subsequent Combined Entrance. Examination 2002, the name of the Institute was mentioned by J.C.E.C.E. Board. A formal order of fresh affiliation by way of reiteration was notified by the University, vide letter dated 1st November, 2002.

On completion of the course, the registration fee of the 1st year students for the Session 2001-02 was accepted by the University, but when it conducted the 1st year examination of R.I.T., Jamshedpur in November, 2002, the examination of the 1st year students of petitioner - Institute for the Session 2001-02 having not conducted by the University, the present writ petition was preferred.

7. The University while accepted that the State Government from its department of Science and Technology has granted approval of affiliation, has taken plea that no such order of approval has been issued from the Department of Human Resources, Government of Jharkhand.

8. A counter affidavit has been filed on behalf of the State from its Department of Science and Technology. According to it, the Department of Science and Technology of Government of Jharkhand is competent to issue order of approval on behalf of the State as issued vide Memo No. 1598 dated 26th November, 2002.

9. Curiously, in the counter affidavit filed on behalf of the Department of Human Resources. Jharkhand contrary plea has been taken that the Department of Human Resources. Government of Jharkhand is competent Department to grant approval of affiliation.

The question of approval of affiliation of a College by the State Government arises, as u/s 21 of the Bihar (now Jharkhand) State Universities Act, 1976. The affiliation and disaffiliation of a College takes effect if it is approved by the State Government.

10. From the facts as narrated above, it will be evident that since the beginning, it is the Department of Science and Technology of Government of Jharkhand took steps and played roll on behalf of the Government of Jharkhand for establishment of the Engineering College - Institute in question. The question arises whether the Department of Science and Technology is competent in the matter of opening of an Engineering College or the Department of Human Resources of the State.

11. In this respect, one may notice the rule framed u/s 16 of the "Bihar State Engineering & Pharmacy Educational Institution (Regulation and Control) Act, 1982" as amended by Resolution dated 24th November, 1990. In Proforma I, the "The Department of Science and Technology" has been mentioned who is to call for applications and to take steps to grant approval for opening of Engineering Colleges, Polytechnics, Pharmacy Colleges etc.

Under the Rules of Executive Business 1979 as was framed by the Governor of Bihar, under clause (3) of Article 166 of the Constitution of India, now adopted by the Government of Jharkhand with amendment, the power to deal with matters of Technical Education College, including Technical, Vocational Education and Training, has been delegated with the department of Science and Technology. Under Rule/guidelines no power has been delegated to the Department of Human Resources to deal with the recognition of Technical Colleges, such as an Engineering College.

thus, the Department of Science and Technology of the State is the competent Department to determine the question of approval of affiliation of an Engineering College u/s 21 of the Universities Act, 1976 and the Department of Human Resources of the State has no roll to play.

12. The approval of affiliation of the Institute, in question, having granted by the State Government from its Science and Technology department, vide Memo No. 1598 dated 26th November, 2002, the University was not required to wait any further approval of affiliation of the Institute from the Department of Human

Resources. Government of Jharkhand.

The Institute otherwise fulfills all the minimum basic requirements or not, was looked into by the three authorities i.e. the State of Jharkhand, A.I.C.TE. and the University who made separate inspection and took decision on the basis of such reports.

Still to be in the safer side before giving any finding in one or other way. the Secretary, Department of Science and Technology, Jharkhand and the Secretary, Department of Human Resources, Higher Education, Jharkhand were directed by this Court to make a joint inspection and submit a report. The Officers have submitted a joint report which is in favour of petitioner - Institute, but with the following observations :

"10. Conclusion.--Based on our field inspection, we arrive at the following conclusion :--

1. While the present building infrastructure appears to be adequate for the first year, further class rooms, laboratories and hostel facilities would be required as and when present batch moves from 1st year to 2nd year.
2. The Laboratories are sufficient for the first year but many of the lab equipments do not have the name of the Institute and the serial number of the Store painted on them which must be done.
3. The library facility is sufficient for the present batch.
4. Further payment to the faculty and non-teaching employees must be through Bank so that details of the employees can be verified based on the payment schedule.

Sd/- Sd/- (Amit Khare) (M. Patra) 6.5.2003 6.5.2003 Secretary, Secretary,
Human Resources Development

Science & Technology Department

Department Government of Jharkhand

Government of Jharkhand" 13. In the facts and circumstances, the competent authorities of the Ranchi University are directed to hold/conduct the 1st year of Bachelor of Engineering Course examination for the Session 2001-02, immediately so that the eligible 1st year students of petitioner - Institute of the Session 2001 -02 can appear in the examination.

The Vice Chancellor and Registrar of the University will ensure that the examination starts within a period of one month from the date of receipt/production of a copy of this order and the result is published, as early as possible, on completion of the examination. The Institute, in their turn, are also directed to take steps and provide facilities as per joint report submitted by the Secretaries of the Departments of Science and Technology and Human Resources, as quoted above.

14. The writ petition is allowed with the aforesaid observations and directions. However, there shall be no order as to costs.