
(2010) 10 AHC CK 0050
In the Allahabad High Court
Case No : Writ C No. 59634 of 2010

C/M Chaudhary Mahaveer Prasad Mem. Maha. and Another	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 01-10-2010

Acts Referred:

Citation : (2010) 10 AHC CK 0050

Hon'ble Judges : Shishir Kumar, J

Bench : Single Bench

Judgement

Shishir Kumar, J.—Heard Sri R.M. Saggi, learned Counsel for petitioners, Sri B.D. Mandhyan, learned Counsel appearing for University and learned Standing Counsel.

2. Arguments have been heard at length and ultimately Sri Mandhyan requested the Court to grant two weeks time to file counter affidavit. Two weeks time is granted to Sri Mandhyan to file counter affidavit. Petitioners will have two weeks thereafter to file rejoinder affidavit.

3. List immediately after expiry of aforesaid period.

4. Learned Counsel for petitioners submits that recognition has already been granted by National Council for Teacher Education (NCTE). An order was passed by the State Government cancelling temporary affiliation then they challenge the said order before the Division Bench of this Court and Division Bench of this Court vide its order dated 26.7.2007 quashed the order and remanded the matter to authority concerned. Further a specific order was passed that temporary affiliation passed earlier shall continue. Now learned Counsel for petitioners states that on the basis of direction issued by this Court, order impugned has been passed almost giving same reasoning and same grounds. No other specific ground has been taken. Petitioners have placed reliance upon a Division Bench Judgment of this Court who considered the issue and has placed reliance upon a particular paragraph of the observations made by the Court. The

same is being quoted below:

He draws the attention of the Court towards the provisions of Section 2(d) of the NCTE Act read with Section 14(3), (4) and (6) and also Section 37(2) as amended by the State University Act and submits that the State Government is only to grant prior sanction beyond and that it has no power to cancel affiliation or grant affiliation which has to be done by the Examining Body, namely, the University which action would again depend upon the order of the NCTE in terms of the aforesaid provisions. He further says that institution once has been granted recognition and also affiliation, then for the irregularity and illegality committed by the institution the matter should be reported to the NCTE which may cancel recognition and consequently affiliation will be cancelled by the Examining Body and not by the State Government and that the examining body also cannot curtail the tenure of recognition by giving affiliation peace meal. He has also relied upon the case of State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shashtra Mahavidyalaya and Others, in support of his plea, that once recognition has been granted by the NCTE, the examining body has to grant the affiliation.

5. In such circumstances, learned Counsel for petitioners submits that once affiliation has been granted and that has not been cancelled by National Council for Teacher Education (NCTE), recognition cannot be withdrawn on the ground of some irregularity committed by the institution and if something comes in the knowledge of affiliating authority, matter has to be reported to the National Council for Teacher Education (NCTE). Further learned Counsel for petitioners has submitted that permanent affiliation cannot be refused only on the ground of act done by petitioners' institution in the academic year 2007-08.

6. In such circumstances, I am of opinion that petitioners are entitled for interim relief.

7. Till further orders of this Court operation of the order dated 9.9.2010 (Annexure 13 to writ petition) passed by respondent No. 1 shall remain stayed.