
(2014) 08 MP CK 0082
In the Madhya Pradesh High Court
Case No : Writ Petition No. 4266/2013

Dharmendra Rawat

APPELLANT

Vs

Indira Gandhi National Open University

RESPONDENT

Date of Decision : 07-08-2014

Acts Referred:

Citation : AIR 2014 MP 155

Hon'ble Judges : S.K. Palo, J;S.K. Gangele, J

Bench : Division Bench

Advocate : Raj Shrivastava, Advocate for the Appellant; Uttam Maheshwari, M.S. Rana, Rakesh Shrotri and Manas Dubey, Advocate for the Respondent

Final Decision : Dismissed

Judgement

S.K. Gangele, J.—The relief claimed by the petitioners in this petition is that they be permitted to appear in the examination of D.El.Ed. course conducted by the respondents No. 1 & 2.

2. Respondent No. 1, which is an open University, introduced a D.El.Ed. course having duration of two years. The petitioners pleaded that in accordance with the prospectus issued by the respondents No. 3, 4 and 5, the petitioners had taken admission in D.El.Ed. course, which is a two years course, in the year 2011. The petitioners paid the fees for examination in the year 2011. The respondents authorities issued enrollment numbers to the petitioners but the examination was not conducted in the year of 2011. The petitioners were further directed to pay second installment of fee and they paid the same before 15th May 2013. The University was authorised to issue examination Hall Tickets to the petitioners, however, the petitioners were not issued the Hall Tickets. The action of the respondents is illegal.

3. The respondents No. 4 and 5 in their return pleaded that an MOU was entered between the respondent No. 1-IGNOU and respondent No. 4 on 11th September 2009. Under the aforesaid MOU respondent No. 4 was authorised to offer

programme that could be offered by IGNOU and the aforesaid programme shall be offered through a learning center of AISECT on verification of capacities, infrastructure and faculties by IGNOU, if so required and consequently, the respondents No. 4 and 5 established learning center and enrolled students to impart D.El.Ed. course. The following is the one of the term of MOU :-

"AISECT will identify IGNOU academic programmes that can be offered through AISECT Learning Centres and seek approval of IGNOU to offer these programmes to the learners. AISECT learning centres shall be identified on the basis of laid norms and standards of IGNOU programme delivery for specific academic programme of IGNOU and its requirements. The set of academic programmes of IGNOU shall be offered through a learning centre of AISECT on verification of capacities, infrastructure and faculties by IGNOU, if so required."

4. The respondents No. 4 and 5 pleaded that the petitioners were enrolled by the respondents No. 4 and 5 for imparting education in Diploma in Elementary Education for the academic session 2011-12. They also deposited the fees. The MOU was valid up to 2014. The respondents were authorised to enroll the students, however, the respondent No. 1 did not conduct any examination for the academic session 2011-12. The respondents have admitted the fact that they had received the fee.

5. The respondents No. 1 and 2 in their reply pleaded that the respondent No. 4 was not authorised to admit students to impart education in D.El.Ed. course. The illegal admissions granted by the respondents No. 3 and 4 could not be regularised.

6. It is further pleaded that NCTE accorded approval to the respondents No. 1 and 2 for D.El.Ed. programme through ODL Mode for in-service teachers in the State of Madhya Pradesh vide letter dt. 31st March 2011. In accordance with the terms and conditions of the letter the NCTE considered the request of the State of Madhya Pradesh in regard to permitting to conduct D.El.Ed. programme through open and distance learning system leading to Diploma in Elementary Education (D.El.Ed.) of the National Council for Teacher Education and it was decided by the NCTE to accord approval in pursuance to run D.El.Ed. programme through ODL Mode through IGNOU or some other appropriate agency with certain conditions. Following are the terms and conditions :-

1. The duration of the programme shall be of two academic sessions/years (four semesters).

2. The commencement and completion of the programme shall be so regulated that too long spells of vacations (summer/winter) are available to the learners for guided/supervised instructions and face to face contact sessions.

3. Each study centers shall enroll only one hundred students in a given session.

4. Working teachers who are possessing senior secondary or equivalent examinations with 50% marks and two years" teaching experience in a

Government or Government recognized primary/elementary school would only be considered eligible.

5. There should be a suitable procedure for the selection of candidates.

6. The reservation of SC/ST/OBC shall be as per the Central/State Rules whichever be applicable and relaxation in marks at entry qualification with 5% in favour of SC/ST/OBC may be considered.

7. The institution/University offering D.El.Ed. programme through ODL system shall have an exclusive core full time faculty of six members comprising of Prof.-One, Reader/Associate Professor-One and Lecturer/Assistant Professor-Four with experience in all disciplines like education, science, mathematics, social science and two language i.e. english and regional languages. One faculty members shall be designated as programme coordinator.

8. Teacher Educator/Supervisor engaged for various activities at the Study Centers shall be fully qualified as per NCTE norms and must be oriented by the open University/Institution in the practice of ODL system from time to time.

9. Resource Persons should be engaged as per need of the programme which may preferably in the ratio of 1:50.

10. The Study Centre shall be existing teacher training institutions recognized by the NCTE offering the D.El.Ed. programme in face to face mode and having all the requisite infrastructure and staff as per NCTE norms. The Study Center shall provide to the distance learners allocate dto it access to its library and other physical facilities.

11. A systematic monitoring mechanism shall be adopted by the Hqrs.

12. The Hqrs. shall develop curriculum, self-learning materials, model lesson plans and audio visual materials for use of the study centers. At the end of 1st and 2nd year external examination shall be conducted which would include theoretical examination and examination of practice teaching and work experience components.

13. The approval is restricted to 34,902 untrained working teachers in the state of Madhya Pradesh only.

14. State Government shall clear the backlog of untrained teachers and henceforth ensure that DIET's and other elementary teacher education institutions have sufficient number of intake so as to meet the requirement of elementary teachers needed by the State Government for running schools in tune with RTE Act, 2009.

15. The D.El.Ed. programme shall be in consonance with the guidelines issued by the NCTE to the IGNOU for ODL Mode vis-?-vis the provisions given in NCFTE, 2009.

16. The State Government before launching the programme would provide

details of the material prepared for D.El.Ed. programme through ODL mode and an undertaking that this programme would be restricted to the 34,902 untrained working teachers and that it would ensure that the future appointments shall be made as per the qualification prescribed by the NCTE from time to time."

7. The letter is dated 31st March 2011. From the terms and conditions of the NCTE, it is clear that IGNOU or some other appropriate agency was authorised to impart education of D.El.Ed. two years duration course to the untrained teachers working in government or government recognised primary elementary schools only. The course could be offered at the study centers qualified as per NCTE course.

8. In the present case, the IGNOU entered into an MOU with the respondents No. 3 and 4 on 11th September 2009. Admittedly, on the aforesaid date IGNOU had no permission or recognition to impart D.El.Ed. course ODL Mode, hence, it had no power and authority to sign the MOU. Apart from this, as per the terms and conditions of the NCTE, the course could only be offered to the untrained teachers working in government or government recognised primary elementary schools only. The petitioners nowhere pleaded that they were working as untrained teachers in government or government recognised primary elementary schools. Hence, the admission of the petitioners by the respondents No. 3 and 4 in D.El.Ed. course was per se illegal.

9. Hon"ble Supreme Court in the case of National Council for Teacher Education and Another Vs. Venus Public Education Society and Others, has held that the institution has no approval and recognition to impart the course, then the students have no right to appear in the examination of NCTE. The relevant findings of the Hon"ble Supreme Court are as under :-

"33. Now, to the last plank of submission of the learned counsel for the respondent. It is urged by him that NCTE had procrastinated its decision at every stage and such delay was deliberate and, therefore, the Society was compelled to admit the students and impart education, regard being had to the fact that there were really no deficiencies. As has been laid down in many a pronouncement of this Court that without recognition from NCTE and affiliation from the university/examining body, the educational institution cannot admit the students. An educational institution is expected to be aware of the law. The students who take admission are not young in age. They are graduates. They are expected to enquire whether the institution has recognition and affiliation. If we allow ourselves to say so, the institution had given admission in a nonchalant manner. Possibly, its functionaries harboured the idea that they had incomparable fertile mind. The students who had taken admission possibly immersed with the idea that ignorance is a bliss. It is also necessary to state that the institution had the anxious enthusiasm to commercialise education and earn money forgetting the factum that such an attitude leads to a disaster. The students exhibited tremendous anxiety to get a degree without bothering for a moment whether their error, if any, had sanctity of law. Such attitudes only bring

nemesis. It would not be wrong to say that this is not a case which put the institution or the students to choose between Scylla and Charybdis. On the contrary, both of them were expected to be Argus-eyed. The basic motto should have been "transparency". Unfortunately, the institution betrayed the trust of the students and the students, in a way, atrophied their intelligence. The institution decidedly exhibited characteristics of carelessness. It seems that they had forgotten that they are accountable to law. The students, while thinking "vision of hope" chose to play possum. The law does not countenance either of the ideas. Hence, the plea propounded with anxiety, vehemence and desperation on behalf of the respondent is not acceptable and, accordingly we unhesitatingly repel the same."

10. On the principle of law laid down by the Hon''ble Supreme Court and the facts of the case, in our opinion, this present petition has no merit. It is hereby dismissed. Prima facie in our opinion, a fraud has been played by the respondents No. 3 and 4 in admitting the students. Hence, a copy of this order be sent to the Principal Secretary, Higher Education Department and Chief Secretary of the State of M.P. for appropriate action in the matter against the responsible persons.

No order as to costs.