

(2013) 02 MAD CK 0153
In the Madras High Court
Case No : W.A. (MD) No. 536 of 2012

Director, Director of Teacher Training, Research and Training, APPELLANT
DPI Campus and Another

Vs

K.M. Benedict Crizal and Another RESPONDENT

Date of Decision : 22-02-2013

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14(1)

Citation : (2013) 4 MLJ 249

Hon'ble Judges : S. Vimala, J; Chitra Venkataraman, J

Bench : Division Bench

Advocate : B. Pugalenth, Special Government Pleader, for the Appellant; Isaac Mohanlal, for the Respondent

Final Decision : Dismissed

Judgement

Chitra Venkataraman, J.—The State is on appeal as against the order of the learned single Judge dated 1.10.2010 passed in W.P. (MD) No. 5514 of 2008. The writ petitioner/first respondent herein, filed the writ petition seeking issuance of a writ of mandamus to direct the appellants and the second respondent herein, to permit the 68 students admitted in the writ petitioner-College for the academic session 2007-2008 to take their examinations, slated to commence on 26.6.2008 or any other future date and publish the results and award degree.

2. The writ petitioner is an institute offering diploma courses in Elementary Teacher Education (D.T. Ed.). Evidently the first respondent-writ petitioner had the recognition granted by the Southern Regional Committee, National Council for Teacher Education with effect from 2004 u/s 14(1) of NCTE Act, 1993 to offer diploma course in Elementary Education of two years duration from the academic session 2004-2005 with an annual intake of 50 students. Considering the demand for trained teachers and the corresponding need for admission in the Training Institutes, the writ petitioner sought for admission of 50 furthermore students. To that end, the writ petitioner submitted an application on 31.8.2006

and sought for approval for the academic year 2006-2007. The writ petitioner also submitted an application dated 31.8.2006 to the State Government for their recommendation for the additional intake of students. The writ petitioner states that the NCTE appointed an Inspection Team which visited the institution on 23.1.2007 and submitted a report. The writ petitioner further stated that the NCTE sent a letter to the State Government on 8.3.2007 asking for its recommendation for the increase in intake. Since there was no response, the writ petitioner approached this Court in W.P. (MD) No. 5290 of 2007 seeking a writ of mandamus directing the NCTE Southern Regional Committee to consider the application and pass suitable orders for additional intake of 50 students for the academic year 2006-2007. This Court passed an order on 21.6.2007 recording the submissions made by the counsel for NCTE and directed the NCTE Regional Committee to consider and pass orders within a period of eight weeks.

3. It is further stated that the college had admitted 48 students for the academic year 2006-2007 in addition to the existing 50 students. The writ petitioner also submitted the list of 98 students to the second appellant herein to forward the same to the first appellant herein for the verification of certificates and for approval of admission. Thereafter, the writ petitioner received a letter from the second appellant calling upon the writ petitioner to collect the applications in respect of 48 students. Once again, on account of the refusal by the second appellant to forward the list, W.P. (MD) No. 5731 of 2007 was filed. By order dated 2.7.2007, this Court rejected the writ petition. It is stated that the writ petitioner is stated to have filed an writ appeal on the dismissal of W.P. (MD) No. 5731 of 2007 and the same is pending. Admittedly, in the mean time, by order dated 30.7.2007, the first appellant granted recognition for the additional intake of students. Annexure-III of the proforma required that the details should be filed by every faculty member appointed, particularly the qualification and experience.

4. It is stated that the Director of Education has to countersign the details of every such teacher and only on being satisfied about the details, NCTE would grant any additional recognition. Accordingly, the writ petitioner is stated to have furnished the details. However, there was no countersignature by the Director. This again led to the filing of W.P. (MD) No. 7026 of 2007 for issuance of a mandamus directing the Director to give his countersignature to the appointment of additional faculty members on the petitioner's application dated 3.8.2007. This Court passed an order on 24.8.2007 in M.P. (MD) No. 1 of 2007 directing the Director to process the application and if satisfied, grant his countersignature within a period of two weeks from the date of receipt of a copy the order. Admittedly, the second appellant returned the letter submitted, on the ground that the Principal, Mr. R. Daniel Swaminathan and the Mathematics Lecturer Mr. M. Jeya Kumar did not have 55% marks in their M.Ed. Degrees.

5. It was further pointed out that the details of the staff already working in the institute with the approval of the Director were not furnished. It is stated by the

writ petitioner that in the mean time, a fully qualified person Mr. A. Somasundaram was appointed as the Mathematics Lecturer in the place of Mr. M. Jeya Kumar. Once again, the proposal was resubmitted to the second appellant by letter dated 20.8.2007 containing the details regarding the change of staff as well as enclosing the service certificates. Thereafterwards, proceedings were made by the first appellant on 16.10.2007 that he was confirming the order of the second appellant dated 16.8.2007 returning the proposal of the writ petitioner. Once again the writ petitioner resubmitted before the first appellant on 12.11.2007, but the said proposal was rejected on the ground that the service certificates furnished by the writ petitioner were countersigned by the District Educational Officer and not by the Chief Educational Officer. That was challenged by the writ petitioner before this Court in W.P. (MD) No. 299 of 2008.

6. By order dated 15.6.2010, this Court took the view that the absence of the countersignature by the Director by itself cannot be a ground for not approving the claim for approval. This Court viewed that the countersignature was only to prove the period of experience of the staff. When the records showed that the candidates had more than five years of experience as on the date of appointment and the standards expected of, the prayer of the writ petitioner had to be granted. Nevertheless, this Court disposed of the writ petition with a direction to the writ petitioner to send the list of staff approved by the first appellant dated 8.3.2005 within a period of one week from the date of receipt of a copy of the order and on receipt of the same, the second appellant was directed to forward the list of staff submitted by the writ petitioner, without insisting on the teaching experience certificate countersigned by the Chief Educational Officer, to the first appellant, after verifying the genuineness of the teaching experience stated by the petitioner in respect of those two teachers within a period of 15 days from the date of receipt of the list of staff furnished by the writ petitioner, and the first appellant was directed to approve the list of staff provided after confirming the qualification prescribed by the NCTE Regulation 2006, within 15 days thereafter.

7. It is stated by the learned counsel for the first respondent herein/writ petitioner that during the pendency of the writ petition, on 31.12.2009, the Director of Teacher Education Research and Training, Chennai, granted approval to the said Daniel Swaminathan and Somasundaram. In the mean time, for the academic year 2007-2008, on the strength of the additional number of students permitted to be admitted in the course, the writ petitioner once again moved this Court for a mandamus to direct the appellants and the second respondent herein to permit the 68 students admitted in the writ petitioner's college for the academic year 2007-2008 to take up their examinations which was to commence on 26.6.2008 or any future date and publish the results and award degree. By order dated 1.10.2010, this Court pointed out the submission made by the learned counsel for the writ petitioner that the dispute relating to the staff qualification was subsequently settled and the authority had granted approval for the staff training and the institute was recognised by NCTE and the staff qualification has been approved, and that only on account of such recognition

coming subsequently, the students who were already allowed to write the examinations under the strength of the Court order, cannot be penalised. This Court further pointed out that 20 students had written the examinations and also the period came to an end and hence it was unnecessary to go into the other issues except as to whether the institute was a recognised one or not. Learned single Judge also stated that the institute was having authority to take additional students who had underwent the course and also written the examinations and hence the writ petition was to be allowed. Accordingly, learned single Judge allowed the writ petition and the appellants and the second respondent herein were directed to publish the results. Aggrieved by the same, the present writ appeal has been filed.

8. Learned Special Government Pleader appearing for the appellants submitted that when the cut-off date fixed by the Government for staff approval for the academic year 2006-2007 was 9.3.2007 vide G.O. Ms. No. 7, School Education (U1) Department, dated 9.2.2007, the question of publishing the results without recognition given to the writ petitioner does not arise. In the absence of any approval granted, the writ petitioner is not entitled to get the relief as sought for. He further pointed out to the pendency of the appeal before the Apex Court and the interim orders made therein, and submitted that only subject to the result of the S.L.P., relief could be granted. Learned Special Government Pleader further pointed out that in the interest of the students' community at large, the approval of the teaching staff of the institute offering teacher training has to be necessarily taken up only by following the Full Bench decision of this Court in Rukmani College of Education run by Rukmani Educational and Charitable Trust Vs. The State of Tamil Nadu, , particularly the observations of this Court that when the approval by the University was not granted, no permission could be granted to the institute, by permitting the students of the institution to write the examinations. Hence the writ petitioner is not entitled to any relief.

9. Per contra, the learned counsel for the first respondent placed before this Court the proceedings of the Director of Teacher Education dated 31.12.2009 granting approval to the institute as regards possessing of qualified teachers to run the institute.

10. As already pointed out, a reading of the order of the learned single Judge shows that the learned single Judge referred to the approval granted by the NCTE Research and Training, as well as to the approval to the institute. Although this order under appeal does not refer to the date of the order granting approval by the Director of Teacher Education dated 31.12.2009, yet, satisfied of the submission of the learned counsel for the writ petitioner, this Court allowed the writ petition filed by the writ petitioner. Even though the learned Special Government Pleader questioned the relevance of the documents relating to the writ petitioner's case relating to the academic year 2007-2008, we do not think there could be any dispute, particularly in the context of the narration of facts in the writ petition which we have in detail, stated above, as to the claim of the writ

petitioner on the approval granted and the effect of the order in W.P. (MD) No. 299 of 2008 having relevance to the year under consideration. In the context of the order passed in W.P. (MD) No. 299 of 2008 directing the appellants to consider the claim for approval of the staff working in the institute, we do not find that there could be any justification on the part of the State to question the said approval having relevance to the year under consideration, viz. 2007-2008. While we do not dispute the importance of the institutes imparting training to candidates on the art of teaching with qualified teachers in the institutions to serve the field of education, at the same time when the authorities concerned have granted their approval of the staff of the first respondent/writ petitioner's institute, we do not think there could be any inhibition in announcing the results of the candidates who have passed their examinations. Learned single Judge rightly allowed the writ petition.

11. Learned counsel for the writ petitioner pointed out that the first respondent herein/writ petitioner's institute is frequently subjected to inspection by the Educational Authorities to find out the functioning of the institute and the teachers working in the institute and when ever there is any change in the staff strength, then and there the same are informed to the authority concerned for their approval.

12. While we do agree with the said contention, considering the recent trend relating to the standards of the teaching community, it is essential that these institutes themselves give the list of teaching staff at the beginning of every academic year so that there is proper monitoring of the functioning of these institutes. This could go a long way in improving the standards of those who choose teaching as a profession. Under the circumstances, the impugned order of the learned single Judge is confirmed and the writ appeal stands dismissed. Consequently, M.P. (MD) No. 1 of 2012 is closed. No costs.