

(2012) 09 MP CK 0002

In the Madhya Pradesh High Court

Case No : Writ Petition No. 6628 of 2012

Divya Sanskar Shiksha Evam Samaj Kalyan Samiti

APPELLANT

Vs

The State of M.P. and Others

RESPONDENT

Date of Decision : 07-09-2012

Acts Referred:

Citation : (2012) 09 MP CK 0002

Hon'ble Judges : S.K. Gangele, J;Brij Kishore Dube, J

Bench : Division Bench

Advocate : Pawan Dwivedi, for the Appellant; Vivek Khedkar, D.A.G. for the Respondents No. 1 and 2-State and Shri Hemant Bhardwaj, Advocate for the Respondents No. 3 and 4, for the Respondent

Judgement

1. Because the controversy involved in this petition, has already been decided by Division Bench of Principal Seat at Jabalpur in the case of Shri Hargovind Laxmi Narayan Samaj Vs. National Council for Teacher Education and Others [Writ Petition No. 9984 of 2012, decided on 17/07/2012] and as the learned Deputy Advocate General has not disputed the aforesaid proposition, hence, with the consent of Learned Counsel for the parties, the matter is being disposed of finally. The petitioner has challenged the order dated 07-06-2012 (Annexure P/1). The application of the petitioner to grant permission for Diploma in Elementary Education (in short "D.El.Ed") Course has been rejected vide communication dated 07-06-2012 (Annexure P/1) on the ground that the Government, State of Madhya Pradesh had given negative recommendation for opening of new D.El.Ed. Course. The aforesaid point has been considered by Division Bench of Principal Seat at Jabalpur vide order dated 17-07-2012 in the case of Shri Hargovind Laxmi Narayan Samaj (supra). The Hon"ble Court has held as under:

For the aforementioned reasons, the challenge to the validity of the provisions of Regulations 7(2) and (3) of the 2009 Regulations is hereby repelled. However, under Regulation 7(3) the Regional Committee is required to take into

consideration the recommendation made by the State Government or the Union Territory administration while disposing of the application for grant of recognition. In the instant case, from perusal of the order dated 12.06.2012 passed by the NCTE we find that the application submitted by the petitioner for grant of recognition to run the Diploma in Elementary Education course is rejected merely on the ground that there is negative recommendation for opening new course of Diploma in Elementary Education. Under the NCTE Act and the Regulations framed therein, the Regional Committee is the competent authority to decide the application. The Committee is required to take into consideration the recommendation of the State Government but the same cannot be the sole ground for rejection of the application by the committee. The Committee is required to apply its mind and to decide the question with regard to grant of approval to run a course by taking into account the recommendation made by the State Government.

In view of the preceding analysis, the order dated 12.06.2012 passed by the Western Regional Committee of the NCTE is hereby quashed. The Committee is directed to send for comments of the State Government as well as Rajya Shiksha Kendra and to decide the application submitted by the petitioner to run the Diploma in Elementary Education course afresh by taking into account the recommendations sent by the State Government and Rajya Shiksha Kendra. The aforesaid exercise shall be completed within a period of one month from today. It is made clear that this Court has not expressed any opinion on the merits of the case.

With the aforesaid directions the writ petition is disposed of.

C.C. as per rules.

2. In this view of the matter, petition of the petitioner is allowed. The impugned order Annexure P/1, dated 07-06-2012 and the decision of the Western Regional Committee in its 162nd meeting dated 10th May, 2012 in regard to the petitioner, are hereby quashed. The Committee is directed to send for comments of the State Government as well as Rajya Shiksha Kendra and to decide the application submitted by the petitioner to run D.El.Ed. Course afresh by taking into account the recommendations sent by the State Government and Rajya Shiksha Kendra. The aforesaid exercise shall be completed within a period of one month from today. It is made clear that this Court has not expressed any opinion on the merits of the case.

3. With the aforesaid directions, the writ petition is disposed of. C. C. as per rules.