
(2009) 10 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 10761 of 2009

Dr. Bhim Rao Ambedkar Education Society (Regd.)	APPELLANT
Vs	
Kurukshetra University, Kurukshetra and Others	RESPONDENT

Date of Decision : 07-10-2009

Acts Referred:

Citation : (2011) 1 ILR (P&H) 220

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Permod Kohli, J.—All these petitions are directed against the orders passed by the respondent--University to disaffiliate the petitioners for the Session 2008-2009 and debarring them from participating in the admission process to B.Ed. (Regular) Course for the above session. All the impugned orders contain a common ground for initiating action against the petitioners. Thus, all these writ petitions are being disposed of with this common judgment.

2. The petitioners are institutions run by the societies/trusts established in the State of Haryana in different areas to impart Education. All the institutions are duly recognized by the NCTE and were affiliated to the Kurukshetra University, Kurukshetra. For the academic Session 2008-2009, the respondent-University had conducted a Common Entrance Test for making admissions to these institutions against their respective intake capacity. After holding the Common Entrance Test and the counseling, students were allocated to various institutions including the petitioners. However, a number of seats remained unfilled which seems to have persuaded the Association of Education Colleges (Self Financing) of Haryana to approach this Court through the medium of CWP No. 17284 of 2008. This writ petition was disposed of by a Division Bench of this Court,--vide order dated 21st November, 2008 wherein a number of directions were issued. However, for the purpose of the decision of the controversy involved in these cases, direction No. iii is relevant, which is reproduced hereunder:--

The College shall conclude the admission process and submit a list of the candidates admitted by them to the University concerned latest by 5th December, 2008. We make it clear that the Institutions shall not grant any admission to any candidate after 5th December, 2008 for the academic session 2008-2009. In the event of violation of these directions, the University concerned and NCTE shall initiate proceedings for withdrawal of recognition and for de-affiliating the defaulting College/ Colleges.

3. It is alleged that the petitioners made admissions for the academic Session 2008-2009 within the stipulated period prescribed by this Court and also submitted the lists of the admissions made, to the Kurukshetra University. It is, however, admitted position of the parties that the lists were received by the respondent-University from 8th December, 2008 onwards. The university on its part interpreted the aforesaid direction of this Court and found that the lists of the admissions made having been submitted beyond 5th December, 2008, the petitioners have violated the direction of this Court and the petitioners are liable for action for disaffiliation. Consequently, the petitioners were served with letters. One of such letters is dated 24th January, 2009 (Annexure P-1) issued to the petitioner in the present petition (CWP No. 10761 of 2009). The contents of the letters are as under :--

The list of students admitted to B. Ed. Course (regular) in consonance with the orders of the Hon''ble High Court of Punjab and Haryana delivered on 21st November, 2008, in CWP No 17284 of 2008, was to be submitted on or before 5th December, 2008 positively, but you failed to submit the same by the said due date.

You are, therefore, requested to explain the reason(s) for not submitting the list of students admitted as per direction of the Court as above in time. Your reply must reach to the undersigned within 10 days from the date of issuance of this letter failing which it will be presumed that you have nothing to say in this matter.

4. The petitioners replied to the aforesaid letters and pleaded that the admissions were made by 5th of December, 2008. In some of the petitions, it is pleaded that the representatives of the institutions approached the respondent-University to submit the list of the admissions made, but the officials of the University asked them to bring the list on the next working day and, thus, the lists were submitted on 8th December, 2008. In some of the petitions, it is pleaded that the lists were sent through post and, thus, the same were received by the respondent-University after few days. It is also pleaded that 5th December, 2008, was Friday and 6th and 7th December, 2008, being holidays in the respondent-University, the lists could only be furnished on 8th December, 2008.

5. Even after the receipt of the reply, the University constituted a Sub-Committee and the said Sub-Committee made its recommendations which were considered by the University. The University is of the opinion that it was mandatory for the

petitioners to furnish the list by 5th of December, 2008 and the same having been done later than the cut-off date, action of the petitioners is violative of the direction of this Court warranting action for disaffiliation.

6. The impugned orders in all these writ petitions are on the similar lines. One of the impugned orders dated 16th July, 2009 (Annexure P-8) attached with this writ petition, is reproduced hereunder :--

To.

The President/Principal, Mahabir College of Education for Women, Vill. Kheri Markhanda, Near Bus Stand, District Kurukshetra.

Sub: Disaffiliation of Mahabir College of Education for Women, Village Kheri Markhanda, Near Bus Stand, District Kurukshetra, Kurukshetra.

Sir/Madam,

This is with reference to your representation dated 26th June, 2009 to the Show Cause Notice served upon you,--vide this office letter No. CG-VI/09/77467 dated 19th June, 2009.

In this connection, I am directed to inform you that your representation under reference has been considered by the Sub-Committee constituted by the Executive Council,--vide resolution No. 66 dated 12th June, 2009. Consequent upon the recommendations of the Sub Committee, it has been decided to disaffiliate your college w.e.f. the session 2009-10 for not submitting the list of admitted students to B. Ed. (Regular) course for the session 2008-09 by the stipulated date of 5th December, 2008, thereby violating the directions of the Hon"ble Punjab and Haryana High Court in CWP No. 17284 of 2008. Hence, your college is debarred from participating in the admission process and making admission to B.Ed. (Regular) course for the Session 2009-10.

Yours faithfully, (Sd.)... DEAN OF COLLEGES

7. From the perusal of the impugned order, it is evident that the only ground for disaffiliation is the non-submission of the list of admitted students by 5th December, 2008.

8. The University in its detailed reply also reiterated its stand as taken in the impugned order. It is stated that the petitioners having failed to submit the list of the admitted students within the period prescribed by this Court i.e. up to 5th December, 2008, the University constituted a three Members Sub-Committee comprising of (i) the Dean of the Colleges; (ii) Dr. V. K. Gupta, Principal, University College of Education, Kurukshetra and (iii) Prof. J.R. Dheer, Department of Education, Kurukshetra University, Kurukshetra. The Committee submitted its report after taking into consideration the reply received by the University and recommended to initiate proceedings for disaffiliation against the defaulting colleges. Based upon the report of the Sub-Committee, the University issued Show Cause Notices to all the writ petitioners. The petitioners filed their

respective replies to the Show Cause Notices. However, on consideration of the same, the impugned order noticed hereinabove, has been passed by the University.

9. I have heard the Learned Counsel for the parties at length.

10. The solitary ground for disaffiliation is the alleged violation of the Court order dated 21st November, 2008 passed by a Division Bench of this Court in CWP No. 17284 of 2008. It is the case of the respondent-University that the petitioners were required to make admissions by 5th December, 2008, for the academic session 2008-2009 and also to submit the lists of the admitted students on the same day.

11. I have carefully perused direction No. iii noticed hereinabove passed by a Division Bench of this Court. From the perusal of the above direction, it appears that the Hon'ble Division Bench of this Court directed the petitioners-Colleges to make admissions by 5th December, 2008 and to submit the lists of the admitted students to the University. There is nothing in the direction to make it mandatory for the petitioners-Colleges to submit the lists also by same date. To the contrary, it appears that the only mandate of the Court was to make admissions by 5th December, 2008 and, thereafter, to submit the lists. This intention is clear from the following lines in the order of this Court:--

... We make it clear that the institutions shall not grant any admission to any candidate after 5th December, 2008 for the academic session 2008-09.

12. The mandate is, thus, to make admissions by 5th December, 2008. The first part of the order only directs to make admissions by 5th December, 2008 and to submit a list. There is nothing in the order of Division Bench which can suggest the submission of the lists by 5th December, 2008, which otherwise could not even be practicable. It appears that the University has wrongly interpreted the Court order. The true spirit and the mandate of the order was to make admissions by 5th December, 2008 and not thereafter in any eventuality.

13. Except non filing of the lists by 5th December, 2008, there is no allegation that any of the petitioners-Colleges have made admissions beyond the cut-off date prescribed by this Court or violated any other direction given by a Division Bench of this Court. Thus, I am of the considered opinion that the orders impugned in all these writ petitions are not sustainable in law and are based upon totally misconstruction, misconception and misunderstanding of the Court order. The same are liable to be quashed. I order accordingly.

14. Vide interlocutory orders passed in different petitions, operation of the impugned order was stayed. Consequently, the petitioners, have made admissions and the students are continuing with their studies. The admissions made by the petitioners-Colleges shall stand regularized and affirmed.

15. All these writ petitions are allowed.

16. A copy of this order by placed on the record of each concerned file.