
(2010) 11 UK CK 0039

In the Uttarakhand High Court

Case No : Writ Petition No. 1696 of 2010 (M/S)

Dron Educational Society (Registered)

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 29-11-2010

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14, 14(6), 15, 17

Citation : (2010) 11 UK CK 0039

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.S. Verma, J.—Heard Mr. Ravi Babulkar, Advocate for the Petitioner, Mr. B.D. Upadhyaya, Advocate for Respondents 2 and 3 and Mr. Abhisekh Verma, holding brief of Mr. Sudhir Singh, Advocate for NCTE.

2. By means of this petition the Petitioner has sought the following relief-

(1) To issue a writ in the nature of mandamus commanding and directing the Respondent/university to accord formal affiliation and students to the Petitioner institute for the academic session 2009-10 forthwith as per the recognition order dated 28-08-2010 as per the NCTE Ac, 1993 and U.P. State Universities Act, 1973.

(2) To issue a wit in the nature of mandamus, commanding and directing the Respondent university to provide two hundred students for the session 2010-11 after affiliation if it is not possible to provide affiliation and students for the sessions 2009-10, in accordance with law.

(3) To issue a writ, rule or order in the nature of mandamus commanding and directing the Respondent No. 1/ State Govt. not to interfere and delay the affiliation proceedings of the Petitioner institute as per law.

3. According to the Petitioner, the Petitioner is a registered society and is running

B. Ed. institute in Rudrapur District U.S. Nagar from session 2006-07 vide recognition order dated 11-08-2006 issued by NCTE. On 10-03-2008 the Petitioner submitted application before NCTE for grant of recognition for the session 2009-10. The NCTE accorded recognition to the Petitioner for academic session 2010- 2011 instead of sessions 2009-10 vide recognition order dated 24-3-2010. Thereafter the Petitioner institution represented the Respondent No. 4/ NCTE that the recognition was applied from session 2009-10 but no heed was paid to the request of the Petitioner. The Petitioner filed writ petition No. 755/2010(M/S) and in that writ petition this Court passed order dated 19-5-2010 directing the NCTE to take decision on the representation of the Petitioner. Thereafter the NCTE vide order dated 28-8-2010 rectified the earlier recognition and granted recognition for academic session 2009-10 onwards instead of session 2010-11. Thereafter Petitioner applied for affiliation with the university for the academic session 2009-10 but the university did not grant the affiliation. Hence this petition.

4. The Respondent Kumaun University filed counter affidavit and alleged that the condition No. 11 of the recognition order clearly says that the recognition is subject to fulfilment of all such other requirements as may be prescribed by other regulatory bodies like U.G.C. and the State Government etc. whenever applicable.

5. The contention of the Petitioner is that there is no provision to obtain affiliation for every year. As per Section 14(6) of the Act, the examining body is obliged to grant affiliation to the institute where the recognition has been granted by the NCTE.

6. It is to be stated here that in the case at hand the U.G.C. Act is not applicable but NCTE Act is applicable.

7. u/s 17 of the NCTE Act 1993 the NCTE may withdraw recognition of recognized institution in the event the regional committee of the NCTE is satisfied that a recognized institution has contravened any of the provisions of the NCTE Act, or any condition subject to which recognition under Sub-section (3) of Section 14 or permission under Sub-section (3) of Section 15 was granted.

8. To my mind the above clause-11 in the recognition order has been inserted for the purpose of reservation and to maintain the educational standard of the institution and not for the purpose of affiliation because the affiliation is to be given as per provision of Sub-section (6) of Section 14 of the Act, which provides that every examining body shall on receipt of the order under Sub-Section 4(a), grant affiliation to the institution, where recognition has been granted.

9. The Hon"ble Apex Court in the case of State of Maharashtra v. Sant Dhyaneswar Shikshan Shashtra Mahavidhalaya and others, reported in AIR 2006 SCW 2048, has held that if the recognition is granted then the University is obliged to grant affiliation to such institution.

10. In view of the dictum of the Apex Court, the University is accountable to grant affiliation to Petitioner/institution as the NCTE has already granted recognition to run B. Ed. classes from the academic session 2010-11.

11. Learned Counsel for university also contended that since the examination of B. Ed. classes for the session 2009-10 is to commence from the first week of January, 2010, and it is not possible to conduct the B. Ed. classes during this session, therefore, the Petitioner/institution cannot be granted affiliation by the university for the academic session 2009-10.

12. In view of above the writ petition is partly allowed. The NCTE has granted recognition to the Petitioner from the academic session 2009-10, therefore, the University is directed to take decision on the application of the Petitioner/institution within four weeks of presentation of application by the Petitioner, for granting affiliation to the Petitioner from the academic session 2010-11