

(2011) 08 CAL CK 0074

In the Calcutta High Court

Case No : A.S.T. No. 178 of 2011 and A.S.T.A. No. 263 of 2011

Eastern Doars B.Ed. Training College and Another

APPELLANT

Vs

The University of North Bengal and Others

RESPONDENT

Date of Decision : 24-08-2011

Acts Referred:

North Bengal University Act, 1981 — Section 2(1)

Citation : (2012) 2 CHN 135

Hon'ble Judges : Tarun Kumar Gupta, J; Amit Talukdar, J

Bench : Division Bench

Advocate : Soumya Mazumder, Zakir Hossain and Sarwar Jahan, for the Appellant; S. Basu Vijaya Bhatia, Ananya Das, Anisha Surana and Sulagna Dawn, for the Respondent

Final Decision : Dismissed

Judgement

Tarun Kumar Gupta, J.—This appeal is directed against order dated 29th April, 2011 whereby learned Single Judge was pleased to reject the writ application filed by the present Appellants.

2. The present Appellants being Eastern Doars B. Ed. Training College affiliated to North Bengal University and President of said college filed said writ petition alleging inter alia that said college was a private and self-financed B. Ed. Training College recognized by the National Council for Teachers Education (NCTE) and is affiliated to the University of North Bengal in terms of Section 2 (1) of the North Bengal University Act, 1981. Said college was established in 2006. So long said college maintained its autonomy and conducted admission in B. Ed. Course as per NCTE guidelines and also in accordance with the directions that are issued by the University from time to time. The North Bengal University all on a sudden introduced a centralised admission process for admission of B. Ed. Students in Government aided as well as self-financing colleges affiliated to the North Bengal University. Said policy of introduction of centralised admission process was decided behind the back of self-financing colleges and it was not also within the

rules and Regulations of the university. This also interfered with the autonomy of the Petitioner's self-financing college in the matter of admission of B. Ed. Students as per choice of the college. The Petitioner as a self-financing college recognized by NCTE is required to pay wages to its teachers and employees, as per guidelines laid down by NCTE and that prescribed fees for admission of B. Ed. Students was not sufficient to incur the expenses of the self-financed college and that the university was accordingly requested to enhance the course fee in B. Ed. courses but without any result. Accordingly, the Appellant/Petitioners filed said writ petition challenging the introduction of centralised admission process in B. Ed. courses for the academic session 2011-2012 with other consequential reliefs together with a direction upon the Respondent University Authorities to reconsider and restructure the course fee for B. Ed. courses for the academic session 2011-2012.

3. After contested hearing learned Single Judge was pleased to dismiss the writ petition observing that the introduction of centralised admission process and restructuring the course fee being administrative matters of the concerned university should not be interfered through judicial intervention.

4. Being aggrieved with the said order of dismissal dated 29th April, 2011 the present appeal has been preferred.

5. Mr. Soumya Mazumder, learned advocate for the Appellants, has submitted that North Bengal University Act did not empower university to make centralised admission for B. Ed. course in B. Ed. Colleges including self-financing colleges like the present Appellant. It is further submitted that Appellant private financing college is recognized by NCTE and is bound to obey directions and guidelines of NCTE. As per NCTE guidelines self-financing colleges are required to pay enhanced pay to its staff, both teaching and non-teaching, failing which there is threat of derecognition of said college by NCTE. North Bengal University arbitrarily fixed the admission/course fee for said B. Ed. only Rs. 41,000/- per student but said amount was not at all sufficient to pay the revised pay structures as prescribed by NCTE. The Appellant/petitioner as self-financing college should have the autonomy to admit students of its own choice. Appellant college was in the dark about the selection process adopted by the University. In earlier years the Appellant college made admission in B. Ed. course through its own machinery. Said act of centralised admission for B. Ed. courses interfered with autonomy of the Appellant college. According to Mr. Mazumder learned Trial Judge failed to appreciate this aspect of the case and dismissed the writ petition merely observing that those were administrative matters of the concerned university.

6. Mr. S. Basu, learned senior advocate appearing for the University, on the other hand, has submitted that after meeting with representatives of various colleges including the Appellant college, university decided to conduct centralised admission in B. Ed. courses from the session 2009- 2010, but it did not materialize for the academic session 2009-2010. However, for the academic

session 2011-2012 university has introduced said centralised admission process for B. Ed. courses for all the colleges affiliated to it.

7. According to Mr. Basu quota of students to be admitted in each college affiliated to NCTE was fixed. University adopted said centralised admission process, according to Mr. Basu, for convenience of the students as well as for transparency in the admission process. Mr. Basu has further submitted that as the decision for introduction of centralised admission process for B. Ed. courses was taken much earlier in the meetings held in between university representatives and representatives of all the colleges including the present Appellant, there is no scope for challenging the same. According to Mr. Basu, the Appellant college has nothing to say as number of students as per their quota together with the prescribed course fees were allotted to it, though the Appellant college refused to accept said money and to admit those students.

8. Mr. Basu has further submitted that though the course fee of Rs. 41,000/- as fixed by this Respondent university is higher than the course fees for said course in some other universities as stated in details in para 14 of the application for appropriate order being ASTA (CAN No. 263 of 2011) still the Respondent university authority is actively considering the question of hike of course fees for B. Ed. courses from the next financial year. According to Mr. Basu 277 students have already been selected for admission in the four NCTE approved self-financed B. Ed. colleges affiliated to this university including the Appellant college for academic session 2011-2012, but on account of refusal of those self-financed colleges to admit those students, the career of those students are in jeopardy. Mr. Basu has also referred to the Annexure 8 (P-59) of the Respondent university's application for appropriate order being ASTA (CAN) No. 263 of 2011, to impress upon this Court that N.C.T.E. also highly appreciated said move of centralised admission in B. Ed. courses in different colleges affiliated to North Bengal University. According to Mr. Basu the writ petition was filed without any justification and was rightly dismissed by learned Single Judge and the order impugned does not call for any interference by this Court of Appeal.

9. We have carefully considered the submissions made by learned advocates of both sides and also perused the materials on record. Admittedly Appellant is a privately financed B. Ed. college approved by NCTE and affiliated to the Respondent North Bengal University. There is also no denial that prior to 2011-2012 session those self-financed colleges used to admit students for B. Ed. courses as per their choice but with the fees prescribed by the university. It further appears that there were some meetings in between representatives of university and all those colleges for initiation of a centralised admission process for B. Ed. courses. There is no denial that introduction of centralised admission process will not only relieve the pain and agony of the students for running from one college to other for collection of forms as well as for submission of the same, but also bring transparency in the entire process. As per choice of the students and standard set out by the university, students will be allotted to individual

colleges affiliated to the university. All the colleges will get students as per their quota together with the fees prescribed for admission of those students.

10. We fail to understand how any college, be it Government college or private financed college, will be prejudiced for said centralised admission process adopted by the university.

11. It came out during hearing that the Appellant college along with other colleges purchased said forms from the university for the purpose of selling it out to the aspirant candidates. Again, said introduction of centralised admission process for B. Ed. course for the academic session 2011-2012 cannot be said to be violative of any rules and/or Regulations prescribed for the Respondent university. At best it can be said that there was no prescribed rule for said centralised admission and that it was conducted through administrative orders for the sake of transparency in the entire process of admission. But that cannot be a ground for striking out the process of centralised admission. It appears that on account of non-cooperation and apathy on the part of Appellant Petitioner and three other NCTE approved self-financing B. Ed. colleges affiliated to the University, fate of 277 students already selected for admission in those four colleges for the academic session 2011-2012, is in jeopardy. It is true that university had to arrange for refund of the course fee to those students who were not admitted by those colleges. But refund of course fee cannot compensate the loss of a year in the career of said students.

12. In view of the discussions as made above we are of the opinion that impugned order of learned Single Judge does not call for any interference.

13. Before parting with the appeal we like to record our hope and expectation that Appellant and three other NCTE approved self-financing B. Ed. colleges affiliated to the Respondent University of North Bengal who so far declined to admit selected students, will admit those students for the academic sessions 2011-2012 so that students do not lose one precious academic year. At the same time, we trust and hope that Respondent University of North Bengal will sympathetically consider the demand of the self-financed colleges for hike of admission fee for B. Ed. courses in view of manifold increase in the expenditure of said colleges for hike in the salary of its staff, both teaching and non-teaching, as well as for day to day administration.

14. The appeal is dismissed on contest.

15. All connected applications stand disposed of.

16. However, we pass no order as to costs.

17. Urgent xerox certified copy of this judgment be supplied to learned Counsel/ Counsels, if applied for.