
(1997) 02 MAD CK 0037
In the Madras High Court

Emmanuel Teacher Training Institute and Others	APPELLANT
Vs	
The Regional Director, Southern Regional Committee, National Council for Teacher Education and Others	RESPONDENT

Date of Decision : 11-02-1997

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14

Citation : (1997) 1 MLJ 537 : (2000) WritLR 655

Hon'ble Judges : K.A. Swami, C.J

Bench : Division Bench

Judgement

K.A. Swami, C.J.—In all these writ petitions, the petitioners have sought for quashing the orders of the State Government refusing to grant

"no objection certificate" as required by Regulations 5(e) and 5(f) of the National Council for Teacher Education (Application for Recognition, the

Manner for Submission Determination of Conditions for Recognition of institutions and Permission to Start New Course or Training) Regulations,

1995. (hereinafter referred to as the "Regulations").

2. The State Government has rejected the applications, seeking "no objection certificate" on the folk-wing grounds:

In Tamil Nadu trained certificate holders are unable to be given appointment, therefore no objection" will not be given and the said decision is

taken by the Government. This is for your information.

3. The State Government, by G.O.Ms. No. 802 (Education, Science and Technology Department), dated 16.9.1994 took a policy decision that

no new private teacher training Institute(s) shall be permitted to be opened or recognised in the State from the academic year 1994-95, on the

ground that there were several trained teachers, who were not employed. The Government Order, G.O.Ms. No. 802 reads thus:

The Government have, for sometime, been considering the need to have new private Teacher Training Institute in the State. The Government have

very carefully examined this question and they have come to the conclusion that an appropriate policy in this regard has to be formulated taking into

consideration the number of students being trained every year by the Teacher Training Institutes and the approximate requirement of trained

teachers every year and also the trained teachers already available. The Government consider that the number of trained teachers coming out of

institutions should not be in excess of the requirements and there should not be commercialisation of teacher education. The Government have

therefore made an assessment of the availability of trained teachers waiting for appointment and the potential to absorb the teachers already trained

and those to be trained in future. It has been found that there are 57,082, that is, nearly 60,000 Secondary Grade Teachers on the live registers of

the employment exchanges in the State as on 31.12.1993. It is estimated that apart from the immediate requirement, the vacancies that will arise in

future will be only of the order of about 3,000 to 5,000 per annum. The Government after taking into account all these factors have decided that in

view of the manpower surplus in the availability of trained Secondary Grade teachers no new Private Teachers Training Institute need be permitted

to be opened or recognised in the State from the academic year 1994-95.

2. Accordingly the Government hereby notify that no new private Teacher Training Institute (s) shall be permitted to be opened or recognised in

the State from the academic year 1994-95.

4. It may be pointed out here that in order to start Teachers Training Institute, it is necessary to obtain recognition from the Regional committee, as

per Section 14 of the National Council for Teacher Education Act, 1993 (hereinafter referred to as the "Act") For the purpose of making an

application for recognition, as per Regulations 5(e) and 5(f) of the Regulations, it is necessary for the applicants to obtain "no objection certificate"

from/the State Government. It is the Regional Committee which has to pass an order as to whether the Teachers Training Institute should be

recognised or not.

5. In order to enable the State Government to consider the request for "no objection certificate" the National council for Teacher Education, New

Delhi, has framed certain guidelines in its Second Meeting of the General Body held on 4th December, 1996. Those guidelines are called

Guidelines for establishment of Teacher Training Institution and introduction of new programmes-issue of No Objection¹ Certificate by

States/UTs." Nine guidelines have been framed. Out of the nine guidelines, the first one relates to grant of "no objection certificate" by the State

Government, which has been framed with a view to ensure a high standard of Teacher Education. It reads thus:

The establishment of Teacher Training Institutions by Government, private managements or any other agencies should largely be determined by

assessed need for trained teachers. This need should take into consideration the supply of trained teachers from existing institutions, the

requirement of such teachers in relation to enrolment projections at various stages, the attrition rates among trained teachers due to superannuation,

change of occupation, death etc. and the number of trained teachers on the live register of the employment exchanges seeking employment and the

possibility of their deployment. The States having more than the required number of trained teachers may not encourage opening of new institutions

for teacher education or to increase the intake.

6. When the State Government passed the impugned orders, it is submitted by the learned Special Government Pleader for education, that the

guidelines framed by the National Council for Teacher Education were not available with the State Government.

7. The National Council for Teacher education has been established u/s 3 of the Act. It is a body corporate with the head office at Delhi. It

consists of 9 officials of the Government of India, and Chairman, University Grants Commission and several other authorities and persons

associated with education and also three Members of Parliament of whom one shall be nominated by the Chairman of the Council of States and

two by the Speaker of the House of the People. Section 12 of the Act deals with the functions of the Council. As per that Section, it shall be the

duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the

determination and maintenance of standards for teacher education. For the purpose of performing its function under the Act, the Council has been further conferred with the powers as enumerated under Sub-clauses (a) to (h) of Section 12 of the Act. A reading as Section 12 with the Preamble of the Act makes it clear that the National Council has been conferred with powers, with a view to achieving planned and co-ordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system. Thus, it is the authority which is in complete charge of enforcement of the Act and to ensure that the objects of the Act are fulfilled. It has also been empowered to frame the regulations. Section 32(2)(e) and (f) of the Act provide that the National Council may frame the regulations relating to the form and the manner in which the application for recognition has to be submitted, under Sub-section (1) of Section 14 and the conditions required for the proper functioning of the institution and conditions for granting recognition under Clause (a) of Sub-section (3) of Section 14. It is in exercise of this power of making Regulations, Regulation No. 5(e) and (f) have been framed by the National Council relating to submission of application for recognition with ""No objection Certificate,"" from the State or Union Territory in which the institution is located and also for submission of application for permission to increase the in take by recognised institutions with ""no objection certificate"" from the State or Union Territory in which the institution is located. It is in furtherance of these Regulations, guidelines have been issued by the National Council in exercise of its powers u/s 12 of the Act to ensure planned and co-ordinated development of the teacher education and also to maintain norms and standards for betterment of education. Therefore, the guidelines issued by the National Council for issue of no objection certificate by the State on the Union Territories have the force of law. As such the State and the Union Territories are bound to follow the same.

8. It is no doubt true that when the impugned order refusing to grant no objection certificate was passed by the State in each of these petitions, the guide lines in question had not been framed. That did not absolve the State to keep in view the object of the Act, before passing an order refusing to grant recognition. In the case of request for "no objection certificate" made by a teacher training institution the State is required to consider, with

reference to the need for trained teachers and it is also required to take into consideration supply of trained teachers from existing institutions and requirement of such teachers in relation to enrolment projections at various stages and such other matters as are stated in the guidelines. These norms could be culled out from the objects of the Act and the various provisions contained therein. Therefore, in the absence of guidelines, the State were required to consider the applications^ applying the aforesaid norms. As the Order of the State Government does not disclose any such application of the norms, it is not possible to sustain the same. ""No objection certificates"" by the State or the Union Territory for making applications for recognition for establishment of the teacher training institutions are required. Therefore, the State Government is required to consider such applications keeping in view the objects of the Act, the Rules, the Regulations and the guidelines issued under the Act. Refusal to grant no objection certificate will have serious consequences of disabling the applicant to seek recognition for establishment of teacher training institute. Therefore, it requires to be carefully considered.

9. For the reasons stated above, all these writ petitions are allowed. The impugned orders of the State Government refusing to grant "no objection certificate" are quashed. The matters are remitted to the State Government to consider the requests of the petitioners for grant of "no objection certificate" in the light of ""the guidelines for establishment of Teacher Training Institution and introduction of new programme-issue of no objection certificate by States/UTs."" We make it clear that it is open to the petitioners to submit such further material as they consider necessary to comply with the guidelines. Further representations, if any, shall be made within three (3) weeks from to-day. Compliance in eight (8) weeks. However, there will be no order as to costs. W.M.Ps. are disposed of.