
(2014) 12 JH CK 0092
In the Jharkhand High Court
Case No : W.P. (C) 3943 of 2014

Gopinath Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-12-2014

Acts Referred:

Citation : (2015) 1 AJR 537

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Sumeet Gadodia and Prem Pujari Roy, Advocates for the Appellant;
V.K. Prasad, S.C. (L&C) and Ashok Kr. Singh, Advocates for the Respondent

Judgement

S. Chandrashekhar, J.—Seeking a direction to the university for grant of affiliation to the petitioner-college for academic Session 2014-15 and seeking a direction to the respondent-State of Jharkhand to grant necessary approval for affiliation to the petitioner-college for running B.Ed. course with annual intake of 100 students, the present writ petition has been filed. The petitioner-college, a Teachers Training College, is run and managed by a registered Trust namely, "Gopinath Singh Jan Seva Trust". It applied for grant of recognition for B.Ed course and the National Council for Teacher Education, Eastern Region Committee vide letter dated 03-03-2014 granted recognition from academic session 2014-15. Thereafter, the petitioner immediately vide applications dated 20-03-2014 and 21-03-2014, applied for affiliation to the University. An Inspection Committee was constituted by the University vide Notification dated 28-03-2014 which conducted inspection of the petitioner-college on 01-04-2014 and submitted its report on 04-04-2014. The Syndicate of the respondent-University considered the matter for grant of affiliation to the petitioner-college in its meeting dated 05-04-2014 and the application of the petitioner-college was forwarded to the State Government for approval. Subsequently, vide letter dated 29.04.2014 the respondent-University recommended the case of the petitioner-college for grant of affiliation for B.Ed course for the academic session 2014-15.

In the meantime when the proposal of the petitioner-college was not considered by the respondent-State of Jharkhand, it moved the Hon"ble Supreme Court in W.P.(C) No. 693 of 2014 seeking a direction upon the State Government and the University to process the application for affiliation to the petitioner-college. The writ petition was permitted to be withdrawn with liberty to the petitioner to approach the High Court and therefore, the present writ petition has been filed.

2. A counter-affidavit on behalf of the respondent-State of Jharkhand has been filed stating that the proposal for grant of affiliation was submitted by the university to the Directorate of Higher Education on 06.05.2014 which was much after the cutoff date fixed by the Hon"ble Supreme Court in the case of Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P. and Others, . In the said case, the Hon"ble Supreme Court has ordered that in the event of disobedience of the time-schedule and/or any attempt to over-reach or circumvent the judgment of the Court or the directions contained therein, the concerned person shall be liable for proceeding under the Contempt of Courts Act, 1971 and therefore, in obedience of time schedule prescribed by the Hon"ble Supreme Court, the proposal for grant of affiliation to the petitioner-college was not entertained.

3. Heard the learned counsel appearing for the parties.

4. When the matter was listed on 04-09-2014, a direction was issued to the respondent-State of Jharkhand to take a decision in the matter on the basis of the materials available on record. By way of a supplementary counter-affidavit dated 19-09-2014, the decision taken by the Committee constituted by the department, has been brought on record. The Committee in its meeting held on 15-09-2014 took a decision not to approve proposal for grant of affiliation to the petitioner-college for B.Ed course for academic session 2014-15.

5. Mr. Sumeet Gadodia, the learned counsel appearing for the petitioner submits that though, NCTE granted recognition vide letter dated 03.03.2014 however, by the time a copy of the same was received by the petitioner and the university, simultaneously on 12.03.2014, the time fixed by the Hon"ble Supreme Court for submission of proposal for affiliation was already over. In the meantime, the university was closed between 14-03-2014 to 19-03-2014 for Holi vacation and when the university reopened on 20-03-2014, the petitioner-college immediately submitted its applications dated 20-03-2014 and 21-03-2014. The Committee constituted by the university inspected the college on 28-03-2014 however, Inspection Report was submitted on 04-04-2014. The University sought direction from the Director, High Education vide letter dated 12-04-2014 and finally, vide letter dated 29-04-2014, the proposal for approval of the State Government for grant of affiliation was forwarded by the University to the State Government. It is thus, contended that the time-schedule fixed by the Hon"ble Supreme Court in "Maa Vaishno Devi Manila Mahavidyalaya", case could not be adhered to due to the reasons beyond the control of the petitioner-college. In the first place, the letter granting recognition by the NCTE was received after the last date of submission of proposal for affiliation, though, the letter of recognition was issued

on 03-03-2014 itself. Again, the proposal by the university could not be forwarded to the State Government within the time schedule because the university was closed between 14-03-2014 to 19-03-2014. It is submitted that as held by the Hon"ble Supreme Court since the role of the Government is limited in the matters of admission, eligibility criteria, etc., the respondent-State was not justified in not issuing "NOC" for grant of affiliation. Even after a direction issued by this Court on 04-09-2014, taking shelter of judgment in "Maa Vaishno Devi Mahila Mahavidyalaya" case, the Committee constituted by the respondent-State took an arbitrary decision not to accord approval for grant of affiliation to the petitioner-college. It is further submitted that due to lapse of time though, the petitioner-college cannot commence course for academic session 2014-15, there is no legal bar in granting affiliation for the academic session 2015-16.

6. Per contra, Dr. Ashok Kumar Singh, the learned counsel appearing for the Nilamber-Pitamber University referred to Section 5(19) of the Jharkhand State University Act, 2000 and submitted that the grant of affiliation by the University is subject to prior approval of the State Government. Since in the case of petitioner-college, the State has refused to accord approval, the university cannot grant affiliation to the petitioner-college. It is further submitted that, from the very beginning, the application submitted by the petitioner-college is beyond the time-schedule fixed in "Maa Vaishnav Devi Manila Mahavidyalaya" case and therefore, the petitioner-college cannot accuse the university for any delay.

7. Mr. Vikash Kishore Prasad, the learned counsel appearing for the respondent-State of Jharkhand referred to paragraph No. 81 in the "Maa Vaishno Devi Manila Mahavidyalaya" case and submitted that adherence to the time-schedule has been made mandatory by the Hon"ble Supreme Court and no authority is permitted to take a decision in breach of the mandatory directions issued by the Hon"ble Supreme Court.

8. I have carefully considered the submissions of the learned counsel appearing for the parties and perused the documents on record.

9. In "Maa Vaishno Devi Manila Mahavidyalaya" case, the Hon"ble Supreme Court has held thus,

"81. ".....Adherence to the schedule is the essence of granting admission in a fair and transparent manner as well as to maintain the standards of education. The purpose of providing a time schedule is to ensure that all authorities concerned act within the stipulated time....."

82.....None in the hierarchy of the State Government, university, NCTE or any other authority or body involved in this process can breach the schedule for any direct or indirect reason. Anybody who is found to be defaulting in this behalf is bound to render himself or herself liable for initiation of proceedings under the provisions of the Contempt of Courts Act, 1971 as well as for a disciplinary action in accordance with the orders of the Court....."

10. Besides the above directions, a reading of the judgment in "Maa Vaishno Devi" case, discloses that the importance of adherence to the schedule has been discussed by the Hon"ble Supreme Court in several other paragraphs also. A time-schedule for recognition and affiliation has been provided in the judgment itself. The learned counsel for the petitioner relied on a decision in Asha Vs. Pt. B.D. Sharma University of Health Sciences and Others, and submitted that, in appropriate cases where the ends of justice would be subverted or process of law would stand frustrated, this Court is not denuded of power by issuing appropriate direction. The learned counsel refers to order passed in "College of Professional Education and others v. State of U.P. and others" in Civil Appeal No. 5914 of 2011 and submits that the Hon"ble Supreme Court extended the time for taking admission of students and in this case also, this Court may extend the time for grant of approval by the State Government.

11. I am not inclined to accept the submission seeking a direction to the respondent-State and University to consider grant of affiliation beyond the time schedule fixed by the Hon"ble Supreme Court. In Asha Vs. Pt. B.D. Sharma University of Health Sciences and Others, , a candidate was denied admission for arbitrary reasons though, the candidates who were lower in merit were given M.B.B.S. admission. The Hon"ble Supreme Court observed that where no fault is attributable to a candidate, cut-off date of admission cannot be permitted to operate as bar. In "College of Professional Education" case, in view of more than 71,000 seats which would have left unfilled, on the application of the university, the Hon"ble Supreme Court extended time for taking admission. The grant of approval by the State Government and consequent affiliation by the university stands on an entirely different footing. A college which is yet to start academic session cannot claim irreparable loss and injury.

12. The learned counsel appearing for the petitioner submitted that since the university has already forwarded a favourable report to the State Government, a direction may be issued to the respondent-State and the university to grant affiliation for the academic session 2015-16. I find that in "Maa Vaishno Devi Mahila Mahavidyalaya" case, the Hon"ble Supreme Court has observed that any affiliation or recognition granted after the cut off date would be valid for the next academic year. However, from the facts of the present case, it is apparent that though, the last date for submission of proposal for affiliation to the university is 10th March, of each year, the petitioner submitted its proposal on 20.03.2014 and 21.03.2014. In the writ petition itself, it is stated that the applications dated 20.03.2014 and 21.03.2014 were received in the office of the university on 21.03.2014 and thus, it was well beyond the time for submitting the proposal. The application dated 20.03.2014 was apparently incomplete. The university was required to forward proposal to the State Government by 20.03.2014 which it could not forward because an incomplete proposal was submitted by the petitioner-college on 20.03.2014 which was received by the university on 21.03.2014. In these facts, the State Government which was required to forward its comments by 30.03.2014 to the university, rightly refused to consider the

proposal for grant of affiliation for the academic session 2014-15. It is also an admitted fact that the proposal submitted by the petitioner-college was for grant of affiliation for the B.Ed course for the academic session 2014-15. In the above facts, I am of the opinion that no direction can be issued to the respondent-State or the university to grant affiliation to the petitioner-college for the academic session 2015-16. However, I am of the opinion that in view of the observation of the Hon'ble Supreme Court in "Maa Vaishno Devi Mahila Mahavidyalaya" case, there is no legal hindrance in considering the proposal for grant of affiliation to the petitioner-college for the academic session 2015-16. The recognition granted by NCTE is not for academic session 2014-15 only rather, it is from the academic session 2014-15. Inspection has been carried by the respondent-Nilamber-Pitamber University and a favourable report has been submitted to the State Government for grant of NOC to the said proposal. What remains is submission of a mere formal application by the petitioner-college to the University which can be forwarded by the University to the State Government for considering the proposal for grant of affiliation for the academic session 2015-16. Accordingly, the petitioner-college is at liberty to approach the university with a fresh proposal for grant of affiliation for the academic session 2015-16 and the university would forward the said proposal to the State Government on the basis of the materials available. The writ petition is dismissed with the aforesaid liberty to the petitioner-college.