

**(2003) 04 KL CK 0042**

**In the High Court Of Kerala**

**Case No :** O.P. No's. 32581 and 36050 of 2002 and 1702 of 2003

H.M. Training College, H.M. Trust, National Training College,  
Mar Severios Memorial Training College, S.A.M. Training  
College, Mangalam College of Education and St. Mary's  
Training College

**APPELLANT**

**Vs**

State of Kerala and Others

**RESPONDENT**

**Date of Decision :** 08-04-2003

**Acts Referred:**

National Council for Teacher Education Act, 1993 — Section 12  
National Council for Teachers Education Regulations — Regulation 6, 6(1)

**Citation :** (2003) 04 KL CK 0042

**Hon'ble Judges :** C.N. Ramachandran Nair, J

**Bench :** Single Bench

**Advocate :** S. Venketasubramonia Iyer Sr, P.V. Jayachandran alias C. Cherian, for the Appellant; V.M. Kurian, SC for NCTE, R3, Thomas M. Jacob, for R4, K. Ramkumar, for R10 and 13, M.M. Hussain, for R 6, 153 and 230, M. Vijaya Kumar, for R7, Asha Kuriakose, for R9, Babu Karukapadth, for R19, S. Sasikumar, for R23, K.A. Abraham, for R24, T.P.M. Ibrahim Khan, for R27, M.P. Abraham, for R28, C.A. Majeed, for R29, P.K. Jose, for R37, Abi Antony, for R38, Mr. A.A. Abdul Hassan, for R40, 41 and 145, T.M. Abdul Latiff, for R46, Kurian George Kannathanam, for R47, 86, 95, 116, 161, 183, 225 and 254, P.K. Suresh Kumar, for R57 and 274, P. Sanjay, R67, T. Sethumadhavan, for 69, K.S. Menon, for R78, Govindh K. Bharathan, for R81, Santheep Ankarath, for R82, 255 and 287, K.B. Mohammedkutty, for R18, 26, 31, 76, 83, 84, 106, 135, 233, 243, 244 and 268, N. Nandakumara Menon, for R91, Sabu P. Joseph, for R92, P.M. Pareeth, for R93, Biju M. John, for R103, P. Vijaya Kumar, for R109, Devan Ramachandran, for R112, Thottathil B. Radhakrishnan, for R110, Sunny Varghese, for R113, P.M. Mohammed Shiraz, for R120, V.P. Seemandani, for R8, 11, 14, 60, 66, 77, 90, 97, 121, 129, 150, 152, 185, 193, 223, 229, 234, 240, 241, 256, 261, 269, 272 and 285, M. Sasindran, for R126, P.K. Ibrahim, for R144 and 284, R.T. Pradeep, for R147, P. Haridas, for R157, C.V. Vasudevan, for R162, Siby Mathew, for R170, N. James Koshy, for R182, N.P. Samuel, for R191, George Jacob, for R128, Ranjith B. Marar, for R132, Latha Krishnan, for R192, Anil Kumar, for R209, A.K. Abdul Azeez, for R194 and 235, T.S. Maya, for R236, T.A. Unnikrishnan, for R246, K. Rajeevan, for R24(sic), Grashious Kuriakose, for R250, George Poonthottam, for R79 and 258, P.G. Rajagopalan, for R251 and 259, A. Mohammed Mustaque, for R266, V.A. Muhammed, for R273, P. Gopalakrishnan Nair, for R5, 196, 214,

275 and 278, B. Krishnan, for R277, K.P. Dhandapani, for R186 and 280, Sudhish R., for R282, P.M. Joseph, for R205, T. Krishnan Unni, for R195, G.S. Raghunath, for R 199, T.A. Ramadasan, for R201, K. Balachandaran, for R210, Dileep Mohan, for R211, T.H. Abdul Azeez, for R239, P. Shansudin, for R218, C. Rasheed, for R257, M.V.S. Nampoorthiry, for R271, B. Raghunathan, for R279, T.P.K. Nambiar, (Sr) M. Gopikrishnan Nambiar, for R22 and 231, K.P. Satheesan, for R165, P. Radhakrishnan, for R171, P.M. Mohammed Ali, for R188, Benny Gervacis, for R220, K. Balachandran, for R289 and Dinseh R. Shenoy, for Addl. R230, for the Respondent

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## Judgement

C.N. Ramachandran Nair, J.—Managements of existing B.Ed. colleges in the State are the petitioners challenging the action of the State Government in issuing "No Objection Certificates" to all the applicants for starting another 291 self-financed B.Ed. Colleges in the State commencing from the academic year 2003-04. The State Government along with the counter affidavit produced report prepared by the expert committee constituted by the Government to assess the requirements of number of B.Ed. colleges in the State, depending upon the educational needs. The Committee recommended the additional requirement of B.Ed. college in the State at 75 which is accepted by the Government through a Cabinet committee decision. It may be noticed that there was an earlier round of limitation in this Court, pertaining to the same issue, which culminated in the judgment of this Court in W.A. No. 3013 dated 17.12.2002. It is conceded that pursuant to the judgment the committee that was earlier constituted on 11.1.2002 and which granted approval for nine specified colleges was revived by the Government by order dated 25.10.2002, produced as Ext. R2(1). The finding of the Division Bench of this Court in this regard is as follows:

"Whether more Training College should be established or not and how many of them should be established are matters to be considered and decided by Government, whether there is need to more Training Colleges is not a matter to be decided by this Court."

The Government pursuant to this observation of the Division Bench issued their order Ext. R2(1) with the following specific object stated therein:

"In the circumstances, Government are pleased to order that the committee constituted as per G.O. (Ms) No. 4/2002/H.Edn. dated 11.1.2002 is revived to scrutinise all the applications received in Government for NOC for starting B.Ed. Training Colleges and to submit recommendations regarding the Educational Agencies to which NOC may be granted."

It has now been revealed from the counter affidavit filed by the State and the report of the expert committee that the work so far done is to fix the number of B.Ed. colleges required in the State at 75 as against NOC granted for 291 colleges. Even though the committee was constituted to scrutinise the applications and to identify the eligible applicants for the purpose of issue of

NOC, it is conceded that individual cases are not considered by the committee and the relative merits of 291 applicants have not been considered by the expert committee for the purpose of issuing NOC to the eligible subject to the limit of 75 recommended by the Committee and accepted by the Government. The main grievance of the petitioners that NOCs are issued indiscreetly for the asking does not survive because eventhough NOCs were issued to all the 291 applicants the State Government has now requested the NCTE to limit the granting of recognition to 75 only and therefore NOC for the remaining 216 stands virtually revoked. Since the relatively more eligible 75 numbers are not selected from out of 291 applicants either by NCTE or by State, the respondents individually do not have any grievance as of today. Since this development, i.e., the fixation of the maximum number of colleges at 75, was not known to 291 applicants, who are respondents herein, they have not so far challenged this decision of the Government, which has come to light only in this court proceedings. It is only when the 75 relatively more eligible applicants are identified and others excluded there may be grievance for those rejected applicants to contest the limit fixed by the Government, if at all the same can be contested. Counsel appearing for the NCTE submitted that eventhough NOCs are issued by the State Government for all 291 applicants, so far as NCTE has received only 195 valid applications. Therefore 120 of the applicants who have applied with NOC issued by State Government before the NCTE will not be eligible to start the B. Ed. colleges even if NCTE found them eligible because the Government has fixed the ceiling for new colleges in the State at 75.

2. Eventhough notice was issued to all the respondents, who have obtained NOC, some of them have only appeared and from among those appeared only a few have filed counter affidavits. In the normal course, OPs are not ripe for hearing as service to all the respondents is not complete. However, in view of the appearance of substantial number of contesting respondents and since as of now only general issues arise and individual cases of respondents are not considered, I heard counsel for the petitioners, Addl. Advocate General appearing for the State and counsel appearing for the respondents who have entered appearance and have also perused counter affidavits filed and the expert committee report submitted along with the counter filed by the State. After hearing the parties, I am of the view, that there is no need to wait to serve notice for the rest of the respondents because so far, the Government have not identified 75 applicants who are relatively more eligible to start B.Ed. colleges, subject to approval by NCTE and affiliation by the University. Since the individual case of each of the respondents is not to be considered by this Court at this stage and no adverse order is going to be issued in the case of any individual respondent, I feel the O.Ps. can be disposed of without waiting for completion of service and appearance by respondents of the respondents. Further waiting for their appearance and granting time for filing counter affidavit will only cause further delay in disposal of OPs. which will be prejudicial to their own interest. Therefore I proceed to dispose of the Original Petitions, especially because 237 out of 291

applications were filed with the Government in the year 2001 itself for NOC for commencing the course for the academic year 2002-03 and even for 2003-04 academic year; at least the eligible will not be able to commence the course.

3. Though the contention raised by the petitioners is against grant of NOCs to start 291 B.Ed. colleges in the State, the same does not survive any longer as the Government has fixed the limit at 75 based on recommendation by the expert committee. While the petitioners now contend that the fixation of 75 itself is excessive and arbitrary, the applicant-respondent contend that Government cannot fix a ceiling at 75 which will involve revocation of NOC for 216 applicants who have already been granted NOC by the Government.

4. The main contention raised by the learned counsel appearing for the petitioners is that Government granted NOC to large number of applicants on political and extraneous considerations. The allegation is that Govt. by granting NOCs indiscriminately is permitting education to be carried on as a business. I do not think there is any difference between the managements running the existing colleges and those want to open new colleges. Whatever be the other motivating force behind these institutions or managements, massive investments are made by the self-financed colleges not just as social service, but for earning profit as well. However, I do not think there is any conflict between these two concepts. In other words, educational institution can achieve its larger objective of providing educational opportunities to large number of the needy and simultaneously earn profit. The opening of large number of self-financed professional colleges recently in the State in response to the liberalised policy of the Government is sufficient encouragement and justification for the Government to permit more such institutions in diverse fields of education. The contention raised by counsel appearing for the respondents is that the petitioners have no locus standi to challenge the NOCs and their motive is only to prevent competition and ensure monopoly. The respondents also relied on the decision of the Supreme Court in *Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others*, wherein the Supreme Court rejected the challenge against the grant of NOC to a cinema theatre raised by a rival businessman. I do not think this decision can be applied to the facts of this case. Section 12(m) of the NCTE Act 1993 itself Mandates that the Council should take all necessary steps to prevent commercialisation of teacher-education, which applies to Govt, also at the stage of grant of NOC. Eventhough petitioners may have business-interest, I do not think the same will disqualify them from filing the OPs. "Commercialisation" of education prohibited or discouraged under the Act does not all together exclude generation of profit from an educational institution. The object of an educational institution should be essentially service and profit is only incidental. However, if the motive is only to make profit, then the Government and NCTE should not encourage such institutions and petitioners also can complaint against it. Apart from the motives of the petitioners, and protection of their interest, education involves public interest and this Court should protect public interest; no matter whoever brings the matter to the Court. Above all the Govt.'s decision to reduce

the number of NOCs from 291 to 75 itself justified the filing of the OPs. Therefore the objection against maintainability of the OPs is not sustainable.

5. I have gone through the expert committee report submitted along with the counter affidavit filed by the State. The committee has analysed the data gathered about the number of graduates and post-graduates coming out of the Universities in the State every year, and estimated ten per cent of such graduates and post-graduates as eligible and desiring to join for B.Ed. course. Further they have also taken into account the estimated number of qualified teachers required in the State. Therefore I do not think the decision of the expert committee can be questioned for the reason that the decision is not based on any study. The recommendation of the committee for the number of new colleges to be permitted is based on the number of seats required for B.Ed. course which is estimated at 10% of degree and PG students qualifying in the State every year for admission. Petitioners have a case that there is employment potential annually in the State only for around 1000 and an average of 8000 B.Ed. students are coming out from the existing colleges in the State, and therefore there is absolutely no scope for opening any more B.Ed, colleges in the State. I do not think this argument is sustainable for the reason that employment potential in the State should not be the sole criteria for providing educational facilities to the students in Kerala. In fact, it is well-known that large number of employment-seekers leave the boundaries of the State and of the country and look for employment outside the State and even in other countries. No one can deny the fact that large number of people educated in Kerala are gainfully employed out of Kerala and out of India. The view of the Expert Committee that seats should be provided to the possible number of students eligible and desiring to join for the study and should not be just based on potential for employment in the State alone, I feel, cannot be said to be a wrong approach. It is not the duty of the State nor is it possible to provide employment to all the qualified people in the State depending upon their eligibility. ON the other hand, the State should provide facilities for education to equip the people fit for employment elsewhere. Going by the report, the expert committee has taken into account the number of graduates and post-graduates coming out of the Universities in the State and they suggested that ten per cent of such candidates should be pursuing teaching as career and they fixed the number of colleges, keeping in view the availability of students at around 10%. The State Government endorsed the views of the Committee and it's recommendation to permit 75 more B.Ed. college in the State. However, one important aspect which is not discussed in detail in the report is about the availability of teaching staff to cater to the needs of the existing and proposed colleges, additionally 75 numbers. Of course this is a matter to be considered by the NCTE while granting approval and therefore the committee probably left it to be considered by NCTE while considering recognition. It has been observed by the Division Bench in the above referred judgment that it is for the Government to fix the number of B.Ed. colleges required for the State and notforthis Court to decide the same. In view of this

view taken by the Division Bench there is no need for this Court to sit in appeal over the decision of the Government in fixing the number of further colleges required in the State at 75. Having regard to the availability of eligible candidates desiring to undergo B.Ed. course, I do not think the decision of the Government to grant NOC to another 75 colleges over and above 97 or so said to be existing now can be questioned. Therefore there is no scope for contest on this issue and the Government's decision to permit 75 new B.Ed. colleges in the State, cannot be disturbed by this Court. Eventhough individual respondents does not have any grievance as of now, certainly they will also be aggrieved because out of 291 NOCs issued 216 applicants on further screening will forfeit their right to pursue their applications. i do not think this issue should be left open any longer and the above findings rendered in the context of petitioners applies as against the respondents as well and the Government's decision to permit new 75 B.Ed. colleges in the State stands upheld.

6. As already pointed out the Government revived the committee by Ext. R2(1) order to scrutinise the applications submitted by various applicants for NOC pursuant to the direction issued by the Division Bench. However, it is conceded that apart from fixing the number of colleges required in the State at 75, the committee has not scrutinised the application filed by any of the applicants or considered their eligibility on merit for NOC. Government's stand is that number of new institutions required in the State only need be granted recognition by the NCTE and they have been intimated it. According to the Govt. it is for the NCTE to conduct enquiry and grant recognition to 75 applicants out of 291 issued NOC. Eventhough it is not specifically mentioned in the statement filed on behalf of the NCTE, standing counsel contended that every application to NCTE for recognition has to be accompanied by NOC issued by the State Government and there is no provision for the NCTE to select from among eligible, the number required for the State. Therefore it is for the State Government to consider NOC for each institution and once NCTE finds that such an institution conforms to the norms prescribed by them, the institution will be granted recognition. Therefore while the State Government left it to the NCTE to choose 75 eligible applicants, the latter takes the stand that it is for the State Government to scrutinise the applications and to forward only such number of applications which have to be considered for recognition. In this context, I feel the stand taken by the State Government is not correct. The contention raised by respondents-applicants is that there is no scope for reconsidering NOCs issued to them by the State Government again and once NOCs are issued, they cannot be recalled or revoked. In other words, according to the contesting respondents, NCTE has to process all the applications submitted along with NOC and once recognition is granted, applicants are entitled to start the institution subject to affiliation by the concerned University. I am unable to accept the proposition put forward by the applicant-respondents, who have been issued NOCs by four separate Government orders, as stated by the second respondent in their counter affidavit. It is seen that 286 applicants were issued NOCs by order dated

27.12.2002, and by two separate orders dated 28.12.2002 one applicant each is granted NOC and by order dated 30.12.2002 three applicants were granted NOC by the Government. It is also conceded on behalf of the State Government that NOCs were issued to all the applicants. Of course this only shows that the State Government has not shown any favouritism, or discrimination in regard to issue of NOCs for which they have received applications. They have considered everyone equally eligible and NOCs were issued to all the applicants. The question is whether this is the kind NOC that is contemplated under the Regulations of NCTE. No one can dispute that the grant of recognition and control of B.Ed. education are governed by the provisions of the National Council for Teacher Education Act, 1993 and the Regulations framed thereunder Regulation 6(1) dealing with NOC from State Government is as follows:

6. Requirement Of No. Objection Certificate from the State Government/U.T. Administration:

(i) Application from every institution seeking recognition to start a course or training in teacher education or from an existing institution seeking permission to start a new course or training and/or increase in intake shall be accompanied by a No Objection Certificate (NOC) from the State or Union Territory in which the institution is located.

(ii) The endorsement of the State Government/UT Administration in regard to issue of No objection certificate (NOC) will be considered by the Regional Committee while taking a decision on the application for recognition.

(iii) If the NOC issued by the State Government/UT Administration does not indicate the intake, it will be for the Regional Committee to determine the intake taking into account the infrastructural and instructional facilities available in the institution and other relevant provisions in the Norms and Standards applicable to the relevant teacher training programme.

(iv) The NOC issued by the State Government/UT Administration will remain valid till such time the State Government/UT Administration withdraws/cancels it.

(v) The NOC will be deemed to have lapsed if the institution fails to get recognition within three years from the date of its issue.

(vi) Requirement of NOC shall not apply to Government institutions.

(vii) Requirement of NOC shall not apply to University Departments for taking up innovative teacher education programmes for a maximum intake of 50 (fifty only). The question as to whether a programme is innovative will be decided by the concerned Regional Committee.

From the above, it is clear that NOC has to be issued to every institution after considering the individual case of the institution. In fact it is evident from Sub-regulation (iii) of Regulation 6 that the State Government is even free to indicate the intake capacity of the institution based on infrastructural and instructional

facilities available in the institution and other relevant provisions in the Norms and standards applicable to the relevant teacher training programme. In other words, even though the State Government is not supposed to decide the matter finally, NOC should be issued only after taking into account the capacity of the institution to start the course and based on facilities available under the Norms. Therefore what is contemplated is not issue of bulk NOC to all the applicants, irrespective of their merit or eligibility, as was done by the State Government, but decision on individual application based on merit. Since it is now conceded by the State Government that NOCs were issued to all the applicants in a mechanical manner, and not after studying each case, there is total abandonment of the responsibility vested in the State Government under Regulation 6 in the process of setting up of B.Ed. colleges. Now that after issuing NOC to 291 applicants, the State Government by fixing the upper limit of number of colleges that could be started in the State at 75, has by its own conduct virtually withdrawn NOC issued to 216 non-specified applicants. It is not proper or permissible on the part of the State Government to require the NCTE to select 75 eligible candidates from out of 291 applicants in whose favour NOCs have been issued for recognition. So far as NCTE is concerned, they are not concerned about the academic needs of the State, the location of the institution depending upon the area where the Government seeks development, etc. These are matters to be considered by the State Government and applications for NOCs have to be processed keeping in view the policy of the State Government in regard to number of colleges needed in the State, area-wise or District wise allotment of the colleges, preference to institutions which propose courses in subjects where there is shortage of teachers in the State, etc. These are essentially policy matters on which NCTE has no role and are only to be considered by the State Government, while issuing NOC. Therefore the State Government cannot abandon its responsibility in regard to issue of NOCs to the applicants after considering the facts of each case and NCTE is bound to process the applications only after proper NOC is issued by the State Government in favour of the individual applicants. In fact if the argument of the State Government is accepted and NCTE processes the applications and after scrutiny NCTE finds more than 75 applicants are eligible for recognition, then there is no method by which NCTE can choose 75 and refuse recognition to the rest who are also found eligible for recognition. In other words, once NCTE finds eligibility for recognition, they cannot stop the institution from commencing the course. Probably Government means that NCTE can go for relative merit of the applicants and the best among 75 can be granted recognition. Though such an elimination process is fair and reasonable, it has to be done by the State at NOC stage and is not contemplated at the stage of recognition, nor within the jurisdiction of the NCTE under the provisions of the NCTE Act or Regulations. The expert committee appointed by the Government has only done part of their job and the balance still remains to be done, which is selection of 75 eligible applicants from among those who have been issued NOC by the State Government earlier. Of course, NOCs are issued with reference to the ability of the applicants to start the course



within a time frame based on their financial ability in this regard, availability of land, building, laboratory and other infrastructural facilities. It appears from the Form prescribed that pending setting up of these facilities, applicants can make applications for recognition to the NCTE. In other words, in the course of processing of applications, the applicants can acquire all the facilities and on being satisfied, the NCTE will grant recognition. Out of 291 applicants granted NOC, 231 applicants have filed applications in the year 2001 itself for commencing the course in the year 2002-03. Pending clearance of applications, many would have invested in land, building and development of other infrastructural facilities. Therefore Government should go by relative merit of the applicants and those who have already acquired facilities, like land, building, lecture halls, laboratory and other infrastructural facilities should be preferred against those who are yet to acquire the same. It is seen from the Government decision based on recommendation by the expert committee that fixation of number of new colleges to be started is based on districtwise requirement ranging from 2 to 11 in every District apparently depending upon the backwardness of the district and probably considering the existing number of colleges. I do not think this should be and could be strictly adhered to in the present dispensation where 291 are waiting for just 75 opportunities. If on relative consideration of the 291 applicants, those with superior claim cannot be granted on account of the District-wise limits in number, the same should be ignored or otherwise the applicant with superior eligibility in a District may not get while another without any facility and who has not started anything may be found eligible by virtue of its location alone. Therefore consideration of applications should be on State level basis depending upon their relative eligibility and the Government has to select 75 out of 291 applicants who have better facilities available with them and issue NOC in their cases to the NCTE at the earliest. On receipt of such recommendation, which is the NOC that is contemplated under Regulation 6 of the NCTE Regulation, the NCTE will consider their cases for recognition in accordance with their Norms. So far as the other 216 applicants are concerned, NOCs earlier issued to them will have to be ignored as such NOCs cannot be treated as NOCs in accordance with the NCTE Act and Regulations. In fact the need to consider NOC to any other applicant over and above the 75 now being granted as stated above arises only if and when the Government proposes to grant approval for commencement of more B.Ed. colleges in the State. It is important to note that the NCTE will have to process only 75 applications and they are therefore bound to refund the application fee remitted in respect of other applications together with any other deposit made by them. This has to be done after receipt of NOC from Government for 75. However, the position is different in so far as the processing of applications for NOC by the State Government is concerned because in the process of selection of 75 eligible applicants, the State Government has to consider the case of all the applicants applied for NOC and who have been apparently granted NOC. Therefore every application gets considered and is decided on merits. It is open to those applicants to contest the decision taken by the Government in regard to the

grant of NOC, if there is overlooking of superior claim of any applicant and NOC granted to the relatively less eligible.

7. Eventhough the State Government has only the role of fixation of number of B.Ed. colleges to be started in the State and grant of NOC, it is the responsibility of the NCTE to ensure that recognition is granted only if the Norms are strictly satisfied. In the case of some B.Ed. colleges whose cases have come to this Court, it was found that many institutions do not have exclusive qualified teaching staff. I make it clear that under no circumstances NCTE should dispense with this essential requirement of instructional facility, which is not any less important than the infrastructural facility. It is the qualified teachers who should train the students and no facilities can substitute them. There is a general complaint that in many self-financed institutions, there is lack of qualified teaching staff and therefore NCTE will grant final approval only when it is satisfied that the institution has qualified teaching staff. It is clear from the counter affidavit that there is dearth for qualified teachers for appointment in the B.Ed. colleges. Government has conceded in the counter affidavit that in the absence of National Eligibility Test Qualified hands, the State is contemplating conduct of State level Eligibility Test in line with the same conducted in other States. Therefore the problem of shortage of teaching staff is yet to be solved and I do not know how these new institutions can find qualified teachers for appointment in their colleges when started. Therefore needless to mention the NCTE will finally grant approval only if it is fully satisfied that the proposed institution has exclusive teaching staff available with them. Of course as massive investment is required in setting up of college with all the infrastructural and instructional facilities, the NCTE should not frustrate their expectation of recognition in the last minute after whole investments are made. This could be achieved by the NCTE by progressively watching the stages of setting up of the colleges, such as construction of building to house all the facilities, acquisition of lab equipments, etc., and then about the teaching staff and other staff in the college. In fact it is open to the NCTE to grant provisional or conditional recognition at a later stage of acquisition of infrastructural facilities on condition of appointment of exclusive qualified teaching staff to the satisfaction of the NCTE. As and when qualified teachers are appointed, final approval should be given by NCTE.

8. Another important aspect to be taken into account by the NCTE and the University while considering the applications is selection process for giving admission to students. From the report of the expert committee constituted by the Government it is seen that only around ten per cent of the graduates and post-graduates every year from the five Universities of the State are considered possible aspirants for admission to B.Ed. course. It is not known as to what is the process of selection. it has to be necessarily through an Entrance Examination or based on marks for qualifying examination. If Entrance examination is conducted, the same offers flawless selection process based on merit and the best will get selected. On the other hand, if minimum marks is to be prescribed

as qualification for admission, then it should be kept at the highest level possible depending upon the subject and scoring by the students.

9. In view of the fact that the process of NOC and recognition has not reached any stage, it would be absolutely improper on the part of the management to advertise and call for applications for appointment of teaching staff or for admission of students. Appointment of teaching staff and other staff and the process of admission of students to the course should be the last stage in the process of commencement of the college. Therefore appointments should be made only if conditional or provisional recognition is granted by the NCTE and applications for admission of students should be invited only after final approval is granted by the NCTE, which is a necessary precondition for starting B.Ed. college.

10. In view of the findings and observations above, O.P.s are disposed of with the following directions:

1. The State Government will get the 291 applications processed by the expert committee already constituted for this purpose by Ext. R2(1) or to be constituted again at the earliest which will select 75 applicants among the 291 based on relative merits and based on the recommendation of the Committee, the Govt. will issue NOC to 75 applicants by a common or separate orders. The committee should be able to eliminate many who do not have any infrastructural facilities, by a scrutiny of the applications and accompanying documents. After short-listing, prima facie eligible applications, the committee should conduct inspection, consider the relative merits of the claims and process of selection should be absolutely fair and transparent and the applicants with existing infrastructural facilities should be preferred as against those who are yet to acquire it. Relative investments in land development and building should be taken into account while considering NOC to such institutions to avoid loss on account of denial of NOC. The selection on relative merit will be possible only if it is done on a State level basis and not on district-wise or areawise basis. However as far as possible the committee should adhere to the District-wise allocation of the number of college in the matter of NOC. First preference should be based on merit and preference based on location should apply only among similarly placed or equals.

2. NCTE will take up and consider the cases of 75 applicants in respect of whom the Government finally issues NOC as stated above, consider them and grant recognition to the eligible ones in the light of the observations above and in accordance with their Regulations and Norms at the earliest.

3. The applicants-respondents are prohibited from advertising or taking any step for appointment of teaching and non-teaching staff until the NCTE approves the same by provisional or conditional recognition or by separate proceedings, on being satisfied that such applicants institutions are eligible for recognition otherwise.

4. The respondents-applicants are also prohibited from advertising either by themselves or through agents or in any manner take any step for admission of students, unless final recognition is granted by the NCTE. The Govt. shall bring to the notice of this Court any violation of the above prohibition either in regard to appointments or admission before grant of conditional or final recognition by the NCTE.