
(2007) 05 AHC CK 0378

In the Allahabad High Court

Case No : C.M.W.P. No's. 39963 of 2004, 583, 4816 and 39246 of 2005

Indu Dwivedi and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-05-2007

Acts Referred:

Teachers Education Act, 1993 — Section 14, 3(1)

Citation : (2007) 7 AWC 7761

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Ashok Khare, D.K. Srivastava, A.K. Yadav and M.D. Singh "Shekhar", for the Appellant; R.P. Tewari, R.G. Padia, Prakash Padia, K.S. Kushwaha, Rajeev Joshi and C.B. Yadav and S.C., for the Respondent

Final Decision : Allowed

Judgement

Arun Tandon, J.—Heard Sri Ashok Khare, senior advocate assisted by Sri D. K. Srivastava, Sri A. K. Yadav, advocate on behalf of the Petitioners, Sri R. P. Tewari and Sri Prakash Padia, advocates on behalf of Bundelkhand University, Sri Rajeev Joshi, advocate on behalf of National Council for Teachers Education, Sri C. B. Yadav, learned chief standing counsel on behalf of State-Respondents.

2. Since the basic facts, relevant for decision of the dispute and the legal aspects involved are identical in all these writ petitions, they are being decided by this common judgment. The facts recorded in Civil Misc. Writ Petition No. 39963 of 2004 are being stated for the purposes of present judgment treating the same to the leading case.

3. All the Petitioners in this bunch of writ petitions were admitted to B.Ed. Course (One year degree course), which was termed as B.Ed. Special Scheme, offered by the Bundelkhand University, Jhansi in the academic session 1996-97. Petitioners claim to have admitted in various affiliated degree colleges as regular students for the said course. Petitioners appeared in final examinations

conducted by the University and they were successful and have been issued necessary degrees of B.Ed. The State of Uttar Pradesh under Government order dated 14th November, 2004, decided to conduct Two Years Special Basic Training Course, 2004. The State Government under advertisement dated 22nd January, 2004, invited applications from the candidates, who were holders of a degree of B.Ed. for Special Basic Training Course. This course was named as Special Basic Training Course, 2004. As many as 46,189 vacancies were advertised.

4. Petitioners applied in pursuance of the advertisement so published stating therein that they are bona fide holders of a degree of B.Ed. from the Bundelkhand University, Jhansi.

5. After scrutiny of the forms as well as the qualification and other norms, a list of selected candidates for admission to Special Basic Training Course, 2004 was published on 15th July, 2004. Names of the Petitioners were not included in the list so published. Reasons disclosed to the Petitioner is that there were not holders of a degree of B.Ed. recognised as such by the National Council for Teachers Education, therefore, not qualified. Petitioners have approached this Court by means of these writ petitions referred to above. In some of these writ petitions an interim order was granted by this Court, wherein it was provided that the candidatures of the Petitioners for admission to Special Basic Training Course, 2004 shall not be rejected only on the ground that they have obtained degree of B.Ed. from the Bundelkhand University, Jhansi.

6. On record of Civil Misc. Writ Petition No. 583, Kumari Nivedita Singh v. State of U. P. and Ors. Civil Misc. Writ Petition No. 583, there is an order passed by the Director of State Council for Educational and Research and Training, U. P., Lucknow dated 30th October, 2004, wherein it has been recorded that students who had obtained a degree of B.Ed. in pursuance to the final examinations held in the year 1997 by the Bundelkhand University are not qualified as the institutions and the University were not recognised as such by the National Council for Teachers Education, therefore, ineligible for admission to Special Basic Training Course, 2004. It has been clarified that the institutions, where the Petitioners were admitted as regular students for the B.Ed. Course, have not been recognised by the National Council for Teachers Education, the students cannot be said to be possessed of a recognised degree of B.Ed. for being admitted to Special Basic Training Course, 2004.

7. The issue up for consideration in all these writ petitions before this Court is as to whether the degree of B.Ed. obtained by the Petitioners is to be taken as valid degree for being admitted to Special Basic Training Course or not.

8. The Bundelkhand University, Jhansi is a State University established under the U. P. State Universities Act, 1973. 11 degree colleges which were affiliated to the said University were imparting education for the B.Ed. Course, since prior to the enforcement of National Council for Teachers Education Act, 1993. It is on record that said institutions were not accorded recognition under the National Council

for Teachers Education Act, 1993 after its enforcement and still continued to impart education in the B.Ed. Course. Petitioners were admitted in these institutions and ultimately appeared in the examinations conducted by the University in the year 1997. The impact of the National Council for Teachers Education Act, 1993 and Rules framed thereunder, on the degrees obtained by the Petitioners, has to be examined.

9. It would be worthwhile to reproduce Section 14 of the National Council for Teachers Education Act, 1993, which reads as follows:

14. Recognition of Institution Offering Course or Training in Teacher Education.--

(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:

Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

10. From the aforesaid Section it is established that no institution shall impart education in teachers training without the approval of the National Council for Teachers Education and all such institutions, which were already imparting education were required to obtain recognition within six months from the appointed day.

11. u/s 3(1) of the Act, 17th August, 1995 was declared to be appointed day. For the purposes Section 14 period of six months, therefore, would expire on 16th February, 1996. This period of six months was extended from time to time in following manner:

(i) first extension was provided upto 1st April, 1997 ;

(ii) second extension was provided upto 15th May, 1997;

(iii) third extension was provided upto 18th August, 1997 ; and (iv) last extension was provided upto 31st March, 1999.

12. It appears that applications were filed by the institutions for recognition in terms of Section 14 of the Act, however, there is nothing on record to establish that institutions were in fact granted recognition by the National Council for Teachers Education at any point of time or not, nor the institutions have approached this Court. Therefore, on the basis of the record as stands, it cannot be recorded as to whether subsequent to the last cut off date, i.e., 31st March, 1999 institutions in fact have been granted recognition by the National Council for Teachers Education or not. However, the aforesaid aspect is not material for the purposes of adjudicating upon the controversy in hand, inasmuch as the

relevant year in which Petitioner had obtained the degree of B.Ed. is 1996-97.

13. Learned Counsel for the Petitioner with reference to the Division Bench judgment of this Court in the case of *Special Appeal No. 630 of 2005, Ekta Shukla and Ors. v. State of U. P. and Ors.* *Special Appeal No. 630 of 2005*, decided on 9th December, 2005 and in other connected special appeals, submits that the degree of B.Ed. having been granted in favour of the Petitioners in the year 1997 would continue to be valid, even if institutions have ultimately not been granted recognition, inasmuch as for the relevant period between 1995 to 1999 the colleges in question were permitted to continue to impart education of B.Ed. course in view of the extension of the appointed date by the National Council for Teachers Education itself and therefore, the degrees provided for by the University for during the period, which is much prior to 31st March, 1999 would not be adversely affected.

14. Faced with the aforesaid contention, learned Chief Standing Counsel as well as Sri Rajeev Joshi, learned Counsel for National Council for Teachers Education state that applications made by the institutions in question were returned, unprocessed by the Northern Regional Committee of National Council for Teachers Education, Jaipur as per its meeting dated 4/5th February, 1998 on the ground that institutions cannot be treated to be existing, as the applications for recognition were received beyond the cut off date. This decision of the Northern Regional Committee, Jaipur of National Council for Teachers Education was communicated to the institutions concerned, which did not take any further action and as per the information, these institutions have stopped imparting education for the B.Ed. Course after 1997. It is therefore, stated that the degrees obtained by the Petitioners are therefore, not recognized degrees of B.Ed. as the institutions where the Petitioners were admitted to B. Ed. course, have not been recognised by the National Council for Teachers Education.

15. I have heard learned Counsel for the parties and have gone through all these writ petitions.

16. The controversy with regard to the running of the existing institutions subsequent to the appointed day as mentioned u/s 3(1) of the National Council for Teachers Education, till the last extension provided, i.e., 31st May, 1999 has been subject-matter of consideration before the Division Bench of this Court in the case of *Ekta Shukla and Ors. v. State of U. P. and Ors.* (supra). Contention raised on behalf of learned standing counsel as well as on behalf of National Council for Teachers Education runs contrary to the findings recorded by the Division Bench of this Court in the case of *Ekta Shukla and Ors. v. State of U. P. and Ors.* (supra). Suffice it to reproduce the relevant portion of the aforesaid Division Bench judgment, which reads as follows:

The basic finding of his Lordship, which has gone against the Appellants, is as follows:

The degrees, however, for the academic year 1996-97, pursued in the affiliated

Colleges of the University and for the years 1997-98 and 1998-99, both for the Faculty of Education by the University and the affiliated Colleges is not valid, as the University and Colleges were not recognised for these academic sessions. These qualifications shall not be treated to, valid for the purposes of pursuing Special B.T.C. Course-2004 and public employment.

Some submission was attempted to be made before us that the extension of the last date by the National Council first upto August, 1997 and then again upto March, 1999 is invalid. This submission has got to be rejected as otherwise all recognition for B. Ed. courses in all the Colleges would fall to the ground.

The second support to the impugned judgment made on behalf of the Respondents before us was derived from the fact of delay, which was made by the Colleges in applying themselves for their own recognition. This delay is not delay at all, if the facts are properly gripped. The delayed applications were ultimately allowed ; the authority allowing the applications did not ever look upon the applications as delayed beyond time. Those were submitted within the year 1997 ; time was again granted in 1999 to submit the applications by March, 1999. The argument of the Respondents was that this second extension was granted only for those colleges, which are continuing and which had not made applications for recognition even by that time. If the Colleges, which are involved in our case are to be held as disqualified from making of applications for recognition in 1999 because they had already applied, then their earlier applications cannot also in the same breath be held as invalid.

If this was to be done, they would be put in a worse position than the Colleges applying for recognition two years later than them and this simply cannot be.

....

It is declared that the degrees for the academic years 1996-97, 1997-98, 1998-99 and indeed for all academic years pursued either in the Faculty of Education of the University or in any of the affiliated Colleges in question, is valid, and that the qualifications granted by these bodies shall be treated to be valid for the purposes of pursuing Special B.T.C. course, either of the year 2004 or any other year and for public employment. We take note that the Colleges themselves are not parties before us, but the University is a party and nine (9) students have come in appeal.

It is not necessary that the Colleges have to be made parties as the case has been argued by the contestants including the State, which is a very material Respondent, who will be particularly bound by our orders.

The students admitted to Special B.T.C. course, holding degrees which have been declared by us to be valid will be treated to have been normally admitted ; they will be permitted to conclude their courses in the usual course and will be given facility of training and admission to such training again in the normal and usual course.

17. In view of the aforesaid Division Bench judgment of this Court nothing further survives to be considered by this Court, inasmuch as judgment of Division Bench is binding upon this Court and the reasons assigned therein are being adopted by this Court in its entirety.

18. All the writ petitions are allowed accordingly.

19. Petitioners are declared to be holders of valid degree of B.Ed. Their applications for admission to Special Basic Training Course-2004 are to be examined, treating them to be qualified. In case they have already been admitted, Petitioners shall be permitted to conclude their courses. After they complete their course and training in normal and usual course.