
(2010) 04 AHC CK 0350
In the Allahabad High Court
Case No : C.M.W.P. No. 17253 of 2010

Kumari Ankita

APPELLANT

Vs

Principal District Education and Training Institute (D.I.E.T.)
and Others

RESPONDENT

Date of Decision : 05-04-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16
National Council for Teacher Education Act, 1993 — Section 14(1), 16

Citation : (2010) 6 AWC 6112

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : A.K. Sachan and Saurabh Sachan, for the Appellant; C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Heard learned Counsel for the Petitioner and learned Counsel for the State-Respondents.

2. Petitioner before this Court made an application for being considered for admission to Special B.T.C. Course. 2008, her application for such admission to the B.T.C. Course was not being processed, she, therefore, filed Writ Petition No. 55374 of 2009. The writ petition was disposed of vide order dated 30.10.2009 requiring the Director. State council for Educational Research and Training, Lucknow to examine the grievance of the Petitioner within the time specified.

3. By means of the impugned order dated 29.12.2009 the Director has held that in view of the order of status quo of the Hon'ble Supreme Court in SLP Nos. 4854-4856/2009 no orders for Petitioner being admitted to B.T.C. Course, 2008 can be issued. The present writ petition has been filed against this order of the Director.

4. Facts in short relevant for deciding the controversy are as follows:

The Petitioner obtained a degree of B. Ed. from Sant Paramhans Guru Prasad Balika Degree College, Mohill district Faizabad, Uttar Pradesh in the year 2008 which according to the Petitioner is referable to the academic Session 2007-2008. On the strength of such B. Ed. Degree, the Petitioner applied for being admitted to B.T.C. Course, 2008. The candidature of the Petitioner has not been accepted in view of the fact that the institution from where the Petitioner has undergone, her B. Ed. training was not recognised by the National Council for Teacher Education for the said academic Session 2007-2008.

5. It will not be out of place to record that a Full Bench of this Court in the case of Bhupendra Nath Tripathi and Ors. v. State of U.P., 2009 (1) AWC 769 (FB) in Special Appeal No. 858/2008, has held that the students who have obtained a degree of B. Ed. from institutions whose application for recognition was pending in the relevant academic year before the N.C.T.E. are holders of valid degree of B. Ed. and are entitled to be considered for the admission of B.T.C. Course. The judgment of the Full Bench of this Court has been subjected to challenge before the Hon"ble Supreme Court by the State of Uttar Pradesh in Special Nos. 4854-4856/2009 wherein following interim orders have been passed on 12.5.2009.

In the meanwhile, we direct that the status-quo with regard to the training of the Respondents shall remain stayed.

Meaning thereby that even in respect of those candidates, who have been admitted in view of the Full Bench judgment the order of status-quo qua their training has been stayed by the Hon"ble Supreme Court.

In view of the said order of the Supreme Court, the Director has rightly refused to grant permission to the Petitioner for admission to B.T.C. Course, 2008.

6. It is admitted on record that permission u/s 14(1) of the N.C.T.E. Act, 1993 has been granted by the Northern Regional Board of N.C.T.E. to the institution only under letter dated 29.1.2008 and it is only thereafter that students can be admitted to B. Ed. Course by the Institution inasmuch as after recognition, the institution has to obtain affiliation from the examining body, i.e., university concerned as per Section 16 of Act 1993.

7. Learned Counsel for the Petitioner has placed reliance upon the answer given by the Full Bench to question No. 3 referred to in the case of Bhupendra Nath Tripathi (supra) wherein it has been held as follows:

The question No. 3 has two parts. Two categories of candidates are included therein ; firstly the candidates who have obtained B. Ed. degree prior to enforcement of National Council for Teacher Education Act, 1993 and secondly the candidates, who have obtained degree after the enforcement of National Council for Teacher Education Act, 1993 during the period when the application of their institution or the University for recognition was pending consideration. The question is as to whether exclusion of the aforesaid two categories of

candidates from the field of eligibility for the Special Basic Training Course, 2007 is arbitrary and unreasonable violating Articles 14 and 16 of the Constitution of India. Taking second part first, i.e., exclusion of the candidates who have obtained the degree when the application of the institution or the University was pending, as discussed above while answering question Nos. 1 and 2, it has been held that the degree obtained during the aforesaid period is valid and running of the course having been expressly recognised by the National Council for Teacher Education Act, 1993 itself by Section 14(1) proviso, hence the exclusion of such candidates cannot be justified.

8. I am of the considered view that reliance placed upon the judgment of the Full Bench by the counsel for the Petitioner is totally misplaced. Question No. 3 pertains to the institution which were already running B. Ed. Classes and were affiliated to various universities of the State of Uttar Pradesh, prior to coming into force of the N.C.T.E. Act, 1993 and in respect of such institutions, the date for making the applications for recognition under the N.C.T.E. Act was extended from time to time. Therefore, the Full Bench after noticing the provisions of Section 14(1) of N.C.T.E. Act held that in respect of such institutions, the candidates admitted cannot be excluded from the zone of consideration, in view of the specific language of the Act, 1993 itself which permitted the running of the institutions while their application for recognition was pending.

9. In the facts of the case, at hand, it has not been contended that the institution from where the Petitioner obtained her B. Ed. Degree was affiliated to any university prior to enforcement of N.C.T.E. Act, 1993 nor it is the case of the Petitioner that B. Ed. Classes was running in the said institution prior to coming into the force of N.C.T.E. Act. 1993.

10. As a matter of fact, the institution made an application for grant of recognition for B. Ed. College before N.C.T.E. for the first time and in response thereto an order under Clause 7 (11) of the N.C.T.E. regulations was passed on 29.9.2006. Such order is provisional and subject to fulfilment of appointment of qualified faculty members. It is after the qualified teachers are appointed that the institution that formal order under Rule 7 (12) is to be issued by the Northern Regional Committee as contemplated u/s 14(1) of N.C.T.E. Act.

11. It may be noticed that institution does not get any authority to admit students to B. Ed. Course merely on issuance of a letter referable to Regulation 7 (11). The power to admit students is derived only after an order of Regulation 7 (12) is issued and after affiliation is granted by the examining body, i.e., the authority and not on any date prior the same.

12. In view of the aforesaid, neither the case of the Petitioner is covered by the Full Bench of this Court nor he has been able to establish that for the academic Session 2007-2008. The institution from where she has undergone B. Ed. training was recognised by N.C.T.E.

13. At this stage, learned Counsel for the Petitioner contended that actually the

institution admitted the students for previous academic session, i.e., 2007-2008 after recognition was granted by the N.C.T.E. under Clause 7 (12), as the session was delayed. It is pointed out that the Petitioner was admitted on 26.3.2008. I am of the considered opinion that no institution can admit students for any poor academic session than that referable to the date of recognition u/s 14(c) of 1993 Act.

14. In the facts of the case, the institution could have admitted students only for the academic Session 2008-2009 and not for any academic Session prior to it, howsoever delayed the session may be.

15. There is no merit in the writ petition and is accordingly dismissed.