
(2011) 01 MAD CK 0359

In the Madras High Court

Case No : Writ Petition (MD) No. 6784 of 2010 and M.P. (MD) No's. 1, 1, 2, 3 and 4 of 2010

KVK Educational Development Trust

APPELLANT

Vs

The Registrar, Tamilnadu Teacher Education University

RESPONDENT

Date of Decision : 28-01-2011

Acts Referred:

Citation : (2011) 01 MAD CK 0359

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : E. Vijay Anand, for the Appellant; K.M. Vijayakumar, for R1 and S.V. Vijay Prashanth, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner in both the writ petitions is one and the same Trust. The trust is represented by its Trustee. In the first writ petition, the Petitioner sought for a direction to the Respondent Tamil Nadu Teacher Education University (for short Teacher Education University), Chennai to permit the students of the Petitioner institute admitted under the B. Ed course for the academic year 2009-2010 to take up examinations as scheduled by them. That writ petition was admitted on 20.5.2010. Pending the writ petition, this Court granted an interim direction directing the Respondent University to permit the students of the Petitioner institute admitted under B. Ed course for the academic year 2009-2010 to take up examinations as scheduled by the University.

2. Even while this writ petition was pending, the same management filed the second writ petition being W.P.(MD) No. 12226 of 2010 seeking to challenge an order, dated 19.8.2010 issued by the Teacher Education University and after quashing the same, seeks for a consequential direction to permit the Petitioner to admit the students for the academic year 2010-2011. When that writ petition came up on 28.9.2010, this Court directed the earlier writ petition to be posted along with this writ petition. Notice was directed to be given to the University.

The writ petition was not admitted by this Court. Even though an interim relief was sought for, in M.P.(MD) No. 4 of 2010, one K.N. Subramaniam, S/o. Kannappa Chettiar, a resident of No. 4/81, Prithvipakkam 3rd Avenue, Ambattur, Chennai-53 sought to impale himself in the writ petition. That impaled petition was not ordered. But the counsel appearing for him was allowed to participate as an intervener.

3. Heard the arguments of Mr. E. Vijay Anand, learned Counsel appearing for the Petitioner, Mr. R. Vijayakumar, learned standing Counsel appearing for the Teacher Education University and Mr. S.V. Vijay Prasanth, learned Counsel for the imp leading Petitioner.

4. The case of the Petitioner was that the Trust has nine members and was created on 17.10.2005. It had applied for permission to start B. Ed course. The NCTE by an order dated 10.9.2007 permitted the Trust to conduct second year B. Ed course with an annual intake of 100 students. They were also granted provisional affiliation by letter dated 14.1.2008 by the then Madurai Kamaraj University, to which it was originally affiliated. Subsequently, it was claimed that there was problem regarding the land in which the College was located. The land owner had tried to take forcible possession of the College with the help of the local police. A writ petition was filed in W.P.(MD) No. 9391 of 2009. It is claimed that this Court protected the interest of the trust so as to have ingress and egress to the college. In that writ petition, one P. Subbaraj, the Managing Trustee of PTV Education Trust and B.T. Kumar, a trustee of K.V.K. Educational Trust were made as parties.

5. The Petitioner subsequently filed W.P.(MD) No. 4036 of 2010 seeking for a direction to grant police protection which was also ordered by this Court on 30.3.2010. In the meanwhile, the Respondent Teacher Education University came into existence. They went for an inspection on 6.1.2010. Having found no one, they issued a show cause notice on 22.1.2010 asking the Petitioner to explain their status. In that show cause notice, the Petitioner was asked to show cause as to why action should not be taken to withdraw the provisional affiliation granted to the College in view of the precarious situation prevailing in the administration of the College administered by the two trusts, i.e. K.V.K. Educational Development Trust (Petitioner herein) and P.T.V. Educational Trust.

6. The show cause notice was replied by the Petitioner stating that they did not get prior notice of inspection. The students of the college were undergoing an internal teaching and observation practice. When the Petitioner sent a list of examinees and remitted the fees for the examination, the same was not received. Therefore, they have filed W.P.(MD) No. 2758 of 2010 and also got an interim direction to receive the examination fees paid by the institute on behalf of students who were admitted under the B. Ed course for the academic year 2009-2010. In the meanwhile, the Respondent University sought for a certificate in respect of seven candidates which was also furnished by them. But, however as there was no response from them, a writ petition was filed with an application

for an interim direction. Though amounts were paid and courses are undergone by the students, for 2009-2010 batch, they were not permitted to take up the examination. Therefore, they filed the present writ petition. Since examinations are scheduled on 25.5.2010, they have sought for an interim prayer as set out already.

7. In W.P.(MD) No. 12226 of 2010, the Petitioner claimed that the order dated 19.8.2010 disaffiliating the college by the Respondent Education University was wrong. The finding was that the land in which the college was running did not belong to the Petitioner trust. Until very recently the land was in possession of one K.V. Subramanian. The Revenue Divisional Officer in view of the dispute between the parties took away the key. A three member committee including a Syndicate member as its Convener inspected the college on 26.07.2010. It was pointed out that as per condition No. 3(iii) of the NCTE order dated 10.9.2007, the college has to shift to its own premises after three years, i.e. on or before 9.9.2010. No proof was adduced for having shifting the college to its own premises. Though the Correspondent of the Petitioner college vide his letter, dated 27.7.2010 had stated that he will make every arrangement for the functioning of the college as per the guidelines of the NCTE, it was not functioning. With reference to the qualifications of the Principal and the staff members of the college, the College had not provided any information to the University though it has now come under the purview of the University. Therefore, in the Syndicate meeting held on 10.8.2010, the entire related issues regarding K.V.K. College of Education, Thadikombu Road, Kallipatty Post, Dindigul District was discussed along with the report of the RDO, Dindigul regarding the possession of the property, the report of the inspection committee, dated 26.7.2010 and a letter, dated 27.7.2010 received from the Correspondent of the College. The University had resolved to disaffiliate the college from the University from the academic year 2010-2011. The said fact has also been communicated to the NCTE.

8. The imp leading Petitioner in M.P.(MD) No. 4 of 2010 claimed that he has a registered trust deed, dated 5.9.1994 under the name and style of AR.KN. Thenammai Aachi Educational Trust. He was initially the founder of the managing trustee. He had purchased the land and building at Chettinayakanpatti. He was running a Higher Secondary School under the name and style of Sentosa Higher Secondary School from 1994 to 2005. On account of senility, he was not able to administer the school. Since students strength had reduced, he wanted to sell the property.

9. Therefore, one B.T. Kumar had approached him as the Founder and Chairman of the B.T.K. Educational Trust. He had agreed to purchase the property. An unregistered sale agreement was entered into with the Trust. An advance sum of Rs. 10 lakhs was paid. But subsequently, within the time limit stipulated, no amount was paid. Thereafter, an extension of sale agreement was granted between his trust and B.T.K. Trust. The cheque given towards part consideration

was dishonored. Since the said B.T. Kumar was not ready and willing to purchase the property, the sale agreement got terminated. The said B.T. Kumar had filed as suit in O.S. No. 428 of 2007 on the file of the District Munsif, Dindigul. Though initially an interim order was obtained, the same was vacated.

10. Though B.T. Kumar claimed that he was inducted into possession, it was a false statement. His suit in O.S. No. 53 of 2009 for specific performance of the sale deed was also dismissed by the Fast Track Court, Dindigul on 30.08.2010. The very same B.T. Kumar had also founded K.V.K. Educational Trust by an another trust deed. The deponent of the affidavit C. Suresh is the brother-in-law of B.T. Kumar. B.T. Kumar wanted to grab his property and had entered into an agreement with one P.T.V. Trust to transfer the management of K.V.K. College of Education. A criminal case was also pending. There has been series of proceedings initiated by the said Suresh. Since they were about to grab his property, he made a complaint to the Superintendent of Police, Dindigul. A letter was also sent to NCTE. After an order was passed in W.P.(MD) No. 4036 of 2010 on 27.7.2010, they had illegally trespassed into the property and removed all the furniture's and other belongings of the school. Therefore, the claim that the Petitioner is running the College of Education is a bogus claim.

11. However, this Court is not inclined to go into the inter-se property dispute between the imp leading Respondent and the writ Petitioner. The averments made by him are merely referred to only for the sake of completion of narration.

12. In the counter affidavit filed by the Teachers Education University in W.P.(MD) No. 12226 of 2010, with reference to the report of the University committee, it was stated in paragraph 19 as follows:

19... I submit that the extract of the report given hereunder will depict the true picture of the character of the Petitioner institution.

It is intriguing to note that when the sale agreement is with BTK Trust, KVK Trust enters into a lease deed and rental agreement, for running KVK College. A cursory glance of the Rental Agreement said to have been filed to NCTE reveals that the signature of Thiru. Subramanian has been forged. A comparison with the copies of the agreement for sale deed and trust deeds will reveal the reality that the signature of Thiru. Subramaniam has been forged.

13. It was claimed that under condition No. 12 of the NCTE order, the University has to grant affiliation only after issuance of formal recognition. Under regulation 7(11) , the admissions of the students should be made only after affiliation by the University. Therefore, any admission of students in writing the examinations was not only illegal, but also not valid in law. Even the appointments of qualified Principal and Staff members was also not made available to the University. Further, the University was not made as a party to the proceedings before the civil court. The University is not willing to enter into this issue. It is suffice to state that the University had taken all steps to be satisfied itself about the bona fide of the Petitioner trust.

14. In view of the above stand, this Court is not inclined to entertain both the writ petitions. Hence both writ petitions will stand dismissed. However, there will be no order as to costs. Consequently, connected miscellaneous petitions stand closed.