
(2014) 06 MP CK 0185
In the Madhya Pradesh High Court
Case No : W.P. No. 3131/2014

Manodeep Higher Education

APPELLANT

Vs

NCTE

RESPONDENT

Date of Decision : 18-06-2014

Acts Referred:

Citation : (2014) 06 MP CK 0185

Hon'ble Judges : S.K. Palo, J;S.K. Gangele, J

Bench : Division Bench

Advocate : R.B.S. Tomar, Advocate for the Appellant; Hemant Bharadwaj, Advocate for Respondents Nos. 1 and 2, Advocate for the Respondent

Final Decision : Allowed

Judgement

S.K. Gangele, J.—Heard.

2. The petitioner has filed this petition against the order dt. 26.8.2013 (Annexure P/1).

3. The controversy involved in this petition has already been decided by the Division Bench of this court at Jabalpur in W.P. No. 21586/2013 (Matushri Ahilya Devi Teachers Education Institute and another Vs. National Council for Teachers Education and others) and other connected matters vide judgment dt. 13.5.2014, hence, with the consent of the counsel for the respondents, the petition is heard and disposed of finally.

4. The petitioner institution was granted recognition to conduct M.Ed. course with annual intake of 25 students. Vide impugned order dt. 26.8.2013 (Annexure P/1), recognition granted earlier to the petitioner for conducting M.Ed. course has been withdrawn on the ground that the petitioner institution did not get its accreditation by National Assessment and Accreditation Council (NAAC). The following observations have been made by the authority in withdrawing the recognition granted earlier to the petitioner in regard to intake of 40 students for conducting M.Ed. course:-

As per Clause 8(5) of NCTE Regulations, 2009, "An institution that has been granted additional intake in Bachelor of Education and Bachelor of Physical Education training courses after promulgation of the Regulations, 2005 i.e. the 13th day of January 2006 shall have to get itself accredited by National Assessment and Accreditation Council (NAAC), with a Letter Grade B under the new grading system developed by NAAC, on or before 1st day of April, 2010 failing which the additional intake granted shall stand withdrawn with effect from the academic session 2010-2011. Similarly, all institutions having a Master of Education and Master of Physical Education courses shall have to get NAAC Accreditation with at least a Letter Grade B on or before the 1st day of April, 2012, failing which Master of Education or Master of Physical Education Recognition granted to the Institutions shall stand withdrawn with effect from the academic session 2012-2013.

5. The point that whether accreditation from NAAC is necessary for conducting the course has been considered by the Division Bench of this court at Jabalpur vide judgment dt. 13.5.2014 passed in W.P. 21586/2013 and other connected Writ Petitions. The Division Bench has allowed the writ petitions and held that it was not necessary for the institution to obtain the accreditation from NAAC and on that ground without giving an opportunity of hearing, the recognition could not be withdrawn. The concluding part of the judgment is as under:-

15. We have given our considered thought to these submissions. On one hand, it is clear that in terms of the Regulations framed in the year 2009, a cut off date is prescribed. As per the terms and conditions of NAAC for conducting any inspection, the institutions which have been granted recognition in the year 2009 itself, would not be completing the norms for the purposes of obtaining an Accreditation certificate from the NAAC and in that case they would not be entitled to make an application for grant of recognition to the NCTE. Further, indisputably, NAAC is not in a position to inspect all the institutions for the purpose of issuing Accreditation certificate, much less before the cut off date specified in the Regulations, Moreover, the recognized institutions are more than willing to comply with all the directions to be given by the Competent Authority for ensuring imparting of quality education. Thus, prescription of such a condition with a cut off date would be asking the concerned institutions to do something which is impossible for them and completely beyond their control. Rather, the failure should be attributed to Authority in discharging its statutory duty. That would certainly warrant an exercise of discretion on case to case basis to grant/continue recognition in exercise of power under Regulation 12 of NCTE Regulations 2009, by the competent authority. We say so because the validity of the provisions of Clause (5) of Regulation 8, has been upheld by the Apex Court in Swami Vivekanand College of Education and Others Vs. Union of India (UOI) and Others, . The provision is thus held to be intra vires, but since it is creating undue hardships because of failure of the Authorities themselves, in our considered opinion the power of relaxation ought to be exercised by the Competent Authority on case to case basis. At this stage, it would also be

necessary to hold that before passing the orders impugned, opportunity of hearing should have been given to the petitioners and having failed to do so, the action of the respondents cannot be upheld.

16 : Resultantly, we allow the Writ Petition No. 16805/2013, Writ Petition No. 21669/2013, Writ Petition No. 21953/2013, Writ Petition No. 220/2014, Writ Petition No. 1571/2014, Writ Petition No. 1998/2014, Writ Petition No. 2066/2014, Writ Petition No. 2067/2014, Writ Petition No. 2068/2014, Writ Petition No. 2070/2014, Writ Petition No. 2071/2014, Writ Petition No. 2072/2014, Writ Petition No. 3262/2014 and Writ Petition No. 5984/2014 and quash the order of respondents with liberty to them to initiate proceedings afresh against the petitioners after granting them an opportunity of hearing and to pass fresh orders. In case the petitioners make an application for grant of relaxation in terms of Regulation 12 of NCTE Regulations 2009, in any of the conditions prescribed under Clause (5) of Regulation 8 of the said Regulations, it would be necessary for the respondents to examine the same and to pass orders on the said application on case to case basis on its own merits.

17 : As a result of this order, Writ Petition No. 19985/2013 stands disposed of. In the facts and circumstances of the case, there shall be no order as to costs.

6. Consequently, the Writ Petition is allowed. The impugned order dt. 26.8.2013 (Annexure P/1) is hereby quashed. It is observed that the respondents are at liberty to pass fresh order after giving opportunity of hearing to the petitioner institution.

7. No order as to costs.