

(2006) 11 MAD CK 0248

In the Madras High Court

Case No : Writ Appeal (MD) No. 1 of 2006 and Writ Petition (MD) No. 9386 of 2005

Manonmaniam Sundaranar University

APPELLANT

Vs

Jeyakumari Thangaraj Chairman, Dr. V. Thangaraj
Educational Trust and Manager and Correspondent St.
Stephen's College of Teacher Education

RESPONDENT

Date of Decision : 06-11-2006

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14(4)

Citation : (2006) 11 MAD CK 0248

Hon'ble Judges : S. Tamilvanan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : C.K. Chandrasekaran, for the Appellant; V. Selvaraj, for the Respondent

Judgement

P. Sathasivam, J.—Aggrieved by the order of the learned single Judge dated 29.11.2005 made in WPMP. (MD) No. 10126 of 2005 in WP.(MD) No. 9386 of 2005, in and by which the learned Judge directed the University to grant affiliation to St. Stephen's College of Teacher Education, Velayutha Nagar, Kollemcode, Kanyakumari District, for the academic year 2005-2006 pending disposal of the writ petition, the Manonmaniam Sundaranar University has preferred the above appeal.

2. Pending writ appeal, the respondent filed WAMP. No. 1581 of 2006, praying to amend the cause title by substituting Jayakumari Thankaraj as Chairman of Dr. V. Thangaraj Educational Trust and Manager and Correspondent of St. Stephen's College of Teacher Education, Velayudha Nagar, Kollemcode, Kanyakumari District in the place of Late V. Thangaraj and in view of the reasons stated in the affidavit filed in support of the above petition, the said amendment was ordered, by order dated 11.10.2006.

3. While hearing the above appeal, both parties have consented for the disposal

of the main writ petition itself. The writ petition is filed by one V. Thangaraj, Chairman, Dr. V. Thangaraj Educational Trust/and Manager and Correspondent, St. Stephen's College of Teacher Education, Velayudha Nagar, Kollemcode, Kanyakumari District, praying for the issue of a writ of Mandamus directing the respondent therein, i.e., Manonmaniam Sundaranar University, to grant affiliation to St. Stephen's College of Teacher Education, Velayudha Nagar, Kollemcode, Kanyakumari District without insisting No Objection Certificate from the State Government.

4. The case of the writ petitioner, in brief, is as follows:

The original petitioner V. Thankaraj, is the founder of Dr. V. Thangaraj Educational Trust, which has established St. Stephen's College of Teacher Education at Velayudha Nagar, Kollemcode, Kanyakumari District. The Southern Regional Committee of the National Council for Teacher Education (in short "NCTE"), by order dated 27.04.2005, granted recognition to St. Stephen's College of Teacher Education, Velayudha Nagar to offer Secondary (B.Ed.) Course of one year duration from the academic year 2005-2006 with an annual intake of 100 students. As per the said order, the Educational Agency has complied with the conditions stipulated therein. Thereafter, the management applied to the respondent University for affiliation on 28.10.2004. On 23.06.2005, the petitioner received a letter from the respondent stating that a team of two members would visit the College to verify the infrastructural facilities and also to verify the academic qualifications of the teaching staff to start the College during 2005-2006, subject to production of No Objection Certificate from the State Government. Necessary reply was sent to the respondent. On 09.08.2005, the Management received a letter stating a Review Commission would visit the College and accordingly, necessary fee was immediately remitted. The Review Commission visited the College on 03.09.2005. Thereafter, the respondent called for certain documents on 23.09.2005. The respondent requested the management to produce No Objection Certificate obtained from the State Government. On 12.09.2005, the management sent all the particulars as requested by the respondent. On 26.09.2005, the management sent a letter to the respondent stating that inasmuch as recognition has already been granted by the statutory body - NCTE, No Objection Certificate is not required and affiliation may be granted without insisting on No Objection Certificate from the State Government. Further, the management sent a reminder to the respondent on 6.10.2005, requesting them to grant affiliation for the College, but the respondent is refusing to grant affiliation to the College. In view of the fact that NCTE had already granted recognition, the College has selected the qualified teachers and they will join the College only after affiliation is granted. In such circumstances, having no other remedy, the management filed the above writ petition with the prayer referred to above.

5. The University, though not filed counter affidavit in the writ petition, filed an affidavit in writ appeal, wherein it is stated that the petitioner College does not

have qualified teachers and that the University has acted in accordance with law. According to the University, the other Colleges have satisfied the conditions prescribed. It is also stated that though the petitioner College claims that it secured recognition from NCTE, the said order has not been notified in the gazette till this date.

6. Heard the learned Counsel on either side.

7. The only point for consideration in the writ petition is, whether the petitioner has made out a case for issuance of writ of Mandamus as prayed for?

8. In so far as the production of No Objection Certificate from the State Government, it is not in dispute that in view of the decision of this Court reported in 2005 WLR 256 (Madras Educational and Research, Integrated Trust v. The Periyar University rep. by its Registrar, etc. and Anr.) as well as Bharathidasan University and Others Vs. Dhanalakshmi Srinivasan, Educational and Charitable Trust and Others, , the University cannot insist production of prior permission / No Objection Certificate from the State Government.

9. Coming to the claim that the petitioner College secured recognition from NCTE, Mr. C.K. Chandrasekaran, learned Counsel appearing for the University by drawing our attention to Section 14(4) of the National Council for Teacher Education Act, 1993 (Act No. 73 of 1993) (in short "the Act") contended that unless the order granting recognition is published in the official gazette and communicated in writing for appropriate action, the University cannot be insisted to grant affiliation. Sub-section (4) of Section 14 of the Act reads as under:

Section 14. Recognition of institutions offering course or training in teacher education.-

(1) to (3) ...

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under Sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

It is clear that the order granting or refusing recognition to an institution has to be published in the official gazette and communicated in writing for appropriate action. Though Mr. V. Selvaraj, learned Counsel for the petitioner Institution has brought to our notice an order passed by NCTE, granting recognition to the petitioner Institution, admittedly, he is not in a position to prove publication of the same in the official gazette, nor has he produced a copy of the gazette. In view of the language couched in Sub-section (4) of Section 14 of the Act, we are of the view that after an appropriate order granting recognition by NCTE is passed, the same shall be published in the official gazette and it must be communicated in writing to the Institution concerned. As observed in Ramakrishna Vivekananda Mission Vs. State of West Bengal and Others, , there

has to be strict compliance of the provision regarding publication in view of the mandate of Sub-section (4) of Section 14 of the Act.

10. Regarding appointment of qualified staff, it is the claim of the learned Counsel for the petitioner that it would be possible for the management to appoint staff and pay salary only after affiliation is granted by the University. According to the learned Counsel for the petitioner, in spite of providing required infrastructural facilities, such as building, etc., the University has not granted affiliation to the petitioner college and on the other hand, the University has granted affiliation to other Colleges which are lacking in infrastructural facilities. He has placed before us certain orders passed by the University granting affiliation in favour of other Colleges. We perused all those orders.

11. In view of the legal position against the insistence of No Objection Certificate, the claim of the petitioner that recognition has been granted by NCTE and the existence of all other facilities / infrastructure, we issue the following directions:

(1) In view of the claim that NCTE has passed an order granting recognition, the petitioner is free to move NCTE for its publication in the gazette as per Sub-section (4) of Section 14 of the Act; if such request is made and if there is an order granting recognition by the NCTE, it is but proper on the part of the said authority to publish such order in the gazette immediately. It is made clear that if there is any obstacle/impediment, it is for the NCTE to intimate the same to the petitioner;

(2) On getting order duly published in the gazette, if the petitioner satisfies all other requirements, the petitioner is free to make a request to the respondent University for affiliation;

(3) If such a request is made without reference to No Objection Certificate from State Government, however subject to the fulfilment of other required conditions, the University is directed to consider and pass appropriate orders granting affiliation to St. Stephen's College of Teacher Education, Velayudha Nagar, Kollamcode, Kanyakumari District within a period of four weeks thereafter. It is made clear that in view of the orders passed in respect of similarly placed Colleges, if it is permissible, the University is free to pass conditional order, fixing outer time limit for fulfilling the conditions;

(4) In view of the direction of the Division Bench dated 04.05.2006 in WAMP. No. 1180 of 2006, depending on the decision of the respondent University as directed above, the result of the students who were allowed to write examinations shall be published.

With the above directions, the writ petition and the writ appeal are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.