
(2014) 08 UK CK 0002

In the Uttarakhand High Court

Case No : Writ Petition No. 1943 (MS) of 2014

Modern School and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 22-08-2014

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14 14(6)

Citation : (2015) 2 UC 1265

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : J.P. Joshi, Sr. Advocate assisted by B.S. Parihar, Advocate for the Appellant; S.S. Chauhan, Deputy Advocate General, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Alok Singh, J.

1. The only grievance of the petitioner is that affiliation was granted to the petitioner till 2013-14 by the University to run B.Ed. and M.Ed. courses, however, despite judgment of this Court dated 30.05.2014 affiliation is not being granted to the petitioner for the academic session of 2014-15 and for future. Since only law point is involved and no factual dispute is pointed out by learned counsel appearing for the parties, therefore, present petition is taken up for final disposal at the initial stage itself. Petitioner had earlier filed WPMS No. 1250 of 2014 (Modern School and another Vs. State of Uttarakhand and others), which was disposed of by this Court vide judgment dated 30.05.2014. Judgment dated 30.05.2014 reads as under:

"Learned counsel for the petitioners contended that petitioner No. 1 was granted recognition by the N.C.T.E. to run B.Ed., courses on 05.07.2005 for 100 seats; vide order dated 24.01.2007 N.C.T.E. was pleased to grant recognition for M.Ed. course as well; vide order dated 04.05.2008, N.C.T.E. was pleased to enhance

B.Ed. course seats to 200; earlier H.N.B. Garhwal University was State University; however, it was declared Central University on 15 June, 2009; petitioner No. 1 was being granted affiliation on year to year basis; vide letter dated 21st May, 2013, petitioners were informed to appoint three lecturers and to get their appointment approved from the University; vide annexure No. 8 to the writ petition, Selection Committee appointed by the University recommended two persons for the post of Professor and Associate Professor for the faculty and 12 persons were approved as Lecturers by the Selection Committee appointed by the University, therefore, faculty is complete. Learned counsel for the petitioners further submits that till day, recognition has not been revoked by the N.C.T.E. Even then, petitioner No. 1 is not being granted affiliation permanently and no decision has been taken so far on the application of the petitioner No. 1 for the affiliation for the academic sessions 2012-13 and 2013-14. Further contends that petitioners shall also move an application for the next academic session and for all time to come till recognition is revoked within ten days from today.

Learned counsel for respondent No. 4 submits that recognition is still valid and is in existence and has not been revoked as yet nor any inquiry is pending against the petitioner No. 1. Learned counsel for respondent No. 4 further contends that if any complaint is received against the petitioner No. 1, same shall be inquired into in accordance with law and appropriate decision shall be taken thereon.

Mr. Paresh Tripathi, learned counsel for respondent Nos. 2 and 3 fairly submits that let petitioners move detailed representation before the respondent Nos. 2 and 3 annexing therewith copies of the applications moved for the affiliation within ten days whereupon appropriate decision in accordance with law keeping in mind the dictum of this Court in the case of Writ Petition No. 2950 of 2013 (MIS), Om Bio Medical Science & Pharma College Vs. State of Uttarakhand and others and other connected matters, decided on 30th April, 2014, shall be taken preferably within three weeks thereafter and decision so taken shall be communicated to the petitioners.

Learned counsel for the petitioners submits that petition may be disposed of in the light of statement made by Mr. Paresh Tripathi, learned counsel for respondent Nos. 2 and 3.

Order accordingly."

2. In compliance of judgment dated 30.05.2014, petitioner college was granted affiliation on 28.07.2014 (Annexure No. 5 to the writ petition) for the academic session 2013-14.

3. It is alleged by Mr. J.P. Joshi, learned Senior Advocate appearing on behalf of the petitioners that petitioners had moved application dated 06.06.2014 (Annexure No. 4 to the writ petition) before Registrar requesting him to treat the earlier applications dated 16.04.2014 and 21.04.2014, as applications for permanent affiliation. However, University is not granting affiliation for next academic session starting from 2014-15.

4. Mr. Paresh Tripathi, Advocate appearing for the University, submits that as per Regulation 4.10 and 5.1 of the UGC (Affiliation of Colleges by Universities) Regulation 2009, initially, University has to grant temporary affiliation on a year to year basis and if college has completed at least 5 years satisfactory performance, after getting the temporary affiliation, and has attained academic and administrative standards, as prescribed by I University/UGC/Statutory/Regulatory Body concerned, permanent affiliation can be granted to such college.

5. Regulations 4.10 and 5.1 of the UGC (Affiliation of Colleges by Universities) Regulation 2009 and Section 14 of the NCTE Act are being reproduced hereunder:

"4.10. Continuation of temporary affiliation of the programmes of study and the college itself shall be granted by the University on a year to year basis through inspect-km process prescribed in these Regulations.

5.1. The College shall have completed at least five years of satisfactory performance after getting temporary affiliation and attained the academic and administrative standards as prescribed by the University/UGC/Statutory/Regulatory Body concerned from time to time."

"Section 14 - Recognition of institutions 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.

(2) The fee to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall--

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfill the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for

reasons to be recorded in writing;

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(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.

(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3).

(6) Every examining body shall, on receipt of the order under sub-section (4):-

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.

6. Having perused Regulations 4.10 & 5.1 and Section 14(6) of the NCTE Act, I have no hesitation to hold that if recognition is granted by the NCTE, University is duty bound to grant affiliation to the Institution till recognition stands valid and good. As per Regulation 4.10, initially, University shall grant temporary affiliation on a year to year basis. As per Regulation 5.1, after completion of satisfactory performance for five years, permanent affiliation has to be granted, if administrative standards, as prescribed by University/UGC/Regulatory/Statutory Body are found satisfactory. In my opinion since NCTE is statutory/regulatory body and has not revoked/cancelled the recognition granted earlier to the petitioner it would mean that petitioner still has administrative standards, prescribed by the NCTE. If University has any complaint against the Institution, University can make complaint to the NCTE whereupon NCTE may proceed in accordance with law against the Institution. However, till recognition is not withdrawn or revoked by the NCTE, University has absolutely no other option except to grant affiliation.

7. Mr. J.P. Joshi, learned Senior Advocate appearing for the petitioners, submits that for the first time affiliation was granted to the petitioner college in the year 2005 for B.Ed. course and in the year 2007 for M.Ed. course and thereafter, affiliation is being granted regularly by the University till academic 2013-14, therefore, period of 5 years, as required under Regulation 5.1, has already been completed.

8. Since recognition granted by the NCTE to the petitioner college still holds good and petitioner college has completed 5 years of regular affiliation without there being any complaint or cancellation of recognition by NCTE, therefore, affiliation

to the petitioner college cannot be refused by the University. Consequently, writ petition stands disposed of with the direction to the University/respondents No. 2 and 3 to grant affiliation to the petitioner college and to continue affiliation till recognition is not withdrawn/revoked by NCTE. However, it is made clear that University shall be at liberty to make genuine complaint against the petitioner college, if any shortcoming is noticed whereupon NCTE may take appropriate action, in accordance with law, for cancellation/revocation of the recognition, if so required. CLMA No. 9109 of 2014 stands disposed of accordingly.