
(2010) 09 UK CK 0112

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1540 of 2010

Modern School Society and Another

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 13-09-2010

Acts Referred:

Central Universities Act, 2009 — Section 4

National Council for Teacher Education Act, 1993 — Section 17

Citation : (2010) 09 UK CK 0112

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Judgement

B.S. Verma, J.—Heard Mr. Subhash Upadhyay, learned Counsel for the petitioners, Mr. N.P. Sah, Standing Counsel for the respondent No. 1 and Mr. U.P.S. Negi, Advocate for respondents 2 and 3.

2. By means of this petition, the petitioners have sought the following relief:

I. To issue a writ in the nature of certiorari calling for the records and quashing the press note and the impugned order dated 19-8-2010, Annexure No. 8 to the writ petition, so far as it relates to the petitioners.

II. To issue a writ in the nature of mandamus commanding the respondent Nos. 2 and 3 to treat the petitioners institute stand permanently affiliated to the H.N.B. Garhwal University as provided u/s 4(f) of Central Universities Act, 2009.

III. To issue a writ in the nature of mandamus commanding the respondents 2 and 3 not to interfere in the peaceful functioning of the petitioners institute.

IV. To issue a writ in the nature of ad interim mandamus staying the effect and operation of the press note and the impugned order dated 19-8-2010, Annexure No. 8 to the writ petition, so far as it relates to the petitioners.

3. According to the petitioners the petitioner/institute was granted recognition for 100 seats of B.Ed. as well as for 25 seats of M.Ed. for academic session of

2008-09. With effect from 15.1.2009 the H.N.B. Garhwal University became Central University and vide Section 4(f) of the Central Universities Act 2009, it is provided that all the colleges/institutes which are already affiliated with the State University, shall stand affiliated with the Central University, and there was no further requirement to obtain affiliation or recognition. Therefore, the petitioner institute was automatically affiliated to Central University.

4. Record reveals that the University has to grant affiliation as per the conditions laid down in affiliation order, annexed as Annexure No. 1 to the writ petition. Condition No. 3 of the said order provides that the University shall ensure that the institution has appointed required number of faculty members (including Principal/ Head of Department), as per the norms of the NCTE/UGC/Affiliating University. According to condition No. 5 of the said recognition order, it is also imperative on the part of the petitioner institute to submit to the Regional Committee a self-appraisal report at the end of each academic year along with a copy of approval of the affiliating and the statement of annual accounts duly audited by the chartered Accountant. If the institution contravenes any of the conditions or any of the provisions of the National Council For Teacher Education Act, Rules, Regulations or order made there under the Regional Committee may withdraw the recognition under the provisions of Section 17(a) of the NCTE Act, 1993. Till today recognition of the petitioner institution has not been withdrawn and according to the University the University has withheld the affiliation because of non-compliance and non-fulfillment of conditions mentioned in affiliation order.

5. During the course of argument, learned Counsel for the petitioners has submitted that the petitioner made representation for redressal of its grievance before the H.N.B. Garhwal University on 21-8-2010 and 22-8-2010, Annexures 9 and 10 respectively to the writ petition, and the same are pending disposal.

6. Sri U.P.S. Negi, Advocate appearing on behalf of the University has submitted that after submission of aforesaid representations, letter was written to the petitioner by the University for not having required number of faculty members as per the norms of the NCTE and after submission of reply of the letter by the petitioner institute appropriate order may be passed thereon.

7. Since the representations of the petitioner institute are pending for disposal, therefore, in the interest of justice, and in the facts and circumstances of the case, it is directed that the respondent No. 3, Registrar, H.N.B. Garhwal University, shall take a decision on the representations of the petitioner, within a period of two weeks from the date of production of certified copy of this order, and pass a speaking and reasoned order, thereon, after hearing the petitioner.

8. With the aforesaid directions, the writ petition is disposed of finally.