

(2014) 09 P&H CK 0059

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11236 of 2014 (O&M)

Nar Singh Dass Memorial Education Society

APPELLANT

Vs

Chaudhary Devi Lal University and Others

RESPONDENT

Date of Decision : 03-09-2014

Acts Referred:

Citation : (2015) 177 PLR 416

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : P.S. Jamnu, Advocates for the Appellant; Indresh Goyal, Advocates for the Respondent

Judgement

K. Kannan, J.—The petitioner-Society, which has secured a permission to start a B.Ed College, is aggrieved by the decision of the University not to affiliate the College. The decision of the University stems from the policy decision taken by the Government not to allow for any colleges starting B.Ed course in the State of Haryana from the academic Session 2013-2014. The University would refer to its own calendar that sets out a procedure of requiring "No Objection Certificate" (NOC) to be issued by the State Government before actually starting a college/subject of course concerned. They will rely on the decision of the State Government not to issue an NOC for opening B.Ed courses and also some private communication made by the Chief Minister to the Union Human Resources and Education Minister and to the National Council for Teacher Education (NCTE) itself not to allow for permission to start new B.Ed colleges. The issue of whether the State Government can prevail over a University not to affiliate a college or withdraw its consent from starting a college has come up before the Supreme Court directly in the State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others, . The Supreme Court was considering the effect of constitution of NCTE through an Act of the Parliament passed in 1993 and the extent of State control with reference to a decision taken by the NCTE. Recognizing the fact that the NCTE Act covers the field of teachers training and

education matter and the Union legislative competence through Entry 66 List I and Entry 25 List III, the Supreme Court held that the Central Government having considered the matter at the national level and vesting a final authority with the NCTE, any requirement of the State that NOC must be obtained from the State also cannot derogate from the authority or power of the NCTE. All what the Government could do is only to function under the guidelines issued by the NCTE which function would extend as far as to collect the necessary data and material and furnish the same to the NCTE to enable it to take appropriate action. The Supreme Court underscored the primacy of a decision taken by the NCTE when it observed that it has to be implemented by all concerned and the State Government could not refuse permission on a plea that it had taken a policy decision not to grant NOC during a relevant year. The judgment also lays down the law that even a University cannot refuse on such a ground that the permission of the State is required under any State enactment. The Court observed that the State was rather devoid of any power to refuse permission of such case or to overrule the decision of the NCTE.

2. With an emphatic pronouncement of the Supreme Court on the same subject, the; absence of NOC from the State is irrelevant. The decision not to affiliate is not lawful. There shall be a direction to the University to affiliate the petitioner's college.

3. It is stated by the counsel for the petitioner that the 3rd respondent is organizing counselling for admission to various colleges offering B.Ed. The petitioner's college may also be assigned seats for admission for candidates who aspire to join the courses offered by the petitioner-college. The writ petition is allowed on the above terms.