
(2013) 09 MP CK 0262
In the Madhya Pradesh High Court
Case No : Writ Petition No. 4583 of 2013

Nidhi Devi

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14, 15, 17, 2(e), 2(h)
University Grants Commission Act, 1956 — Section 22

Citation : (2013) 09 MP CK 0262

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

Bench : Division Bench

Advocate : S.S. Kushwah, for the Appellant; M.P.S. Raghuvanshi, Additional Advocate General for Respondent No. 1/State and Ms. Anuradha Singh, Advocate for Respondent No. 2/University, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard. The question involved in this petition has already been considered by this court in W.P. No. 8766/2012 (ITM University Vs. Jiwaji University Gwalior & Ors. by order dt. 3.9.2013. This court passed the following order:-

Heard.

The petitioner has filed this petition and prayed a relief that respondent No. 1 University be directed to issue eligibility certificate to the students, who passed B.Ed. examination from the petitioner University.

The petitioner University was established by the State of Madhya Pradesh vide order dt. 4.5.2011 passed under the provisions of Madhya Pradesh Niji Vishwavidyalaya (Sthapna Avam Sanchalan) Sanshodhan Adhiniyam, 2011. As per the petitioner, the University Grants Commission also authorized the petitioner University to award degree specified by the UGC u/s 22 of the UGC Act 1956.

Earlier Institute of Allied Science and Computer Application had been conducting

D.Ed. course. It was granted recognition by NCTE with intake of 100 students from the academic session 2003-04. After establishment of the petitioner University, the aforesaid institution was merged in the petitioner University. The respondent No. 1 Jiwaji University Gwalior granted no objection in regard to merger of the Institute of Allied Science and Computer Application with petitioner University. Thereafter, the petitioner University admitted students for conducting B.Ed. course and they also passed examination of B.Ed. course. However, when they applied in other institutions for higher study, the institutions demanded no objection from the respondent university, the aforesaid no objection has not been granted by the respondent No. 1 University.

The respondent No. 1 University in its reply submitted that the petitioner university admitted the students in B.Ed. course without recognition from NCTE. It is further submitted that the students were admitted directly by the petitioner University. However, the students could not be admitted in B.Ed. course without getting selection by centralized counseling from the State of M.P., hence, the respondent No. 1 University has not issued eligibility certificate to the students of the petitioner University because the B.Ed. course completed by the students of the petitioner University is illegal.

Respondent No. 3 - State of M.P. in its return pleaded that the petitioner University has no right and authority under the provisions of Madhya Pradesh Niji Vishwavidyalaya (Isthapna Avum Sanchalan) Sanshodhan Adhiniyam, 2011 or under the Ordinance formulated therein to grant admission on its own without availing the mandatory requirement of appearance in general counseling conducted by the State Government. It is further pleaded that respondent No. 1 University has no right to grant NOC in regard to merger of B.Ed. course in the petitioner University.

Earlier the NCTE granted recognition to the Allied Science and Computer Application, Gurukripa Sithouli, Gwalior for conducting B.Ed. course of one year duration with annual intake of 100 students from the academic session 2003-04. There is no document on record to show that the aforesaid recognition was withdrawn subsequently or not. As per the petitioner, after establishment of the petitioner University, the aforesaid institution had been merged with the petitioner University, hence, the petitioner university has right to conduct B.Ed. course. Admittedly, in regard to merger no permission has been taken by the petitioner University from NCTE. Only no objection certificate was granted by the respondent No. 1 University in this regard. The respondent Jiwaji University has a right of affiliation of colleges.

Section 14 of the National Council for Teacher Education Act, 1993 (hereinafter shall be referred to NCTE Act) prescribes recognition of institutions offering course or training in teacher education. Section 17-A of the NCTE Act prescribes that no institution shall admit any student without recognition. The aforesaid Section is as under:-

17-A No admission without recognition ? No institution shall admit any student to a course or training in teacher education, unless the institution concerned has obtained recognition u/s 14 or permission u/s 15, as the case may be.

It means that the Institution has no right to admit the students without recognition. Admittedly, the petitioner University has not taken any permission from NCTE in regard to merger of the Institute of Allied Science and Computer Application with the petitioner University, hence, it could not be said that the petitioner University has valid recognition in accordance with Section 14 of NCTE Act to conduct B.Ed. course.

Learned senior counsel appearing on behalf of the petitioner has advanced an alternate argument to the effect that it is not necessary to take recognition by the petitioner University to conduct B.Ed. course. For the aforesaid purpose, learned senior counsel relied on a judgment of the Hon'ble Supreme Court in the case of Bharathidasan University and Another Vs. All India Council for Technical Education and Others,

In our opinion, the judgment relied on by the learned senior counsel is not applicable in the present case, because it is in regard to technical education, which is governed by the provisions of AICTE Act and Section 2(h) of the aforesaid Act, which defines the "technical institution" has excluded University.

Section 2(e) of the Act of 1993 defines "institution", which is as under:-

(e) "Institution" means an institution which offers courses or training in teacher education.

In the aforesaid definition, there is no exclusion of university.

In exercise of powers conferred by sub-section (2) of section 32 of the National Council for Teacher Education Act, 1993, the National Council for Teacher Education has framed Regulations named as "National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2009 (hereinafter referred to Regulations of 2009). Regulation 3 of the Regulations of 2009 prescribes applicability. The relevant Regulation is as under:-

3. Applicability.-

These Regulations shall be applicable to all matters relating to teacher education programmes covering norms and standards and procedures for recognition of institutions, commencement of new programmes and addition to sanctioned intake in existing programmes and other matters incidental thereto.

It means that the Regulations shall be applicable in regard to all matters relating to teacher education programmes.

Regulation 4 of the Regulations of 2009 prescribes eligibility. The aforesaid Regulation is as under:-

4. Eligibility.-

The following categories of institutions are eligible for consideration of their applications under these Regulations:-

- (1) Institutions established by or under the authority of Central or State Government or Union Territory Administration;
- (2) Institutions financed by Central or State Government or Union Territory Administration.
- (3) Institutions, including institutions deemed to be universities, so recognised or declared, as the case may be, under the University Grants Commission Act, 1956.
- (4) Self financed educational institutions established and operated by "not for profit" Societies and Trusts registered under the appropriate laws.

From the aforesaid Regulation, it is clear that all universities are eligible to apply for conducting B.Ed. course. It means that for deemed university it is necessary to submit application for recognition to conduct B.Ed. course.

Division Bench of Kerala High Court in the case of University of Calicut Vs. National Council for Teacher Education and Others, has held that the Universities are included in the term of "institution" defined u/s 2(e) of the NCTE Act. The Division Bench has held as under:-

Therefore, it can be seen that Universities were specifically excluded from the definition under that Act. Here, in the definition of "institution" u/s 2(e) of the NCTE Act the Universities were not specifically excluded. Therefore, Universities are also included in the term "institution". The Universities cannot contend that they are above the law. Even though they insist that the affiliated institutions should comply with the procedure and prescribed standards, according to them, they are not bound to follow the prescribed standards. This will create an anomalous situation. University has to act as model.

Hon"ble Supreme Court in the case of Parshavanath Charitable Trust and Others Vs. All India Council for Tech. Edu and Others, has held as under in regard to regulations framed by the ACITE:

25. It is also a settled principle that the regulations framed by the Central authorities such as AICTE have the force of law and are binding on all concerned.

In this view of the legal position, the argument advanced by the learned senior counsel that the petitioner University is not required recognition under the NCTE Act has no merit, hence, it is rejected.

When the petitioner university had no recognition in accordance with the provisions of Section 17 of the NCTE Act, it had no authority to admit the students in B.Ed. course. When the petitioner University had no authority to admit the students in B.Ed. course, then the admission of the students was illegal, hence, it is not necessary to decide the second question that whether the petitioner university can admit the students in B.Ed. course directly in

contravention to the provisions of Bachelor of Education (B.Ed.) Pravesh Chayan Prakriya Evam Niyam 2011-12.

Consequently, we do not find any merit in this petition. It is hereby dismissed. No order as to costs.

2. In view of the order passed in W.P. No. 8766/2012, in our opinion, there is no merit in this petition. It is hereby dismissed. No order as to costs.