

(2014) 09 MP CK 0071

In the Madhya Pradesh High Court

Case No : Writ Petition No. 17949/2013

Rawatpura Sarkar Institutions

APPELLANT

Vs

National Council for Teacher Education

RESPONDENT

Date of Decision : 22-09-2014

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 17

Citation : (2014) 09 MP CK 0071

Hon'ble Judges : Rajendra Menon, J;A.K. Sharma, J

Bench : Division Bench

Advocate : Ankit Agrawal, Learned Counsel, Advocate for the Appellant; K.K. Singh, Learned Counsel, Brajendra Kushwaha, Learned Counsel, Vibhudhendra Mishra, Learned Counsel and Rahul Jain, Learned Dy. Advocate General, Advocate for the Respondent

Judgement

1. In this petition challenge is made by the Institute in question to the unilateral action of the Western Regional Committee of the National Council for Teachers Education whereby the recognition granted by the council to the Institute for imparting courses of education in M.Ed. have been withdrawn. The withdrawal of recognition is made on the ground that the institute have not obtained accreditation as required from the National Assessment and Accreditation Council (NAAC).

2. It is the case of the petitioners in this case that their recognition have been withdrawn without hearing them, without considering their submissions and in gross violation to the principles of natural justice. Apart from raising various other grounds in the matter of requirement of such accreditation, learned counsel submits that as the principles of natural justice have been violated, this alone is sufficient to allow the relief claimed for in the petition and in support thereof they invite our attention to certain orders passed by the Co-ordinate Bench of this Court at Indore on 14.2.2014 in W.P. No.10922/2013 to say that similar petitions have been allowed and identical orders quashed on the ground

of non-grant of opportunity of hearing.

3. Shri K.K. Singh, learned counsel for respondent nos.1 and 2 argued that certain questions with regard to similar relief claimed are pending before another Division Bench in a Public Interest Litigation and therefore, the case be heard together with the aforesaid. That apart, he places reliance on the judgment rendered by the Supreme Court in the case of Swami Vivekanand College of Education and Others Vs. Union of India (UOI) and Others, to say that without accreditation from the National Assessment and Accreditation Council (NAAC) the institute cannot be permitted to function.

4. Learned counsel appearing for the petitioners rebutted the aforesaid contention and argued that in the P.I.L., action of the Council in withdrawing the recognition of all the colleges in the State of Madhya Pradesh as a general rule is challenged by way of a public interest and there the individual grievance of the institutes on the ground as are canvassed in this writ petition are not under consideration. That apart, he points out that in the case of Swami Vivekanand College of Education (supra) decided by the Supreme Court the constitutional validity of National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2009 and the provisions of Regulation 8(5) and its constitutional validity is decided. The Supreme Court does not say in the said case that without opportunity of hearing, the recognition can be withdrawn. According to learned counsel the judgment in the case of Swami Vivekanand College (supra) will not apply in the facts and circumstances of the present case.

5. We have heard the learned counsel for the parties and considered the rival contentions. Admittedly, the colleges were having the recognition and have admitted students to the course in question and the students are prosecuting the course. However, some of the students have appeared in the examination and the results are awaited. The question is as to whether any action like the impugned one, adverse to both the institutes and the students could be taken by the council behind their back without hearing them and without considering what is their say in the matter.

6. That being so, we are of the considered view that the order passed by the Indore Bench on 14.2.2014 in W.P. No.10922/2013 will apply to this case also and a parity has to be maintained in the matter of considering identical cases.

7. That apart, in the case of Swami Vivekanand College (supra) decided by the Supreme Court, as canvassed by the learned counsel for the petitioners, only the constitutional validity of certain regulations have been tested. Supreme Court nowhere says that in violation of principles of natural justice and without hearing an institute any action can be taken for withdrawal or cancelling the recognition under section 17 of the NCTE Act. Taking note of all the facts and circumstances of the case we are of the considered view as the recognition or approval granted to each of these institutes in this petition have been withdrawn without hearing them, without granting them opportunity and in gross violation of principles of

natural justice, therefore, this petition is allowed and the impugned order passed in this petition are quashed and liberty is granted to the Council to proceed afresh in accordance with law. As the impugned action has been quashed, till fresh actions are not taken in the matter, in accordance to law, the institutes and the students have a right to take benefit of the recognition which is available and all action taken on the ground of cancellation of recognition stands quashed as a consequence thereof.

8. With the aforesaid, the petition stands allowed and disposed of.