

(2014) 12 JH CK 0052
In the Jharkhand High Court
Case No : W.P.(C) No. 3932 of 2014

R.S. Teachers Training College

APPELLANT

Vs

Vinoba Bhave University and Others

RESPONDENT

Date of Decision : 12-12-2014

Acts Referred:

Citation : (2015) 1 AJR 640 : (2015) 2 JLJR 102

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Mahesh Tewari, Advocates for the Appellant; Mithilesh Singh,
Advocates for the Respondent

Judgement

S. Chandrashekhar, J.

I.A. No. 6436 of 2014

1. This application has been filed seeking amendment in the writ petition for challenging decision taken on 22.10.2014 and the decision contained in letter dated 13.11.2014.

2. The learned counsel appearing for the petitioner has submitted that after this Court passed orders dated 04.09.2014 and 19.09.2014 directing the respondents to take a final decision in the matter of grant of affiliation to the petitioner-college, the respondents vide decision taken in the meeting held on 22.10.2014 decided not to approve the proposal for grant of affiliation to the petitioner-college and in the light of the decision taken on 22.10.2014, the respondent-State of Jharkhand has also declined the proposal of the petitioner-college. It is further submitted that since the writ petition was filed seeking a direction upon the respondents to grant affiliation to the petitioner-college for the academic session 2014-15 and, during the pendency of the present writ petition, the decisions impugned sought to be have been taken by the respondents, the present amendment application may be allowed.

3. The learned counsel appearing for the respondent-State of Jharkhand opposed and submitted that since the writ petition was filed seeking a direction for grant of affiliation for the academic session 2014-15 by amending the writ petition, the petitioner cannot be permitted to incorporate an entirely new cause of action seeking grant of affiliation for the academic session 2015-16.

4. Having considered the rival submissions of the learned counsel for the parties and after perusing the documents on record, I am of the opinion that the present amendment application deserves to be allowed. The contention raised by the learned counsel appearing for the respondent-State of Jharkhand that no order/direction with respect to grant of affiliation for the academic session 2015-16 can be passed in the present proceeding, can be decided in the writ petition.

5. Accordingly, the I.A. No. 6436 of 2014 is allowed.

W.P.(C) No. 3932 of 2014

6. Initially, the writ petition was filed seeking a direction upon the respondents to grant affiliation to the petitioner-college for the academic session 2014-15. Subsequently, in pursuance of order passed by this Court, the respondent-University and State of Jharkhand considered the proposal for grant of affiliation to the petitioner-college and on 22.10.2014, a decision was taken not to grant approval to the proposal for affiliation to the petitioner-college for the academic session 2014-15. In view of the decision taken on 22.10.2014, the respondent-State of Jharkhand vide order dated 13.11.2014 declined to approve the proposal for affiliation to the petitioner-college. The said decisions were challenged by the petitioner in I.A. No. 6436 of 2014 which has been allowed and thus, orders dated 22.10.2014 and 13.11.2014 are also under challenged.

7. The brief facts as narrated in the writ petition are that, the petitioner-college is established under NCTE Act as a Teacher's Training College. It is being run by a Trust which is registered under Registration No. 341/28.10.2009. The petitioner submitted its application for grant of recognition under the NCTE Act for an annual intake of 100 seats for the academic session 2014-15 and vide order dated 31.08.2013 NCTE granted recognition to the petitioner-college from the academic session 2014-15. Thereafter, the petitioner-college submitted its applications on 12.11.2013 and 19.02.2014 to the Vinoba Bhave University seeking affiliation for the academic session 2014-15. An inquiry was conducted by the respondent-University and the report was submitted on 10.05.2014. In the meantime, since the date prescribed under the time-schedule by the Hon"ble Supreme Court for forwarding the proposal to the State Government had ended, further action was not taken on the proposal for grant of affiliation to the petitioner-college. The petitioner-college approached the Hon"ble Supreme Court in Writ Petition being W.P.(C) No. 609 of 2014 seeking appropriate direction for grant of approval for the academic session 2014-15 however, the writ petition was permitted to be withdrawn with liberty to the petitioner to approach the High Court and thus, the petitioner has approached this Court by filing the present

writ petition.

8. A counter-affidavit has been filed on behalf of the respondent-Vinoba Bhave University stating that when the applications of the petitioner-college and other colleges were received, at that time the Commissioner of Chotanagpur Division was holding additional charge of Vice Chancellor. A decision was taken to constitute a Committee to inquire into the matter relating to affiliation of the proposed B.Ed colleges. Finally, in pursuance thereof vide office order dated 13.02.2014, a Committee was constituted for inspection of the documents submitted by six colleges including the petitioner-college. After scrutinising the documents, a report was submitted on 10.05.2014 and in the light of the inquiry report, the Committee recommended that the petitioner-college may be considered for grant of affiliation for the academic session 2014-15.

9. A supplementary counter-affidavit has also been filed by the respondent-Vinoba Bhave University stating that in compliance of order dated 04.09.2014 passed by this Court, Inspection Team was notified on 11.09.2014 which inspected the petitioner-college and a report dated 14.09.2014 was submitted and proposal for grant of affiliation was accordingly submitted to the Director, Human Resource Department (Higher Education) on 19.09.2014.

10. A counter-affidavit has been filed on behalf of the respondent-State of Jharkhand stating that in view of order passed by the Hon'ble Supreme Court in *Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P. and Others*, the respondent-State is under a duty to ensure adherence to the time-schedule prescribed by the Hon'ble Supreme Court. A supplementary counter-affidavit has also been filed taking a plea that in compliance of order dated 04.09.2014 and 19.09.2014, the proposal for approval for grant of affiliation to the petitioner-college was considered by the Committee and in the light of decision taken on 22.10.2014, the proposal for approval for grant of affiliation to the petitioner-college has been declined.

11. Heard the learned counsel appearing for the parties.

12. The learned counsel appearing for the petitioner submits that though, the petitioner-college was granted recognition by NCTE much before the cut-off date i.e., 3rd March, 2014 and the petitioner submitted its proposal for grant of affiliation to the respondent-University within the time-schedule, neither approval for affiliation for the academic session 2014-15 has been granted nor the case of the petitioner-college has been considered for grant of affiliation for academic session 2015-16. Relying on decision of "*Maa Vaishno Devi Mahila Mahavidyalaya*" case, it is submitted that the respondents are under duty to grant recognition for the academic session 2015-16.

13. Referring to order dated 21.07.2014 in Writ Petition (Civil) No. 609 of 2014, the learned counsel appearing for the respondent-State of Jharkhand submits that since a liberty was granted to the petitioner-college to approach the High Court for a direction upon the respondents for grant of affiliation for the

academic session 2014-15, in the present proceeding no direction can be issued for approval for grant of affiliation to the petitioner-college for the academic session 2015-16.

14. I have carefully considered the submissions of the learned counsel appearing for the parties and perused the documents on record.

15. In "Maa Vaishno Devi Mahila Mahavidyalaya" case, the Hon"ble Supreme Court has held thus,

"81.....Adherence to the schedule is the essence of granting admission in a fair and transparent manner as well as to maintain the standards of education. The purpose of providing a time schedule is to ensure that all authorities concerned act within the stipulated time....."

82..... None in the hierarchy of the State Government, university, NCTE or any other authority or body involved in this process can breach the schedule for any direct or indirect reason. Anybody who is found to be defaulting in this behalf is bound to render himself or herself liable for initiation of proceedings under the provisions of the Contempt of Courts Act, 1971 as well as for a disciplinary action in accordance with the orders of the Court....."

16. Besides the above directions, a reading of the judgment in "Maa Vaishno Devi Mahila Mahavidyalaya" case, discloses that the importance of adherence to the schedule has been discussed by the Hon"ble Supreme Court in several other paragraphs also. A time-schedule for recognition and affiliation has been provided in the judgment itself.

17. A perusal of the documents on record discloses that, the petitioner-college was granted recognition vide order dated 31.08.2013 from the academic session 2014-15 and thus, there is no legal bar for granting affiliation to the petitioner-college, if found eligible, for subsequent academic session. It appears that in the "Maa Vaishno Devi Mahila Mahavidyalaya" case, the Hon"ble Supreme Court has observed that if, for any reason recognition/affiliation is not granted for the current academic session, the recognition/affiliation may be granted for the subsequent academic session. The Hon"ble Supreme Court has observed as under:

"87.3. The recognition and affiliation granted as per the above Schedule shall be applicable for the current academic year. For example, recognition granted up to 3-3-2013 and affiliation granted up to 10.05.2013 shall be effective for the academic year 2013-14 i.e., the courses starting from 1.4.2013. For the academic year 2013-14, no recognition shall be issued after 03.03.2013 and no affiliation shall be granted after 10.05.2013. Any affiliation or recognition granted after the above cut-off dates shall only be valid for the academic year 2014-15."

18. The materials on record disclose that the last date for submission of application before the University is 10th May of the concerned academic year and the petitioner-college submitted its application on 12.11.2013 and 19.02.2014.

Thus, the applications submitted by the petitioner-college were well within time. After the applications were submitted by the petitioner to the University, the University carried an inspection in which an inspection report was submitted on 10.05.2014 which was well beyond the time-schedule fixed by the Hon''ble Supreme Court for forwarding the proposal to the State Government. The learned counsel appearing for the petitioner has submitted that for the reasons not attributable to the petitioner-college, a delay has occurred on the part of the University in forwarding the proposal of the petitioner to the respondent-State of Jharkhand and therefore, a direction was issued by this Court vide orders dated 04.09.2014 and 19.09.2014 to consider the proposal of the petitioner-college for grant of affiliation and therefore, in compliance thereof, the respondent-State of Jharkhand was duty bound to consider the same however, the proposal has been erroneously rejected. The proposal has been rejected on the ground that it was submitted beyond the time-schedule prescribed in the case of "Maa Vaishno Devi Mahila Mahavidyalaya" case.

19. Per-contra, the respondent State of Jharkhand reiterated the stand taken by the respondent-State that since the proposal was for grant of affiliation for the academic session 2014-15, the issue with respect to grant of affiliation for the academic session 2015-16 could not have been considered by the respondent-State of Jharkhand.

20. I am of the opinion that in view of the observation of the Hon''ble Supreme Court in "Maa Vaishno Devi Mahila Mahavidyalaya" case, there is no legal hindrance in considering the proposal for grant of affiliation to the petitioner-college for the academic session 2015-16. The recognition granted by NCTE is not for academic session 2014-15 only rather, it is from the academic session 2014-15. Inspection has been carried by the respondent-Vinoba Bhave University and a favourable report has been submitted to the State Government for grant of NOC to the said proposal. What remains is submission of a mere formal application by the petitioner-college to the University which can be forwarded by the University to the State Government for considering the proposal for grant of affiliation for the academic session 2015-16.

21. In the aforesaid view of the matter, this writ petition is allowed to the extent that the petitioner is granted a liberty to submit an application for grant of application for the academic session 2015-16 to the respondent-Vinoba Bhave University within a period of two weeks. Upon submission of such an application by the petitioner-college, the respondent-University is directed to forward the proposal for grant of affiliation to the respondent-State of Jharkhand within a period of two weeks thereafter and the respondent-State of Jharkhand would take a decision on the same in accordance with law, keeping in view the judgment of the Hon''ble Supreme Court in "Maa Vaishno Devi Mahila Mahavidyalaya" case.

22. The writ petition stands disposed of in the aforesaid terms.