
(2007) 03 KL CK 0004

In the High Court Of Kerala

Case No : W.A. No's. 102 and 122 of 2007

Rural Educational and Social Trust

APPELLANT

Vs

University of Calicut and Another

RESPONDENT

Date of Decision : 21-03-2007

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14, 16

Citation : AIR 2007 Ker 187

Hon'ble Judges : K.S. Radhakrishnan, Acting C.J.; M.N. Krishnan, J

Bench : Division Bench

Advocate : John Joseph Roy, for the Appellant; P.C. Sasidharan, S.C., for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, Actg. C.J.

1. Common question arises for consideration in these appeals, hence we are disposing of these appeals by a common judgment.

2. W.P. (C) No. 29666 of 2006 was preferred by the appellant herein seeking a writ of certiorari to quash the University order denying affiliation for the year 2005-06 and also for a direction to give affiliation to the petitioner's college for the year 2005-06 and allow the students of the college to appear for the B. Ed. Examination and publish the results accordingly. W.P. (C) No. 15722 of 2006 was preferred by a student seeking a writ of certiorari to quash Ext. P2 order of the University denying the grant of affiliation for the year 2005-06 and also for other consequential reliefs.

3. Petitioner Trust applied for recognition to start B. Ed. Course during the academic year 2005-06 from the University of Calicut and also from the National Council for Teacher Education (NCTE). NCTE vide Ext. P2 order granted recognition for the said course, subject to fulfilment of the requirements prescribed by the regulatory bodies like UGC/University/State Government.

Petitioner submits, anticipating affiliation they admitted students and commenced the classes on 14-11-2005. Since 90 class days were mandatory for one semester, the principal of the college submitted Ext. P3 representation containing a scheme for taking additional hours of teaching on various working days, including Saturdays, so that the required number of teaching hours is completed. Petitioner forwarded the same to the University for appropriate orders. Petitioner also moved the University for affiliation. The committee appointed by the Syndicate visited the College and submitted its report. Later petitioner approached this Court and this Court vide Ext. P5 judgment directed the University to take a decision. Pursuant to the said direction the University issued Ext. P6 communication stating that affiliation cannot be granted for the academic year 2005-06. Later, University considered the matter and by Ext. P10 order granted affiliation for admitting students for the academic year 2006-07. The order explains the reasons for not granting affiliation for the academic year 2005-06. University did not grant affiliation to the Institutions for the year 2005-06 because of the following reasons:

- a) Government sanction for starting the college for 2005-06 for not been obtained in respect of these agencies.
- b) University examination for the 1 Semester B. Ed. Examination 2005-06 was over.
- c) Centralized allotment of students is to be done by the Government of Kerala, for the 50% merit quota. But the admission was closed as early as September, 2005.
- d) The students will not have sufficient attendance and the colleges will not have adequate time for preparing their students to appear for the University Examination and hence, it will undermine the academic standard of the University, too.

Writ petitions are filed challenging Exts. P6 and P10 orders denying affiliation to B. Ed. Course during the year 2005-06.

4. The University has filed detailed counter affidavit. Apart from the above mentioned reasons the counter affidavit filed in WP (C) No. 15722 of 2006 stated that in the matter of grant of affiliation to colleges specific statutes have been framed by the University. Statute 22 deals with the grant of affiliation, which says that the application for affiliation of a college or for affiliation in additional subjects shall be addressed to the Registrar, and shall be forwarded to him not later than the 30th June in the case of Professional Colleges other than Law and Training Colleges and the 31st of October in the case of all other colleges preceding the academic year in which the courses are proposed to be started. Statute further says that the applications for affiliation shall be made in the case of Government College by the Head of the Department and in the case of Private College by the Educational Agency and the college shall pay to the University an application fee calculated at the rate of Rs. 150/- (Rupees one hundred and fifty)

for each member of the Board of Inspection appointed by the Syndicate. University will conduct a local enquiry on getting application by appointing a Commission to inspect the proposed site of the new college to make a physical verification of the facilities that may exist for starting the new colleges/ courses.

5. The grant of affiliation depends upon the fulfillment by the management of all the conditions that are specified in the Statute or that may be specified later for the satisfactory establishment and maintenance of the proposed institution/ course of studies and on the report of inspection by the commission or commissions which the University may appoint for, the purpose. Counter affidavit states that so far as the petitioner's college is concerned it got the consent of affiliation from the NCTE only on 11-9-2005. Later University proceeded with the statutory formalities for granting affiliation to the college. Provisional affiliation was granted to the college for the academic year 2006-07 as per University office order dated 6-6-2006. It is specifically stated in the order that no student shall be admitted before getting necessary orders from the University. Petitioner had however, admitted students for the B. Ed. Course for the year 2005-06 without getting affiliation from the University. Clause 19(c) of the Calicut University First Statute says that no student shall be admitted to any course of institution in the college in anticipation of affiliation. Contrary to that statutory provision petitioner had admitted students and since there is no sufficient number of academic days the Principal had submitted a representation for taking additional hours of teaching on various working days including Saturdays, which the University did not accept.

6. We are of the view that no error has been committed by the University. Calicut University First Statute 1977 clearly says that no student shall be admitted before getting affiliation from the University. Affiliation from the University is not an empty formality. In *State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shashtra Mahavidyalaya and Others*, the apex Court stated that the University is bound to implement the decision of NCTE, but that does not mean that the University shall not follow the statutory provisions. In *Bharathidasan University and Others Vs. Dhanalakshmi Srinivasan, Educational and Charitable Trust and Others*, a Division Bench of the Madras High Court has taken the view that as per Sections 14 and 16 of the National Council for Teacher Education Act, 1993 affiliating body like University is to grant affiliation on receiving information as to the recognition of institution from NCTE and no discretion is left to affiliating body to stipulate anymore condition, especially condition regarding prior permission of State Government which would render order of recognition ineffective. We do not endorse that view of the Madras High Court.

7. The apex Court in *Jaya Gokul Educational Trust Vs. The Commissioner and Secretary to Government Higher Education Department, Thiruvananthapuram, Kerala State and Another*, has taken the view the University ought to have considered the grant of final or further affiliation without waiting for any approval from the State Government and should have acted on the basis of the permission

granted by AICTE and other relevant factors in the University Act or Statutes, which are not inconsistent with the AICTE Act or its Regulations. In that case the direction to the University to consider the application of the appellant for final affiliation or continuance of affiliation was confirmed on the basis of the approval granted by AICTE or any other relevant factors in the University Act or its Statutes which are not inconsistent with the AICTE Act or its Regulations.

8. We are of the view, the provisions of the NCTE Act would definitely govern if it is inconsistent with the provisions of the University Act or Regulations or the University First Statute. Petitioner has not succeeded in showing that the University Act or Statute are inconsistent with the provisions of the NCTE Act. That being the legal position we find no error in the view of the learned single Judge to be interfered by us in these appeals. Appeals therefore lack merits and they are accordingly dismissed.