

(2014) 12 AP CK 0019

In the Andhra Pradesh High Court

Case No : Writ Petition Nos. 31174, 28670, 28845, 28716, 28674, 28742, 28677, 28695, 28735, 28738, 31192, 31193, 31261, 31278, 31321, 13836, 13830, 34776, 34810, 34814, 34830, 34910, 34966, 35005, 35060, 35179, 35362, 35386, 35480, 35487 and 35496 of 2014

S. Gangaiah

APPELLANT

Vs

State of Telangana

RESPONDENT

Date of Decision : 15-12-2014

Acts Referred:

Constitution of India, 1950 — Article 226

National Council for Teacher Education Act, 1993 — Section 14, 15, 16, 17, 18

Citation : (2015) 3 ALD 302 : (2015) 4 ALT 395

Hon'ble Judges : Vilas V. Afzulpurkar, J

Bench : Single Bench

Advocate : S. Satyam Reddy, V. Ravinder Rao, Moin Ahmed Quadri, K.V. Rajasree, K. Gani Reddy, Y. Nagi Reddy, Advocate for the Appellant; K. Ramakanth Reddy, Advocate for the Respondent

Judgement

1. In this batch of writ petitions, some writ petitions are filed by the managements of elementary teacher education colleges seeking a relief with regard to the recognition granted by the National Council for Teacher Education (NCTE) and also seeking consequential directions against the authorities of the State in not granting affiliation to the colleges for the academic year 2013-2014. Some of these writ petitions are, however, filed only against the authorities of the State Government seeking affiliation and ratification of admission with respect to students, who are already admitted in the first year course during the year 2013-2014. Some writ petitions are filed by the students of some of the colleges seeking a direction that they be allowed to pay examination fee and appear for examination for the 1st year D.Ed. course, which is stated to have been studied by the students in their respective colleges.

2. In all these writ petitions, except WP. No. 13836 of 2014, NCTE granted recognition for the respective colleges only from the academic year 2014-2015

and in all the writ petitions recognition granted by NCTE is for an intake of 50 students and in almost all the colleges, students have been admitted for the academic year 2013-2014.

3. The relevant facts relating to each writ petitioner are set out in a tabular form as under:

Sl. No.

Case No.

Petitioners Name

NCTE Approval &

Academic year

Order/inaction questioned

1.

WP. No. 31174/2014

S. Gangaiah and others students of Sri SaiSaraswathi Educational Society and Sharavani College of Elementary Education

22.08.2013 & 11.10.2013

(2014-2015)

Inaction of R1 and R2 in granting affiliation to R5.

Decision of R4 in not granting recognition to R5.

2.

WP. No. 28670/2014

Sri SriSaiSaraswathi Educational Society and Sharavani College of Elementary Education

22.08.2013 & 11.10.2013

(2014-2015)

Decision of R4 dated 11.10.2103 granting recognition for academic year 2014-2015.

Inaction of R2 in ranting affiliation to petitioner society.

3.

WP. No. 28845/2014

Suryalaxmi Educational Society

10.04.2013

(2014-2015)

Decision of R4 dated 10.04.2013 granting recognition only from academic year 2014-2015.

Inaction of R2 in granting affiliation to petitioner society.

4.

WP. No. 28716/2014

B.S. Bugudi Educational Society

01.11.2014

(2014-2015)

Decision of R4 dated 01.11.2013 granting recognition only from academic year 2014-2015.

Inaction of R2 in granting affiliation to petitioner society.

5.

WP. No. 28674/2014

SarvepallyRadhakrishna Educational Society

28.11.2013

(2014-2015)

Decision of R4 dated 28.11.2013 granting recognition only from academic year 2014-2015.

Inaction of R2 in granting affiliation to petitioner society.

6.

WP. No. 28742/2014

VidyaBharathi Educational Society

05.10.2012

(2012-2013)

Inaction of R2 in granting affiliation to petitioner society for the academic year 2013-2014.

7.

WP. No. 28677/2014

Anjani Educational Society & Santhiniketan Diploma in Elementary Education.

22.01.2014

(2014-2015)

Decision of R4 dated 22.01.2014 granting recognition only from academic year 2014-2015.

Inaction of R2 in granting affiliation to petitioner society.

8.

WP. No. 28695/2014

Dwaraka Educational Society

11.10.2013

(2014-2015)

Decision of R4 dated 11.10.2013 granting recognition only from academic year 2014-2015.

Inaction of R2 in granting affiliation to petitioner society.

9.

WP. No. 28735/2014

Sri Dhanalakshmi Educational Society

07.11.2013

(2014-2015)

Decision of R4 dated 07.11.2013 granting recognition only from academic year 2014-2015.

Inaction of R2 in granting affiliation to petitioner society.

10.

WP. No. 28738/2014

Sri ChennaKeshava Educational Society

06.02.2014

(2014-2015)

Decision of R4 dated 06.02.2014 granting recognition only from academic year 2014-2015.

Inaction of R2 in granting affiliation to petitioner society.

11.

WP. No. 31192/2014

ChakaliNavitha and others students of SarvepallyRadhakrishna Educational

Society (Item No. 5 in the table)

Inaction of R1 and R2 in granting affiliation to R5.

Decision of R4 in not granting recognition to R5.

12.

WP. No. 31193/2014

R. Naresh Kumar and others students of VidyaBharathi Educational Society (Item No. 6 in the table)

Inaction of R1 and R2 in granting affiliation to R5.

Decision of R4 in not granting recognition to R5

13.

WP. No. 31261/2014

Y. Radhika and others students of Dwaraka Educational Society (Item No. 8 in the table)

Inaction of R1 and R2 in granting affiliation to R5.

Decision of R4 in not granting recognition to R5.

14.

WP. No. 31278/2014

C. Bhavaya and others students of Suryalaxmi Educational Society (Item No. 3 in the table)

Inaction of R1 and R2 in granting affiliation to R5.

Decision of R4 in not granting recognition to R5.

15.

WP. No. 31321/2014

G. Pavan Kumar and others students of B.S. Bugudi Educational Society (Item No. 4 in the table)

Inaction of R1 and R2 in granting affiliation to R5.

Decision of R4 in not granting recognition to R5.

16.

WP. No. 13836/2014

Vignan College of Education

25.11.2013

(2013-2014)

Rejection of affiliation dated 03.04.2014

17.

WP. No. 13830/2014

Jeermiah College of Education

07.11.2013

(2014-2015)

Inaction of respondents in not granting affiliation and not ratifying admission of students despite grant of recognition by NCTE

18.

WP. No. 34776/2014

Venkata Sai D.Ed. College

07.08.2013

(2014-2015)

Decision of R5 and R6 in not granting recognition.

Inaction of R1 to R4 in granting affiliation.

19.

WP. No. 34810/2014

Little Star College of Elementary Education

08.01.2014

(2014-2015)

Decision of R5 and R6 in not granting recognition.

Inaction of R1 to R4 in granting affiliation.

20.

WP. No. 34814/2014

SRM D.Ed. College

23.09.2013

(2014-2015)

Decision of R5 and R6 in not granting recognition.

Inaction of R1 to R4 in granting affiliation.

21.

WP. No. 34830/2014

Mother College of Elementary Education

26.02.2014

(2014-2015)

Decision of R5 and R6 in not granting recognition.

Inaction of R1 to R4 in granting affiliation.

22.

WP. No. 34910/2014

Dhanalakshmi D.Ed. College

25.11.2013

(2013-2014)

Action of respondents in refusing to receive the examination fee of the students of the petitioner institution.

23.

WP. No. 34966/2014

Santhiniketan Diploma in Elementary Education

22.01.2014

(2014-2015)

Action of respondents in refusing to receive the examination fee of the students of the petitioner institution.

24.

WP. No. 35005/2014

Little Rose College of Elementary Education

19.12.2013

(2014-2015)

Decision of R5 and R6 in not granting recognition.

Inaction of R1 to R4 in granting affiliation.

25.

WP. No. 35060/2014

St. Andrews College of Elementary Education

22.01.2014

(2014-2015)

Decision of R5 and R6 in not granting recognition.

Inaction of R1 to R4 in granting affiliation.

26.

WP. No. 35179/2014

Amaravathi D.Ed. College

11.09.2013

(2014-2015)

Action of respondents in refusing to receive the examination fee of the students of the petitioner institution.

27.

WP. No. 35362/2014

S.R. D.Ed. College

28.02.2014

(2014-2015)

Action of respondents in refusing to receive the examination fee of the students of the petitioner institution.

28.

WP. No. 35386/2014

Mother College of Education

13.09.2013

(2014-2015)

Action of respondents in refusing to receive the examination fee of the students of the petitioner institution.

29.

WP. No. 35480/2014

Sri Bhanodaya Teacher Training Institute

27.11.2013

(2014-2015)

Action of respondents in refusing to receive the examination fee of the students of the petitioner institution.

30.

WP. No. 35487/2014

Vikas D.Ed. College

05.09.2013

(2014-2015)

Action of respondents in refusing to receive the examination fee of the students of the petitioner institution.

31.

WP. No. 35496/2014

Sarvodaya College of Teacher Education

05.09.2013

(2014-2015)

Action of respondents in refusing to receive the examination fee of the students of the petitioner institution.

4. The genesis of these cases appears to be the approval granted by NCTE to Vignan College of Education, which is the petitioner in WP. No. 13836 of 2014. The said college was granted recognition by NCTE under its proceedings dated 25.11.2013 for the academic year 2013-2014.

5. The pleadings of the petitioner institutions, in the respective writ petitions, are mostly based upon the recognition granted to Vignan College of Education by NCTE for the academic year 2013-2014. The petitioner institutions claim in their respective affidavits that they had applied for approval of NCTE even earlier to Vignan College of Education and since the later was granted approval for the academic year 2013-2014, expecting similar approval in their case also, all the petitioner institutions state that they have already made requisite preparations including approval of staff and hence, they commenced the admission for the academic year 2013-2014. They further state that, ultimately, however, when the NCTE communicated the approval, it was found to be for the academic year 2014-2015. It is, therefore, pleaded by them that they had applied to NCTE well in advance and made all the arrangements for commencing of the college including appointment of staff, which was approved and as such, for no fault of theirs and for the delay caused by NCTE in communicating the recognition, they cannot be penalized for not getting recognition for the academic year 2013-2014. Hence, they seek direction that the recognition granted by NCTE for the academic year 2014-2015 may be treated as recognition for the academic year

2013-2014.

6. Based upon the recognition granted by NCTE for the academic year 2014-2015 with regard to respective petitioner institutions, the admission of students made by each petitioner institution for the academic year 2013-2014 was not recognized by the State of Andhra Pradesh and State of Telangana and consequently, the list of students admitted was not approved and thereby, the examination fee for the 1st year D.Ed. course to be held from 19.11.2014 was not accepted. Hence, all the petitioners had approached this Court by the present batch of writ petitions. So far WP. No. 13836 of 2014 is concerned, I would deal with the same separately.

7. I have heard Mr. S. Satyam Reddy, learned senior counsel appearing for some of the petitioners, Mr. Mohd. Moin Ahmed Quadri, Smt. K.V. Rajasree, Mr. K. Gani Reddy and Mr. Y. Nagi Reddy as well as Mr. K. Ramakanth Reddy, learned counsel, appearing for NCTE and learned Government Pleader for Education appearing for the respective States and its authorities.

8. The arguments of the learned senior counsel and other counsel for the petitioners rightfully focused on the plight of the students, who have studied in the petitioner institutions for one year and who are ready to appear for the examination, but for the action on behalf of the State Government, which is complained of. The extensive arguments of the learned senior counsel and the other learned counsel also focused upon the fact that the petitioner institutions not being at fault when they applied well in advance to NCTE and when they have complied with all the requirements for grant of recognition. However, the delay in grant of recognition by NCTE cannot work to their disadvantage and thereby, the students would stand to lose the whole academic year 2013-2014. Learned counsel also contended that after NCTE's recognition the role of the affiliating authority is very limited and formal and as such, the said authorities were not justified in denying affiliation.

9. Learned Government Pleader for Education, on the other hand, submits that the recognition granted by NCTE is undisputedly for the academic year 2014-2015 and the order of NCTE itself provides that the institution shall make admissions only after it obtains affiliation from the examining body in terms of clause 8(12) of NCTE (Recognition Norms and Procedure) Regulations, 2009. Based on that, it is specifically contended that none of the institutions was authorized to make admission for the academic year 2013-2014 and since the said action of the respective institutions is contrary to the National Council for Teacher Education Act and Regulations, the said action cannot be overlooked. It is also contended that so far as the State Government is concerned, the rules framed under G.O. Ms. No. 63 Education (PE-PROGS. II) Department dated 28.10.2013, which are titled as Andhra Pradesh Elementary Teacher Training Institutions/District Institutes of Education and Training (Regulation of Admissions into Diploma in Elementary Course through Common Entrance Test) Rules, 2013 clearly regulate the procedure for seeking recognition based upon

the NCTE approval.

10. Learned Government Pleader also points out that under Rule 9 of the aforesaid Rules as per the aforesaid G.O., the schedule for completing admissions is also prescribed with a view to ensure that required minimum attendance is achieved by the students in the respective colleges where they are admitted and as such, no deviation in the said schedule is permissible. The said Rule 9 also provides that no new college shall be granted affiliation after issuance of notification for admission counseling by the Chairperson. All the writ petitions are, accordingly, resisted on the ground that the petitioner institutions directly violate the mandate of the Supreme Court in *MAA VAISHNO DEVI MAHILA MAHAVIDYALAYA v. STATE OF U.P.* (2013) 2 SCC 617

11. Mr. Ramakanth Reddy, learned counsel appearing for NCTE, submitted that the role assigned to NCTE covers the verification and approval of all the basic requirements of establishing a teacher training institute and the NCTE grants recognition only after being satisfied that the applicant college has fulfilled all the basic requirements and only, thereafter, recognition of NCTE under Section 14 of the National Council for Teacher Education Act (for short the Act) is issued. Learned counsel further submitted that it is, therefore, mandatory for the institutions to follow the terms and conditions of the said recognition including the intake and the academic year from which the recognition is granted. In the present batch of cases, since the recognition is granted by NCTE for the academic year 2014-2015, none of the institutions can claim to have started the academic course for the academic year earlier to the recognition granted.

12. I have considered the aforesaid submissions on either side. However, before advertng to them, it would be necessary to notice the statutory environment governing the teacher training institutions. NCTE Act enacted by the Parliament takes into consideration various aspects relating to establishment of teacher training institutions viz. infrastructure facility, the competency of staff appointed etc. After due verification including inspection of the respective colleges, the NCTE considers respective proposal of the colleges and grants it approval. The orders passed by NCTE under Section 14 are also subject to appeal under Section 18 of the NCTE Act. For the sake of convenience, Sections 14, 15, 16, 17 and 18 are extracted hereunder:

14. Recognition of institutions offering course or training in teacher education:-

(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:

Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the

Regional Committee.

(2) The fee to be paid along with the application under subsection (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall-

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing:

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3).

(6) Every examining body shall, on receipt of the order under sub-section (4),-

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.

15. Permission for a new course or training by recognised institution:-

(1) Where any recognised institution intends to start any new course or training in teacher education, it may make an application to seek permission therefor to the Regional Committee concerned in such form and in such manner as may be determined by regulations.

(2) The fees to be paid along with the application under subsection (1) shall be such as may be prescribed.

(3) On receipt of an application from an institution under subsection (1), and after obtaining from the recognised institution such other particulars as may be considered necessary, the Regional Committee shall,-

a) if it is satisfied that such recognised institution has adequate financial resources, accommodation, library, qualified staff, laboratory, and that it fulfils such other conditions required for proper conduct of the new course or training in teacher education, as may be determined by regulations, pass an order granting permission, subject to such conditions as may be determined by regulation; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing permission to such institution, for reasons to be recorded in writing:

Provided that before passing an order refusing permission under sub-class (b), the Regional Committee shall provide a reasonable opportunity to the institution concerned for making a written representation.

(4) Every order granting or refusing permission to a recognised institution for a new course or training in teacher education under sub-section (3), shall be published in the Official Gazette and communicated in writing for appropriate action to such recognised institution and to the concerned examining body, the local authority, the State Government and the Central Government.

16. Affiliating body to grant affiliation after recognition or permission by the Council:-

Notwithstanding anything contained in any other law for the time being in force, no examining body shall, on or after the appointed day,--

(a) grant affiliation, whether provisional or otherwise, to any institution; or

(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognised institution,

Unless the institution concerned has obtained recognition from the Regional Committee concerned, under section 14 or permission for a course or training under section 15.

17. Contravention of provisions of the Act and consequences thereof:-

(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of section 14 or permission under sub-section (3) of section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing:

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed

order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1),-

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of the academic session next following the date of communication of the said order.

(4) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (1) or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government.

18. APPEALS:-

(1) Any person aggrieved by an order made under section 14 or section 15 or section 17 of the Act may prefer an appeal to the Council within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor, if the appellant satisfies the Council that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disallowing an appeal, the appellant shall be given a reasonable opportunity to represent its case.

(5) The Council may confirm or reverse the order appealed against.

13. In terms of the NCTE Act, the affiliating authority viz. the State Government/ University, as the case may be, is required to examine the request of the respective colleges for affiliation. So far as the State Government is concerned, the said issue was earlier governed by G.O. Rt. No. 559 Education (SE-TRG) Department dated 22.08.2007, which is now superceded by later G.O. Ms. No. 63 Education (PE-PROGS. II) Department dated 28.10.2013. The scheme of the aforesaid rules, as per the G.O., envisages allotment of seats under elementary teacher training institutions/District Institutes of Education and Training (DIETs) imparting Diploma in Elementary Education (D.El.Ed.) Course in the State. Rule 3 provides that all sanctioned intake of seats to D.El.Ed shall be filled by the Convener (DEECET). Rule 4 provides eligibility criteria for admission, Rule 5 provide for method of admission and Rule 6 provides for procedure for admission of all seats in Government DIETs and for category A seats in respect of private unaided elementary teacher training institutions and Rule 6(B) provides for procedure for filling up of category A seats in un-aided minority colleges etc. The said rules are also based upon presidential order for providing reservation for different categories. Rule 9, which is relevant for our purpose, deals with schedule of DEECET, which is extracted as under:

9. Schedule of DEECET

(1) The Chairperson, DEECET should by convening a meeting of the Common Entrance Test Committee draw a schedule as shown below for the conduct of DEECET and admissions through DEECET such that the entire admission process is completed by the Last week of July of that particular year and the first instruction day should be the first working day in the first week of August of that particular academic year.

SL. No.

Activity Proposed

Dates

1.

Meeting of the DEECET Admissions Committee

First week of March

2.

Notification for Minority institutions to exercise their option for inclusion in SW-1 or SW-2

Second week of March

3.

Notification for conduct of DEECET

Last week of March

4.

Conduct of DEECET

First week of May

5.

Declaration of Result

Third week of May

6.

Handing over of list of colleges granted affiliation for that particular year

Last week of May

7.

Preparation of Academic Calendar by SCERT

Last week of May

8.

First phase of Counselling (Preparation of Seat Matrix, Submission of web based options by candidates, issued of Provisional letters of admission, Verification of certificates at DIETs and issue of Final Admission letter

First week of June to Second week of June

9.

Second phase of Counselling

Third week of June and Fourth week of June

10.

Notification for filling up of vacant seats in minority institutions with minority candidates

First week of July

11.

Spot Admissions

Second to Fourth week of July

12.

First day of instruction

First working day in the month of August

(2) No new college shall be granted affiliation after issuing of notification for admission counseling by the Chairperson. All the applicants filed and received by the Chairperson for Affiliation Committee for granting affiliation for that year shall be disposed before the above said date. This is to ensure timely completion of counseling process to enable commencement of academic work in the institution on time and also to avoid litigation.

14. The Supreme Court has in various decisions considered and interpreted the provisions of NCTE Act and in my view, it would be relevant to notice two decisions of the Supreme Court, which are relevant for the purpose of deciding the present batch of writ petitions. In ADARSH MAHAVIDYALAYA v. SUBHASH RAHANGDALE the Supreme Court observed that the need for well-equipped and trained teachers because in the last three decades private institutions engaged in conducting teacher training courses/programmes have indulged in brazen and bizarre exploitation of the aspirants for admission to teacher training courses. The Supreme Court also noticed in para 87 (x) and (xi) as under:

(x) In view of the mandate of Section 16, no examining body, as defined in Section 2(d) of the 1993 Act, shall grant affiliation unless the applicant has obtained recognition from the Regional Committee under Section 14 or permission for starting a new course or training under Section 15.

(xi) While granting affiliation, the examining body shall be free to demand rigorous compliance of the conditions contained in the statute like the University Act or the State Education Board Act under which it was established or the guidelines/norms which may have been laid down by the concerned examining body.

It was further mandated in para 87 (xii) to (xvi) as under:

(xii) No institution shall admit any student to a teacher training course or programme unless it has obtained recognition under Section 14 or permission under Section 15, as the case may be.

(xiii) While making admissions, every recognised institution is duty bound to strictly adhere to para 3.1 to 3.3 of the Norms and Standards for Secondary/Pre-School Teacher Education Programme contained in Appendix-1 to the Regulations.

(xiv) If any institution admits any student in violation of the Norms and Standards laid down by the NCTE, then the Regional Committee shall initiate action for withdrawal of the recognition of such institution and pass appropriate order after complying with the rules of natural justice.

(xv) The students admitted by unrecognised institution and institutions which are not affiliated to any examining body are not entitled to appear in the examination conducted by the examining body or any other authorised agency.

(xvi) The students admitted by the recognised institutions otherwise than through the entrance/eligibility test conducted in accordance with the admission procedure contained in para 3.3 of Appendix-1 of the Regulations are also not entitled to appear in the examination conducted by the examining body or any other authorised agency.

15. In another later decision of the Supreme Court in *MAA VAISHNO DEVI MAHILA MAHAVIDYALAYAs* case (supra) the Supreme Court has again examined the provisions of NCTE Act and somewhat similar question was considered by the Supreme Court with respect to delay on the part of the State Government in granting affiliation. The relevant paras of the said decision are extracted hereunder:

42. From the reading of the above provisions, it is clear that the NCTE is expected to perform functions of a very high order and to ensure maintenance of higher standards of education in teachers training. Default in compliance of its orders/directions can result in very serious consequences and, in fact, would render the concerned institute ineffective and inoperative. Where the recognition by the NCTE gives benefits of wide magnitude to an institute, there the withdrawal of recognition not only causes impediments in dispensation of teacher training courses by that institution but the institution is obliged to discontinue such courses from the specified time.

59. The Department of the State and the affiliating University have a role to play but it is limited in its application. They cannot lay down any guideline or policy which would be in conflict with the Central statute or the standards laid down by the Central body. State can frame its policy for admission to such professional courses but such policy again has to be in conformity with the directives issued by the Central body. In the present cases, there is not much conflict on this issue, but it needs to be clarified that while the State grants its approval, and University its affiliation, for increased intake of seats or commencement of a new course/college, its directions should not offend and be repugnant to what has been laid down in the conditions for approval granted by the Central authority or Council. What is most important is that all these authorities have to work *ad idem* as they all have a common object to achieve i.e. of imparting of education properly and ensuring maintenance of proper standards of education, examination and infrastructure for betterment of educational system. Only if all these authorities work in a coordinated manner and with cooperation, will they be able to achieve the very object for which all these entities exist.

69. Thus, grant of recognition or affiliation to an institute is a condition precedent to running of the courses by the Institute. If either of them is not granted to the institute, it would not be in a position to commence the relevant academic courses. There is a possibility of some conflict between a University Act or Ordinance relating to affiliation with the provisions of the Central Act. In such cases, the matter is squarely answered in the case of *State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others*, where the Court

stated that after coming into operation of the Central Act, the operation of the University Act would be deemed to have become unenforceable in case of technical colleges. It also observed that provision of the Universities Act regarding affiliation of technical colleges and conditions for grant of continuation of such affiliation by university would remain operative but the conditions that are prescribed by the university for grant and continuation of affiliation must be in conformity with the norms and guidelines prescribed by the NCTE.

71. The examining body can impose conditions in relation to its own requirements. These aspects are:

(a) eligibility of students for admission;

(b) conduct of examinations;

(c) the manner in which the prescribed courses should be completed; and

(d) to see that the conditions imposed by the NCTE are complied with. Despite the fact that recognition itself covers the larger precepts of affiliation, still the affiliating body is not to grant affiliation automatically but must exercise its discretion fairly and transparently while ensuring that conditions of the law of the university and the functions of the affiliating body should be complementary to the recognition of NCTE and ought not to be in derogation thereto.

78. It is on record and the Regulations framed under the Act clearly show that upon receiving an application for recommendation, the NCTE shall send a copy of the application with its letter inviting recommendations/comments of the State Government on all aspects within a period of 30 days. To such, application, the State is expected to respond with its complete comments within a period of 60 days. In other words, the opinion of the State on all matters that may concern it in any of the specified fields are called for. This is the stage where the State and its Department should play a vital role. They must take all precautions to offer proper comments supported by due reasoning. Once these comments are sent and the State Government gives its opinion which is considered by the NCTE and examined in conjunction with the report of the experts, it may grant or refuse recognition. Once it grants recognition, then such grant attains supremacy viz-a-viz the State Government as well as the affiliating body. Normally, these questions cannot be re-agitated at the time of grant of affiliation. Once the University conducts inspection in terms of its Statutes or Act, without offending the provisions of the Act and conditions of recognition, then the opinion of the State Government at the second stage is a mere formality unless there was a drastic and unacceptable mistake or the entire process was vitiated by fraud or there was patently eminent danger to life of the students working in the school because of non-compliance of a substantive condition imposed by either of the bodies. In the normal circumstances, the role of the State is a very formal one and the State is not expected to obstruct the commencement of admission process and academic courses once recognition is granted and affiliation is found to be acceptable.

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85. The process for grant of recognition, affiliation and thereby sanctioning of commencement of the courses in terms of the Regulations and the orders of this Court gives an outer period of approximately 270 days, i.e. 9 months, from 1st September to 10th May of the year immediately preceding the concerned academic year. Thus, for the entire process to be within this framework, it must be completed within the afore-stated period. The process inter alia includes various steps including comments of the State, inspection of the institution and compliance of the various conditions afore-noted in the order of recognition and affiliation by the affiliating body.

87.3. The recognition and affiliation granted as per above schedule shall be applicable for the current academic year. For example recognition granted up to 3-3-2013 and affiliation granted up to 10-5-2013 shall be effective for the academic year 2013-2014 i.e. the courses starting from 1-4-2013. For the academic year 2013-2014, no recognition shall be issued after 3-3-2013 and no affiliation shall be granted after 10-5-2013. Any affiliation or recognition granted after the above cut-off dates shall only be valid for the academic year 2014-2015.

87.4 We make it clear that no Authority/person/Council/Committee shall be entitled to vary the schedule for any reason whatsoever. Any non-compliance shall amount to violating the orders of the Court.

16. In the light of the aforesaid binding ratio, therefore, I am unable to find any justifiable reasons to accept the contentions on behalf of the petitioners. The fact remains that in all the writ petitions, the recognition by NCTE is only for the academic year 2014-2015 and none of the institutions could have proceeded with admission of the students without obtaining affiliation from the State Government/examining body. As observed by the Supreme Court in the judgments, referred to above, any admission in violation of NCTE Act or the Rules of the State Government, cannot be recognized and the process of this Court under Article 226 of the Constitution of India also cannot be invoked either on the ground of sympathy or otherwise. The binding nature of the schedule fixed by the Supreme Court, as extracted above, is inviolable. Further, the admission rules framed by the State Government, extracted above, also stipulate the time schedule under Rule 9(2) of the Rules under the aforesaid G.O. Thus, to enable admission of students in a particular academic year, the respective college, which has obtained approval of NCTE, must approach the State Government and obtain affiliation within the time schedule fixed, as above.

17. The contentions of the learned counsel in some of these writ petitions that for no fault of theirs, the approval is delayed, is, therefore no ground to condone the admissions made in anticipation of approval from NCTE or affiliation from the State Government. It is also noteworthy that though many of the petitioners contend that they had applied to the NCTE well in advance and they ought to have been granted recognition for the academic year 2013-2014. However, against the actual recognition granted by NCTE for the academic year 2014-2015, none of the institutions have preferred any appeal in terms of Section 18 of the NCTE Act seeking recognition from the academic year 2013-2014. Hence, it is also not possible to accept the contention that NCTE's recognition has to be treated as for academic year 2013-2014 in view of their applications having been made well in time.

18. I am, therefore, unable to find any substance in the contentions of the learned counsel for the petitioners and in view of the admissions made by the colleges for academic year 2013-2014, though NCTE granted recognition for the academic year 2014-2014, no directions can be given to permit the students to appear for examinations. I am, therefore, of the view that all the writ petitions are liable to be dismissed.

WP. No. 13836 of 2014:

19. The relevant facts show that NCTE granted recognition on 25.11.2013 for the academic year 2013-2014. However, the affiliation sought for by the petitioner institution was rejected by the State Government under its order dated 03.04.2014. The said order is questioned on various grounds.

20. Learned senior counsel contends that in this case also NCTE granted approval in November 2013 and immediately the petitioner institution applied for affiliation. However, the Government rejected the affiliation on the ground that

the proposal of the petitioner institution is received after the cut off date, as stipulated in the G.O., referred to above. Learned senior counsel, however, contends that the delay in approval by the NCTE cannot be blamed on the petitioner institution and as soon as the petitioner institution received approval, they have applied for affiliation. Learned senior counsel also placed reliance upon two unreported decisions of the Supreme Court in CENTRAL UNIVERSITY OF ORISSA v. NCTE [WP (Civil) No.(s).741 of 2013] dated 06.09.2013 and another decision in WP(C). No. 221 of 2013 dated 10.05.2013 wherein on the facts of those cases appropriate directions were given to treat the said orders of recognition by NCTE as applicable to the current academic years, though it was beyond the cut off date.

21. Counter affidavit filed by respondents place strong reliance upon Rules 9(1) and (2) of the Rules framed under G.O. Ms. No. 63 dated 28.10.2013, extracted above. Paras 6 and 7 of the counter affidavit states that since the petitioners request for affiliation for the academic year 2013-2014 could not be considered and since the petitioner had submitted a fresh proposal for granting affiliation for the academic year 2014-2015, the same was approved by the affiliation committee and the Government also granted affiliation to the petitioner for the academic year 2014-2015 vide its memo dated 30.09.2014. Rule 9(1) and (2) of the Rules framed under the aforesaid G.O., is also sought to be justified on the basis of the ratio of the decision of the Supreme Court in MAA VAISHNO DEVI MAHILA MAHAVIDYALAYAs case (supra) and relevant paras are already extracted above. It is stated that in order to be eligible for the academic year 2013-2014 the petitioner institution ought to have been granted affiliation up to 10.05.2013 and if no affiliation is granted by that date, no such affiliation can be granted for the academic year 2013-2014.

22. The aforesaid contentions of the learned senior counsel also cannot be accepted as the ratio of the decision of the Supreme Court in MAA VAISHNO DEVI MAHILA MAHAVIDYALAYAs case (supra) is binding on petitioner institution as well as this Court. Secondly, the two decisions referred to by the learned senior counsel recorded in the orders that the said orders are not to be treated as a precedent and are passed in the particular facts of respective cases. Therefore, even if NCTEs recognition has been issued after the cut off date but that by itself is not a ground to hold that the petitioner institution is entitled to affiliation for the academic year 2013-2014 also.

23. Moreover, the counter affidavit of the Government filed by the first respondent states that subsequently after inspection and considering the reply of the petitioner institution, the affiliation committee granted affiliation for the academic year 2014-2015. In view of that, it is not permissible to accept the request of the learned senior counsel for treating the rejection of affiliation for 2013-2014 as non-est. In view of the decision of the Supreme Court in MAA VAISHNO DEVI MAHILA MAHAVIDYALAYAs case (supra) it cannot be said that the impugned order of the State Government rejecting the affiliation to the petitioner

institution is merely on technical grounds. Therefore, the writ petition is liable to be dismissed.

In the result, all the writ petitions are dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.