

(2008) 02 MAD CK 0213

In the Madras High Court

Case No : Writ Petition No's. 21583 and 25927 of 2007 and M.P. No's. 1 and 2 of 2007

S. Venkateswaran and Others

APPELLANT

Vs

Jayasuriya Teachers Education and Training College, The
Director of Teacher Education, Research and Training, The
Director of Government Examination and The Regional
Director, National Council for Teacher Education

Jeyasuriya College of Education Vs The Member
Secretary, National Council for Teacher Education (NCTE),
The Regional Director, National Council for Teacher Education,
Southern Regional Committee and The Director of Teacher
Education

RESPONDENT

Date of Decision : 07-02-2008

Acts Referred:

Citation : (2008) 02 MAD CK 0213

Hon'ble Judges : P. Jyothimani, J

Bench : Single Bench

Advocate : Silambanan, S.C. for Silambanan Associates in W.P. No. 21583 of 2007 and N.R. Chandran, S.C. for R. Kannan, in W.P. Nos. 25927 and 31976 of 2007, for the Appellant; N.R. Chandran, S.C. for R. Kannan, for R1, G. Sankaran, Spl. G.P. for R2 and R3 assisted by Shanmugavalli Sekar, AGP for R3 and P.R. Gopinathan, for R1, R2 and R4 in W.P. Nos. 21583, 25927 and 31976 of 2007, for the Respondent

Judgement

P. Jyothimani, J.—Writ Petition No. 25927 of 2007- learned Counsel for the petitioner seeks permission to withdraw this writ petition. He has also made an endorsement to that effect. Accordingly, W.P. No. 25927 of 2007 is dismissed as withdrawn. No costs. Consequently, M.P. Nos. 1 and 2 of 2007 are also dismissed.

2. W.P. No. 31976 of 2007 is filed by a self-financing Private Teacher Training Institute for a direction against the respondents to permit 74 students who are now studying in the petitioner institution to write the first year Diploma Examination for the academic year 2006-2007.

3. Nine petitioners among the 74 students mentioned by the writ petitioner in W.P. No. 31976 of 2007, who were admitted in the petitioner institution for the academic year 2006-2007 have filed W.P. No. 21583 of 2007.

4. The petitioner institution was recognised by the NCTE on 24.11.2004 for the academic year 2004-05 in the original intake of 50 students. The teachers list for the said students have been approved by the second respondent on 29.6.2005. The petitioner has applied to the NCTE for recognition of additional intake of 50 students in the year 2006. Anticipating that the NCTE will grant approval, the petitioner institution has admitted some students for the academic year 2005-06. However, the NCTE has granted recognition for additional intake of students only on 15.7.2006. Therefore, it is clear that the students admitted in respect of additional strength in the institution by the petitioner even in the year 2005-06 are not persons eligible to write examinations. However, in that year, in respect of original strength of 50 students, 25 students were to be admitted by the petitioner institution under the management quota and the remaining 25 students have to be sponsored by the Government, in total in that year, namely 2005-2006 41 students were permitted to appear for the examination.

5. It is the case of the petitioner that apart from the 41 students, who were permitted to write examination for the year 2005-06, there were 74 students, who were admitted by the petitioner institution in the said year in anticipation of the approval by the NCTE and the case of the petitioner institution is that those students were continued for the academic year 2006-07 and the petitioner has also sent a proposal on 18.11.2006 for approval of the list of teachers for the additional strength of students, which was for the academic year 2006-07. There was no order passed by the second respondent and in those circumstance, the petitioner was constrained to approach this Court by filing W.P. No. 5559 of 2007. This Court disposed of the said writ petition by an order dated 19.2.2007 directing the first respondent therein to consider the list of faculty members submitted by the petitioner by proposal dated 18.11.2006 and pass appropriate orders within a period of four weeks. According to the petitioner, inspite of the direction given by this Court on 19.2.2007, the second respondent has not passed any orders even till date. In this circumstance, the petitioner institution has filed the present writ petition for a direction as stated above.

6. On the other hand, the second and third respondents have filed counter affidavit. It is their case in the counter affidavit that for the year 2005-2006, 41 students were permitted to write examinations and the petitioner has admitted 74 students over and above the sanctioned strength. They also denied that they have not approved the list due to official bias. It is the case of the second respondent in the counter affidavit that the proposal of the petitioner dated 18.11.2006 was returned by the third respondent, namely, the Principal, DIET, Villupuram to the petitioner on 8.3.2007 for modification of deficiencies and the papers have not been so far re-submitted by the petitioner. Further, it is stated by the second respondent that the second respondent has brought to the notice

of the NCTE about the illegalities committed by the petitioner institution in admitting the students over and above the sanctioned strength for appropriate action. It is also the case of the second and third respondents that in respect of admission of students over and above the permitted strength, there has been law and order problem and one of the students has also committed suicide and due to the said reason, certain criminal cases have been filed and in fact the person in management of the petitioner institution was also arrested in a criminal case.

7. It is the further case of the second respondent that the writ petitioner has filed another writ petition in W.P. No. 2552 of 2008 with false averment praying for issuance of hall tickets for 150 students on the basis that the NCTE has granted another additional intake of 50 students over and above the additional intake of 50, which was already given to them. According to the second respondent the NCTE has not given permission for any additional intake and in spite of that, the petitioner has filed the writ petition in W.P. No. 2552 of 2008. This shows the conduct of the petitioner in giving false representation and admitting the students over and above the strength to which they are entitled to. It is the further case of the second respondent in the affidavit that the petitioner has been making and sending many lists stating as if the students were admitted every year. According to the second respondent the petitioner has claimed another list of 84 + 16 students stated to have been admitted in their institution. It is also stated by the second respondent in the counter affidavit that due to the harassment of the petitioner, one Selvi. Sathya aged 18 years, who got admission in the petitioner institution has committed suicide, since the petitioner institution has compelled the parents to pay the full amount for the purpose of getting transfer certificate and in respect of that there was a complaint given to the State Human Rights Commission, which is pending against the petitioner.

8. It is also stated by the second respondent in the counter affidavit that the petitioner has given so far three lists of students, namely, "A" list containing 75 students; "B" list containing 100 students and "C" list containing another 150 students and those students are not at all permitted to write examination, inasmuch as they are admitted beyond the original strength of 50 and additional intake of 50, which was given in the year 2006-07. Therefore no indulgence should be shown as far as the present petitioner is concerned.

9. Mr. N.R. Chandran, learned senior counsel for the petitioner would vehemently oppose the ground taken by the second respondent in the counter affidavit as if the proposal of the petitioner dated 18.11.2006 for approval of teachers in respect of the additional intake of students of 50 granted by the NCTE for the year 2006-07 was returned by the third respondent, namely, the Principal of DIET on 8.3.2007.

10. On the other hand, learned Special Government Pleader has produced the copy of the document filed by the petitioner to the third respondent wherein the third respondent has returned the papers on 8.3.2007. It is the case of the

learned Special Government Pleader that the copy, which seems to be the original order passed by the third respondent Principal is a duplicate copy and the original has been sent to the petitioner and according to the learned Special Government Pleader, the petitioner has received the same. He has also brought to the notice of this Court that the said documents contain acknowledgement of the Principal of the petitioner College.

11. On the other hand, Mr. N.R. Chandran, learned senior counsel would vehemently oppose contending that first of all the third respondent/Principal DIET has no right to pass any orders, even as per the proceedings, which have been followed by the respondents. It is for the Director, namely, the second respondent who has got right to approve or disapprove the teachers list. Therefore, at the first instance, he would submit that the order passed by the third respondent is uncalled for and illegal and the same has to be ignored. Secondly, he would submit that a reference to the documents produced by the learned Special Government Pleader shows that the person, who had signed the order as Principal is not the Principal at that point of time at all. When clarification was sought for, learned Special Government Pleader would submit that the Principal of DIET Villupuram at that point of time was one Mr. Lakshmipathy Raju, who has been continuing atleast from 26.10.2006 to 26.11.2007, as it is seen from the proceedings of the Principal, DIET in Na.Ka. No. 987/E1/2006 dated 26.10.2006 and Na.Ka. No. 1281/ A2/2007 dated 26.11.2007 as produced by the learned Special Government Pleader himself. However, the learned Special Government Pleader would submit that on the day, namely, 8.3.2007, when the papers were returned, it was signed by some other person, who was working as Principal in-charge. It is also submitted by the learned Special Government Pleader that the Principal in-charge who has signed the papers on 8.3.2007 himself has not returned the papers to the petitioner and his case is that the Principal in-charge having signed the papers has left it in the office and office has returned the papers to the petitioner, who has received it on acknowledgement.

12. Mr. N.R. Chandran, learned senior counsel after hearing the argument of the learned Special Government Pleader would submit that when the Principal, DIET himself has no right to pass order, it is not known as to how the Principal in-charge has come into existence especially when the documents produced by the Special Government Pleader shows that from 26.10.2007 to 26.11.2007 one Mr. Lakshmipathy Raju was the Principal of DIET. He would also submit that even assuming that the person, who has signed the order is the Principal in-charge, it is not the case of the respondents that the Principal in-charge has returned the papers, but somebody else, who has to be an official and there is no proper acknowledgment from the petitioner at all. Learned senior counsel denied the initial put by some other person stating that it is not that of the petitioner/Principal and he reiterated the stand taken by him in the additional affidavit filed in support of the writ petition that the said proposal dated 18.11.2006 filed by the petitioner before the second respondent has never been returned so far.

13. On the other hand, as it is seen in the counter affidavit, it is the stand of the second respondent that the papers have been returned as early as 8.3.2007 and it is the petitioner, who has not taken any step to re-submit it and there is no fault as such on the part of the second respondent. On the face of the document, which has been produced before this Court, Mr. N.R. Chandran, learned senior counsel would also submit that as per the document produced it is returned on the basis that the list of teachers does not contain qualification as per the NCTE norms, the Principal, DIET has no right to take such a decision at all.

14. On the other hand, it is the contention of the learned Special Government Pleader that the Principal, DIET has not passed any order, he has only returned the papers inasmuch as every papers addressed to the Director have to be routed through the DIET Principal and the Principal, DIET has got every right to verify the correctness or otherwise of the application produced by the petitioner institution. Therefore, on verification, Principal, DIET, who is also an authority working under the Director has found that the teachers were not qualified and therefore, he has every right to return the papers and therefore it is the duty of the petitioner to resubmit the same.

15. Be that as it may. On the basis of the document, which has been produced by the learned Special Government Pleader, there is absolutely no doubt that some person, who is called as DIET Principal without even mentioning that he is the Principal in-charge has made the return. In the teeth of the specific stand taken by the petitioner that the proposal given by the petitioner dated 18.11.2006 has not been considered at all and no order has been passed by the second respondent in spite of the specific direction given by this Court as early as on 19.12.2007, I have no hesitation to come to a conclusion that there is definitely some truth in the contention of the learned senior counsel appearing for the petitioner for the reasons, which are more than one. As correctly submitted by the learned senior counsel it is not known as to how the Principal in charge of DIET whose name is not known has any jurisdiction to pass any order in respect of the qualifications of the teachers, whose names find place in the list. In fact in the batch of writ petitions, which came to be disposed of in W.P. No. 20569 of 2007 dated 11.1.2008, this Court has taken a definite stand that the Principal DIET has no right to even make endorsement because his endorsement is not valid in the eye of law. In the admitted circumstance that there is no Scheme, no Regulation and no Rule framed by the Government in respect of the powers of the Director as well as the Principal DIET, I am not able to understand as to how the returns are made and under what authority.

16. On the basis of the submissions by the learned senior counsel for the petitioner that the signature found in the return is not that of anybody working in the petitioner college, I do not think that there is any substance in the contention of the learned Special Government Pleader as if the proposal have been returned and the petitioner has not represented the same. It is not in dispute that in the proposal dated 18.11.2006, the names of 8 teachers have been proposed for the

purpose of approval. Except in respect of three, as it is seen in the endorsement by the so called Principal in-charge wherein he has stated that item Nos. 2 and 3 in the list have not got more than 55% of marks, there is no endorsement in respect of others. In respect of others, it is not known as to how the Director has not passed any orders in spite of the specific direction given by this Court. It is seen on record that the second respondent has originally approved the list of 1 + 5 teachers by his proceedings in R.C. No. 1248/C1/2005 dated 21.6.2005. The further grounds stated by the Principal DIET in-charge in the return is about the requirement of 55 % marks. As it is seen in the amended NCTE Rules 2005, there is no prescription of any mark regarding the qualification of the teachers. At the same time, a reference to the documents show that all is not well in the petitioner institution. The very fact that a student has committed suicide, which resulted due to the conduct of the petitioner institution is certainly disturbing. The reason given is that the exorbitant amount has been requested to be paid by the parents and about which an enquiry is pending before the State Human Rights Commission.

17. The records further show that as it is seen in the annexure to the counter affidavit of the second respondent that the petitioner as on date had atleast filed three list of students for approval, namely, list "A, B and C". It is seen that List "A" contains 75 names of students, who are admitted for the academic year 2005-06, which includes the nine writ petitioners in W.P. No. 21583 of 2007. Very curiously, List "B" has also been submitted by the petitioner institution on 5.2.2007 containing another 100 students. The said list also includes the students, who were admitted under Single Window System. Further the third list has been sent as List "C" containing 150 students stated to have been admitted for the academic year 2006-07. It is also found from records that it is in respect of these 150 students, the petitioner has filed another writ petition in W.P. No. 2552 of 2008, even without getting recognition for further intake of students strength. As on date, the total students strength which is permissible to the petitioner institution as approved by the NCTE originally was 50 for the academic year 2005-06, for the additional intake of 50 students for the academic year 2006-07. The NCTE admittedly has not passed any orders even though, the learned Counsel for the petitioner submits that subsequently orders have been passed. In any event, this Court is concerned about the students especially the 75 students, who have been admitted even in the year 2005-06 under the pretext that they will be permitted to write examination for the year 2005-06 itself. It is due to the above said reason, the NCTE has not granted approval, those unfortunate students have not been permitted to write examination and they have also agreed to continue their first year Course in the year 2006-07 and in that view of the matter, it cannot be said that the said 75 students should not be shown any mercy. Any order harsh to the petitioner, who may be otherwise entitled, should not affect the unfortunate students, who have been admitted in the year 2005-06 itself.

18. In view of the same, the present writ petition is ordered with a direction to

the second respondent to permit the following students, who are admitted in the petitioner institution for the academic year 2005-06 and continued in 2006-07 in the first year Diploma in Teacher Education for the academic year 2006-07 to be held on 18th February 2008. It is made clear that the petitioner institution shall not be eligible for permission to write examination for the academic year 2006-07 except the following students. In addition to the above, the following students admitted in the petitioner institution, who are sponsored by the Government under Single Window System shall also be permitted to write examination for the academic year 2006-07. The said students shall be permitted to write examination subject to the other requirements like attendance etc.

Students admitted in the petitioner institution for the academic year 2005-06:

1. MOHAN RAJ.R 02. DHANALAKSHMI.S 03. RAJESWARI.B 04. KALPANA.B 05. ARULMANI.K 06. KODIYARASI.N 07. PRIYA.D 08. THULASI.P 09. SATHIYAVATHI.G 10. SAMPATH KUMAR.R 11. MANIKANDAN.A 12. NITHYA.A 13. KARTHIKA.R 14. MALATHI.D 15. VELAYUDAM.S 16. SIVA SANKARI.P 17. DHAKSHANA MURTHY.J 18. ELAVARASI.K 19. BHARATHI.A 20. PRIYA.K 21. MOHANKUMAR.A 22. PALANISAMY.T 23. THIRUGNANA SAMBANDAM.K 24. SUBHASHINI.S 25. KRISHNA MURTHI.M 26. JOHN BRITTO.L 27. SATHYA.L 28. RAGURAMAN.R 29. SEENUVASAN.A 30. PAUL RAJ.M 31. VENKATESWARAN.S 32. RAJESHWARI.D 33. PRABAVATHI.S 34. SARITHA.P 35. ELAVARASI.A 36. SUDHAKAR.P 37. ROHINI PRIYA.S 38. MANI MEGALAI.R 39. SOPHIA MARY.A 40. BHUVANESWARI.S 41. AZHAGIRI.P 42. GUNASEKAR.M 43. SELVAPRIYA.S 44. DEEPALAKSHMI.A 45. MAGARAJAN.S 46. MAN VIZHI.C 47. SUBULAKSHMI.M 48. ADHILAKSHMI 49. VENKATESAN.V 50. RAJA.D 51. VASUKI.P 52. RAJALINGAM.M 53. SUBASRI.R 54. ANITTA.E 55. RAJALAKSHMI.A 56. SRINIVASAN.K 57. DEEPA.P 58. SUGANTHI.S 59. THAMARI MAY MALAR.J 60. VALARMATHI.P 61. ANANTHI.K 62. MURUGAN.R 63. SANGEETHA.B 64. JAYA.P 65. ABIRAMI.G 66. ANBUHEL VAN.P.E. 67. AROCKIA BERNADETH.G 68. FRANCIS RAMYA.V 69. GONSOLA GRASIA.S 70. LAVANYA.K 71. RAJAVENI.S 72. THARANI SREE.R 73. RAJESWARI.S 74. RAMACHANDRAN.V

Students sponsored by the Government under Single Window System

1. Alamelu 2. Kanimozhi.S. 3. Manimozhi.T. 4. Ambika. B 5. Latha. G 6. Shanthi.M 7. Revathi.G 8. Rathika.C. 9. Jeyabharathi.B 10. Hemalatha .V. 11. Muniammal.P. 12. Usha.G. 13. Kalaivani.G. 14. Jayalakshmi.M 15. Sathiya.T. 16. Karthika.A. 17. Riswanaparveen.U. 18. Arunadevi.K. 19. Kalyani. S.

19. The writ petitions W.P. Nos. 31976 of 2007 and 21583 of 2007 are ordered in the above terms. No costs. Consequently, M.P. Nos. 1 and 1 of 2007 are closed.