

(2011) 04 JH CK 0097
In the Jharkhand High Court
Case No : Civil Review No. 120 of 2010

Sanjeev Kumar Jha and Others

APPELLANT

Vs

Swami Ram Krishna Paramhans Teacher's Training (B. Ed)
College and Others

RESPONDENT

Date of Decision : 15-04-2011

Acts Referred:

Jharkhand State Universities Act, 2000 — Section 4(19)

National Council for Teacher Education Act, 1993 — Section 14(6)

Citation : (2011) 3 JCR 108

Hon'ble Judges : R.R. Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R. Prasad, J.—Through this review application, the order passed by this Court on 19.11.2010 in W.P.(C) 4976 of 2010 directing the Vinoba Bhave University, Hazaribagh to allow the students of the College to take B. Ed examination for the Session 2009-10 which was to be commenced from 6th December, 2010 by accepting forms and fees etc. has been sought to be quashed on the ground that the College, namely, Swami Ram Krishna Paramhans Teacher's Training (B. Ed) College, Karmatand, Bokaro has never been given affiliation by the University for the Session 2009-10 but statement was made before this Court that the said College is affiliated College and on such assumption, the order was passed and, therefore, the order is fit to be reviewed, in view of the decision of the Supreme Court rendered in a case of N.M. Nageshwaramma v. State of Andhra Pradesh and Anr. 1986 (Supp) SCC 166, holding therein that students of unaffiliated College cannot be allowed to take examination.

2. Mr. Sameer Saurav, learned Counsel appearing for the Petitioners submitted that it is true that the College was given recognition by the N.C.T.E, vide its order dated 28.2.2008 but while granting recognition, one of the stipulation was that the institution shall make admission only after it obtains affiliation from the

examining body in terms of Clause 8(12) of the N.C.T.E Regulations, 2007 notified on 10.12.2007 but the College took admission of the students for the session 2009-10 without having any affiliation from the University in terms of Section 4(19) of the Jharkhand State Universities Act, 2000 and in that event, the students of the College had had no right to appear in the examination conducted by the University. However, this Court upon wrong assertion of the writ Petitioner that the College is affiliated, passed the order which is fit to be recalled/reviewed as the direction made by the Court is in clear transgression of the provision of the Universities Act and as such, so long college is not affiliated, even the court cannot come to rescue of the students to protect their interests.

3. Learned Counsel in support of his submission has referred to decisions rendered in cases of A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another, , State of Tamil Nadu and Others Vs. St. Joseph Teachers Training Institute and Another, and also in a case of Surendra Singh v. Tilka Manjhi Bhagalpur University and Ors. 2003 (1) PLJR 128.

4. Thus, on the aforesaid plea it was submitted that the order passed by this Court on 19.11.2010 is fit to be reviewed.

5. As against that, Mr. Sohail Ansar, learned Senior counsel appearing for the Respondent No. 1 (writ Petitioner) submitted that the College has been given permanent recognition by the National Council for Teachers Education, vide its order dated 28.2.2008. Upon granting of permanent recognition, the State Government also accorded approval for affiliation for the session 2008-09. Thereupon the students of the College took examination of B. Ed for the session 2008-09 and 98% of them came out successful. After the result was published, a request letter was sent by the College to the Registrar, Vinoba Bhave University, Hazaribagh on 18.6.2009 to permit the College to take admission of the students in B. Ed. course for the session 2009-10 but when no response was made, an advertisement was issued for taking admission in the session 2009-10 and in that situation, admissions were taken and in the meantime, request was made to the University for grant of affiliation for the session 2009-10 and for that, required inspection fee was deposited in response to direction given by the University. Later on, members of the committee inspected the College and forwarded its report to Human Resources Department, Government of Jharkhand so as to decision in this regard be taken. On such report, decision was taken by the State Government for extension of temporary affiliation for the session 2009-10 which would be evident from the letter dated 5.8.2010. The said letter had been annexed in the writ application as Annexure 7 and in the present counter affidavit, it has been annexed as Annexure A. Thereafter a letter was written to the Registrar, Vinoba Bhave University, Hazaribagh on 28.8.2010 intimating therein that all the conditions mentioned in the letter of the Government have been fulfilled and as such, request was made to take decision in the matter of grant of affiliation. When nothing was done by the University in this regard, a letter was written by the Principal of the College to allow the

students to fill up the forms and to deposit fees so that they may take examination for the session 2009-10. The University could not take decision in the matter for the reason that dispute relating to control of the management of the College was going on between rival factions of the Managing Committee and in that event, writ application was filed by the Principal, In-charge of the College for allowing the students to take examination so that future of the students may not be jeopardized. When in the aforesaid situation the order was passed by this Court, the Petitioner of the review application claiming to be the Secretary of the Managing Committee of the College though he has never been recognized by the Registration Department to be the Secretary of the Managing Committee has filed this review application only to satisfy his ego and as such, he has got no locus standi to prosecute civil review application.

6. Learned Counsel further submitted that those decisions referred to on behalf of the Petitioners are not applicable as the situation got changed completely after the commencement of N.C.T.E Act, 1993 whereby once recognition is granted by the N.C.T.E u/s 14(6) of the Act, every University (examining body) is obliged to grant affiliation to such institution in spite of the provision being there in the Universities Act relating to grant of affiliation by the University.

7. Learned Counsel in support of his submission has referred to a decision in the case of State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others, .

8. Having heard learned Counsel appearing for the parties and on perusal of the order dated 19.11.2010 passed in W.P.(C) No. 4976 of 2010, it does appear that the order was passed after taking into account of the fact that on recognition being granted to the College by the N.C.T.E, the University granted affiliation to the college for the Session 2008-09 and the students were allowed to take examination for the Session 2008-09. Subsequently, the College by writing a letter asked for permission from the University for taking admission of the students but the University kept mum and in that situation, admission was taken of the students of the Session 2009-10 and then, the committee after inspecting the College submitted its report to the State government. The State Government took a decision for according temporary affiliation for the Session 2009-10 and intimated about it to the University for doing needful but the University did not take any decision in this regard, perhaps for the reason that two factions of the Managing Committee were fighting out to have control over the Management of the College and for that reason, when the University was not accepting fees and forms of the students, writ application was filed for directing the University by accepting the fees and forms so that students may take B. Ed examination for the Session 2009-10 and this Court having taken into account all the facts stated above allowed the writ application directing the University to allow the students to take examination. The said order keeping in view the provision of Section 14(6) of the N.C.T.E Act and the decision rendered in case of State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Ors.

(supra) it can never be said to be contrary to the provision of the Universities Act and also against the decisions referred to above on behalf of the Petitioners, as those decisions of the Hon''ble Supreme Court relate to the period prior to enactment of N.C.T.E Act.

9. Thus, I do not find any error apparent on the face of the record and hence, this review application stands dismissed. However, before parting with the order, it be recorded that on filing review application the order was passed on 21.2.2011 directing the University not to publish the result. However, that order in view of the dismissal of the review application stands vacated.