
(2015) 02 JH CK 0149
In the Jharkhand High Court
Case No : WP(C) No. 4138 of 2014

Scholar B.Ed. College

APPELLANT

Vs

Vinoba Bhawe University and Others

RESPONDENT

Date of Decision : 19-02-2015

Acts Referred:

Citation : (2016) 1 AJR 480 : (2015) 2 JLJR 170

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Altaf Hussain, for the Appellant

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J.—Seeking a direction upon the respondents to modify the affiliation order dated 27.9.2013 for Academic Session 2013-14 onwards or until further orders in terms of recognition granted by National Council of Teachers Education (NCTE) and for a direction to the respondents to grant affiliation to the petitioner's college for B.Ed. course for the Academic Session 2014-15 onwards, the present writ petition has been filed by the petitioner-Scholar B.Ed. College, Giridih. A declaration that action of the respondents in not granting affiliation to the petitioner's college for running B.Ed. course for Academic Session 2013-14 is illegal, arbitrary and against the law has also been sought by the petitioner in the writ petition. The brief facts of the case shorn of unnecessary details are summarised thus,--

The petitioner-College is run and managed by a registered Trust namely, Scholar Trust which was established and registered in the year, 2011. The petitioner-College applied for grant of recognition of National Council of Teachers Education and vide letter dated 14.6.2013 and it was granted recognition for the Academic Session 2014-15 for running one year B.Ed. course of Secondary level with an annual intake of 100 students. Since the petitioner had applied much earlier, it sought recognition for the Academic Session 2013-14. Aggrieved by order

granting recognition dated 14.6.2013, the petitioner approached the Hon'ble Supreme Court in W.P.(C) No. 407 of 2013 and vide order dated 3.7.2013, the Hon'ble Supreme Court held that the recognition granted to the petitioner-College would relate to Academic Session 2013-14. Consequently, the NCTE vide letter dated 14.8.2013 accorded recognition to the petitioner-College for Academic Session 2013-14. The petitioner-College applied for affiliation of the Vinoba Bhave University for the Academic Session 2014-15 and it deposited requisite fee etc. vide application dated 6.1.2014. In the meantime, the University vide letter dated 27.9.2013 granted affiliation to the petitioner-College in anticipation of approval from the State Government. However, since the petitioner-College was not finally granted affiliation for the Academic Session 2014-15, it approached this Court by filing the present writ petition.

2. A counter-affidavit has been filed on behalf of the respondent-Vinoba Bhave University stating that since the State Government did not grant its approval for grant of affiliation for the Academic Session 2013-14, the application of the petitioner-College seeking affiliation for the Academic Session 2014-15 could not be processed. It is stated that the recognition by NCTE does not automatically enable the Institute to take admission. Referring to the statement made in the writ petition that the petitioner-College has taken admission, it is stated that the petitioner-College committed gross illegality in taking admission. The letter dated 27.9.2013 was issued by the respondent-University in anticipation of grant of approval by the State Government.

3. A counter-affidavit has been filed on behalf of the respondent No. 3-NCTE reiterating the letter dated 14.8.2013 granting recognition to the petitioner-College.

4. The petitioner has filed rejoinder affidavit clarifying that only a list of students was prepared for admission however, since affiliation was not granted, the petitioner-College did not take admission and it has not received any fee from any of the students.

5. Heard the learned counsel appearing for the parties.

6. At the outset, the learned counsel appearing for the petitioner submits that in so far as, the prayer seeking modification of order dated 27.9.2013 for affiliation for Academic Session 2013-14 is concerned, he has instruction not to press the same and accordingly, the petitioner withdraws the said prayer. Referring to the recognition dated 14.8.2013 whereby NCTE granted recognition to the petitioner-College, the learned counsel for the petitioner submits that as far back on 6.1.2014, the petitioner-College submitted its application for grant of affiliation however, on a spacious plea that since approval for Academic Session 2013-14 has not been granted by the State Government, the application dated 6.1.2014 and 13.1.2014 were not processed. It is thus submitted that for no fault of the petitioner-College, the petitioner-College has been deprived of an opportunity to commence the Academic Session 2014-15. Referring to an order passed by the

Hon"ble Supreme Court in "Damodar Valley Teachers Training College vs. Registrar, Vinoba Bhave University Hazaribagh, Jharkhand and Ors." [W.P.(C) No. 931 of 2014], the learned counsel for the petitioner submits that to an identically situated college, the respondent-University has granted affiliation whereas, the petitioner-College has been discriminated which cannot be approved in law. It is submitted that under NCTE Act, for one year B.Ed., course, a college is required to complete 200 working days and for which the petitioner-College has prepared a schedule also however, the respondents have declined to grant recognition for the Academic Session 2014-15. It is further submitted that in College Of Professional Education and Others Vs. State of U.P. and Others, (2012) 12 SCALE 476 : (2013) 2 SCC 721 , the Hon"ble Supreme Court has approved such a scheme submitted by the colleges and permitted the colleges to admit students.

7. As against the above, Mr. Ajit Kumar, the learned Additional Advocate-General appearing for the respondent-State of Jharkhand submits that in view of the order passed by the Hon"ble Supreme Court in Writ Petition No. 276 of 2012 and other cases, an order was issued for extension of affiliation/temporary affiliation to the colleges. Since the prayer in the writ petition is for grant of affiliation to the petitioner-College for the Academic Session 2014-15 which is nearing completion, no direction can be issued to the respondent State of Jharkhand for granting approval for affiliation to the petitioner-College for Academic Session 2014-15.

8. Reiterating the stand taken in the counter-affidavit, Mrs. Indrani Sen Choudhary, the learned counsel appearing for the respondent-University adopts the stand taken by the counsel for the respondent-State of Jharkhand and submits that the petitioner-College has not been granted recognition for the Academic Session 2014-15 and therefore, it cannot take admission for the Academic Session 2014-15.

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

10. From the materials on record, it appears that the petitioner-College was granted recognition for the Academic Session 2013-14 however, it made application on 6.1.2014 and 13.1.2014 for grant of recognition for the coming session that is, for the Academic Session 2014-15. Relying on the decision of the Hon"ble Supreme Court in Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P. and Others, (2013) 1 AD 428 : (2012) 12 SCALE 440 : (2013) 2 SCC 617 , the State Government as well as the respondent-University did not grant approval for affiliation for the Academic Session 2014-15. The State Government has issued letter dated 23.1.2015 for grant of affiliation for Academic Session 2013-14, however, subject to condition that the Institute would ensure 200 working days and 40 training days in the Institute, the fact remains that the temporary affiliation to the petitioner-College was granted on 27.9.2013 was for the Academic Session 2013-14 and it has not commenced its course. It appears that the petitioner-College submitted its application on 6.1.2014 for grant of

affiliation for the Academic Session 2014-15. The learned counsel for the petitioner has referred to a decision in "Damodar Valley Teachers Training College". A copy of order dated 12.12.2014 by the respondent-University to the Director, Department of Human Resources, would indicate that a proposal was sent for extension of approval whereas, present is not a case for extension of approval. From the said letter, it appears that approval was already accorded on 21.10.2013 whereas, the petitioner-College was not granted approval by the State Government. Reference of order passed by the Hon"ble Supreme Court in "College of Professional Education and Ors." case has also been made. From the order passed by the Hon"ble Supreme Court, it appears that in a situation where more than 71,000 seats remained vacant in different Universities, an application was moved by the State of U.P. to the Court and the Hon"ble Supreme Court granted permission for filling up the vacancies even after the date fixed by the Hon"ble Supreme Court in "Maa Vaishno Devi Mahila Mahavidyalaya vs. State of Uttar Pradesh and Ors." had lapsed. The facts of the present case are entirely different from the cases referred by the learned counsel for the petitioner. From the materials brought on record, it appears that the University has not yet inspected the petitioner-College. Since the Academic Session 2014-15 is nearing completion, I am not inclined to take cognizance of the proposal of the petitioner-College for taking admission for the Academic Session 2014-15 and therefore, no direction can be issued to the respondents. However, a liberty is reserved with the petitioner-College to approach the respondents for grant of affiliation for the Academic Session 2015-16. If such an application is moved by the petitioner-College within one week, the respondent-University shall forward its proposal for grant of affiliation if the petitioner-College fulfills all criteria. If inspection is required to be carried, the decision of the University would be communicated to the petitioner-College within next one week. It is expected that the respondents shall adhere to the time schedule fixed by the Hon"ble Supreme Court in "Maa Vaishno Devi Manila Mahavidyalaya" case. In the result, I find no merit and accordingly, the writ petition is dismissed however, with the aforesaid direction to the respondents. Consequently, I.A. No. 221 of 2015 also stands dismissed.