

(2008) 01 MAD CK 0045

In the Madras High Court

Case No : Writ Petition No"s. 20569, 20882, 24058, 24059, 25943, 25998, 26003, 26006, 26011, 26012, 26013, 26014, 26015, 26212, 26361, 26467, 26469, 26547, 26556, 26591, 26643, 26683, 26686, 26690, 26693, 26697, 26813, 26814, 27035, 27053, 27153, 27211, 27214, 272

Self Financing Private Teacher Training Institutes Association

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 11-01-2008

Acts Referred:

Constitution of India, 1950 — Article 14, 162
National Council for Teacher Education Act, 1993 — Section 12, 14, 14(2), 14(3), 14(4)
National Council for Teachers Education (Recognition, Norms and Procedure) Regulations, 2005 — Regulation 7, 7(1), 7(11), 7(12), 8
University Grants Commission Act, 1956 — Section 2, 3

Citation : (2009) 2 MLJ 787 : (2008) WritLR 456

Hon'ble Judges : P. Jyothimani, J

Bench : Single Bench

Advocate : N.R. Chandran and R. Muthukumarasamy, s for R. Sureshkumar, B. Rabu Manohar, Chandrasekaran, for Chandrasekaran and Associates and K. Selvaraj, Hidayathullah Khan, A. Sivaji, E. Vijayan, G.L. Ramshankar, S. James, V. Ramajegadeesan, K. Soundara Rajan, P. Srinivas and R. Natrajan, for the Appellant; N. Kannadasan, A.A.G. III assisted by G. Sankaran, Spl. Govt. Pleader and Dhakshayani Reddy, Government Advocate, K. Ramakrishna Reddy and P.R. Gopinathan, for the Respondent

Judgement

P. Jyothimani, J.—In these batch of writ petitions the Self Financing Private Teacher Training Institutes have challenged the validity of the

impugned Government Order in G.O.Ms. No. 108 School Education (U1) Department dated 17.05.2007 and the consequential proceedings of

the Director of Teacher Education, Research and Training, Chennai as unjust, arbitrary, void, unworkable and unconstitutional in so far as they

relate to the petitioners as well as the members of the petitioner Association.

2. The impugned Government Order passed by the State Government while prescribing guidelines for admission of students from the academic

year 2007-2008 in the Diploma in Teacher Education has issued directions in the following lines:

(i) granted permission to fill up the Government quota seats under Single Window System in four centres at Chennai;

(ii) The academic year for the Diploma in Teacher Education is from July to June;

(iii) The calendar of activities for the Diploma in Teachers Training as mentioned in the Annexure to the Government Order has to be followed from

the academic year 2007-2008, unless specific changes are required during the coming academic years.

3. The said impugned Government Order contains an Annexure, in which it is stated that as per G.O.(1D) No. 111 School Education (U1)

Department dated 17.07.2003, reservation by subject-wise, communal-wise and special reservation shall be continued to be followed. The

reservation under the said three categories are,

1. Subjectwise reservation:

(i) out of total number of seats, 50% shall be filled up from students of Science faculties in +2 Examinations;

(ii) 25% of students to be filled up from students of Arts faculties in +2 Examinations;

(iii) 25% of students to be filled up from students of Vocational faculties in +2 Examinations.

Under this category, there is a note to the effect that in the case of Anglo-Indian Teacher Training Schools, if students are not available as per the

preparation, the seats can be filled up on merit without following subjectwise reservation.

2. Communal Reservation:

(i) Scheduled Castes : 18%

(ii) Scheduled Tribes : 1%

(iii) Most Backward Class : 20%

(iv) Backward Class : 30%

(v) Open category : 31%

3. Special Reservation:

To be filled up on horizontal basis.

(i) persons with disability (as per the District Medical Board Certificate) : 3% under the Single Window System;

(ii) Children of Ex-Servicemen : 132 seats;

(iii) Legal heirs of Freedom fighters : 28 seats.

It is also stated in Clause IV of the Annexure to G.O.Ms. No. 108 that in respect of the Unaided Non-minority Private Educational Institutions,

while admitting students under the Management quota, the policy of reservation of the State Government as per Tamil Nadu Backward Classes,

Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of Appointments or posts in the Services) under the

State Act, 1993 (Tamil Nadu Act 45 of 1994) has to be followed. However, in respect of Unaided Minority Institutions, the reservation is not

insisted.

4. The last clause in the Annexure relates to the calendar of activities to be followed from 2007-2008. According to it,

(i) Diploma in Teacher Training School--academic year is from July to June;

(ii) Self Financing Teacher Training Teachers list approval--last date would be 20th of June every year;

(iii) Advertisement in newspapers, printing and sale of applications, receipt of applications, registration of applications, preparation of merit list and

communication to students for counselling under Single Window System--all should be done between first week of May and second week of June;

(iv) Proceedings to admit students under Single Window System - should be done from third week of June to First Week of July;

(v) Applications to be issued to the students under Management quota in respect of Self Financing Aided Teacher Training Schools-- in June first

week;

(vi) Beginning of classes for Teacher Training Institutes ""including Self Financing and Aided Teacher Training Schools""--should be with effect from

third week of July;

(vii) Last date for admission of students (including Self Financing and Aided Teacher Training Schools)--July 31st;

- (viii) Last date for approval of students under Management quota--August 31st;
- (ix) Observation and teaching practice--October till the end of November;
- (x) Internal assessment--from March to April;
- (xi) Public Examination--in June.

5. It is further stated in the said annexure that no Institution can be started without approval from Southern Regional Council(SRC) of the National

Council for Teacher Education (NCTE) and over and above the students strength that is approved by the NCTE shall not be admitted. It is further

stated that as per the orders of the Southern Regional Council of National Council for Teacher Education, the approval of teachers must be

obtained from the Director of Teacher Education, Research and Training, Chennai before admission of students. It is further stated that in respect

of institutions which have obtained conditional recognition from NCTE for 2007-2008, after the teachers list is approved by the Director of

Teacher Education, Research and Training and if the unconditional approval of NCTE is obtained, if only from 20th June, students can be admitted

in that academic year, if the unconditional recognition is obtained beyond 20th June, the students can be admitted only in the next academic year. It

is also further stated that students shall not be admitted beyond 31st July reiterating that July to June shall be treated as academic year for Diploma

in Teacher Training courses provided the total number of working days would be 220 days.

6. Broadly speaking, the said impugned Government Order is made applicable to Self Financing Non-minority Teacher Training Institutions and

also the Aided Private, Government Minority and Non-minority, Unaided minority institutions. Three conditions which are under challenge in these

writ petitions are:

(i) (a) Subjectwise reservation in filling up the seats in the Diploma in Teacher Training courses, viz., 50% from Science group students; 25% from

Arts group students and 25% from Vocational group students. The said classification is challenged by the petitioners on the ground that it is

beyond the competency of the State Government to impose such condition since the Central recognising /approving body, viz., National Council

for Teacher Education has not insisted such condition while granting approval by virtue of the powers under Entry 66 List I of 7th Schedule to the

Constitution of India and therefore, the field is occupied by the Union of India and the order passed by the State Government, contrary to the same, is illegal and ultra vires. The petitioners have relied upon various judgements of the Supreme Court in challenging the subjectwise reservation including the judgement of the Supreme Court reported in State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others, and the judgement of this Court in Self Financing Private Teacher Training Institutes Association (Regd.) and Others Vs. The State of Tamil Nadu and Others, .

(b) That apart, it is the case of the petitioners that such restriction will amount to interfering with the right of Self Financing Institutions to administer, which includes admission, by placing reliance on the judgement of the Supreme Court in T.M.A. Pai Foundation and Others Vs. State of Karnataka and Others, and the latest Supreme court judgement in P.A. Inamdar case (2005) 6 SCC 537.

(c) It is the further contention of the petitioners as submitted by the learned senior counsel Mr. R. Muthukumarasamy and Mr. N.R. Chandran and Mr. K. Selvaraj and other counsel that even otherwise, when the Annexure to the Government Order gives exemption to Anglo-Indian Schools from following the subjectwise reservation, the same should not be denied to the petitioners and therefore, the Government Order is arbitrary and violative of Article 14 of the Constitution of India. It is their submission that as long as the admissions are made transparently in a non-arbitrary manner and non-exploitative nature, it is not open to the State Government to impose such unreasonable conditions.

(ii) As far as the next condition under the impugned Government Order, viz., imposing of communal reservation is concerned, it is the case of the learned senior counsel for the petitioners as well as other counsel that the Supreme Court in T.M.A. Pai Foundation and P.A. Inamdar cases has clearly held that insisting of such reservation policy in respect of admission of students in the Self Financing Non-minority and Minority Institutions is ultra vires. It is also their submission that when the Government of Tamil Nadu filed review petition in the said P.A. Inamdar case, basing reliance on the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of

Appointments or posts in the Services) Act, 1993 (Tamil Nadu Act 45 of 1994), the review petition was dismissed by the Supreme Court, and the

Division Bench judgement of this Court approving the conduct of the Government in imposing policy of reservation was stayed and in fact, the

larger issue about the reservation is pending before the Apex Court. It is also the submission of the learned senior counsel that as it has happened

in the case of B.Ed. Colleges before this Court in Tamil Nadu Self Financing Colleges of Education Management Association (Regd.) Vs. The

State of Tamil Nadu and The National Council for Teacher Education, , if the petitioners voluntarily desire to follow the reservation, it is open to

them to do the same.

(iii) The last point is about the validity of the schedule stated to be the calendar of activity from the year 2007-2008, especially with reference to

admission for the year 2007-2008. According to the petitioners, as submitted by the learned senior counsel and other respective counsel, even for

the academic year 2006-2007, the Government itself has extended the period of approval of admission of students upto 30.11.2006 and in

respect of approval of teachers, which was originally fixed as 20.11.2006 as last date has been subsequently extended upto 09.03.2007 as per

G.O.(2D) No. 7 School Education (U1) Department dated 09.02.2007 and therefore, when for the 2006-2007 itself the schedule has not been

followed by the respondents and NCTE has granted approval throughout the year, fixing of the calendar for 2007-2008 in the manner stated in the

impugned Government Order as per the Annexure is unworkable. It is also their contention that when this Court has given judgement in W.P. No.

47503 of 2006 based on which the impugned Government Order stated to have been passed by fixing the calendar of activities, the last date for

approval of teachers was stated as 20.11.2006, based on which the order came to be passed, however, even before the said order was passed,

the date of approval of teachers has been extended upto 09.03.2007 and therefore, according to the learned Counsel for the petitioners it is not

the intention of the Government to follow the schedule. Further, though the approval of teachers was extended upto 09.03.2007 for the academic

year 2006-2007, but the students were permitted to be admitted upto 30.11.2006, which is before the date of approval of teachers, and hence,

the understanding of the Government is that the students should be permitted to be admitted even before the approval of teachers and therefore,

according to the learned Counsel, approval of teachers by the Director of Teacher Education, Research and Training, is only an empty formality.

The NCTE, the authority for recognition which has prescribed qualifications for the teachers, has perused the entire records relating to the teachers

appointed by the Institutions before granting approval and therefore, the approval by the State Government is only in the form of verification of the

correctness of the particulars furnished by the Managements to the NCTE and even in the event of the State Government finding some discrepancy

in respect of the particulars, it is only open to the State Government to inform the same to the NCTE and the State Government of its own, cannot

take any action regarding the cancellation of approval, etc., It is their further submission that incorporating such Schedule is not within the powers

of the State Government. According to the learned Counsel, when the Central authority by exercising its powers of maintaining coordination and

standard as per the provisions of the Constitution of India has granted approval by referring the list of teachers appointed by the Managements

after verifying that possess the necessary qualifications prescribed by the NCTE in its regulations, there is absolutely no necessity for the State

Government to once again approve the list, and therefore, the Schedule which is annexed to the Government Order dealing with the approval of list

of teachers is really a transgression of powers of the Central Government. It is also insisted by the learned Counsel that the Appendix to the

regulations of the NCTE does not only give the details about the qualifications required for the appointment of persons as Teachers in the Diploma

course in Teacher Education along with experience, etc., but it also fixes norms and standards apart from directing the Management to file affidavit

about the correctness of the particulars furnished and that as per the latest regulations, it is incumbent on the part of the Management to put all the

particulars in Website and therefore, it becomes transparent to everybody and in such a situation the question of State Government approving the

list of Teachers appointed by the Management does not arise. It is their further contention that after the latest regulations of the NCTE of the year

2005, there is no delegation of powers to the State Government and at the most, the State Government can only be a verifying authority, because

the NCTE has granted unconditional approval by accepting the decision of this Court in W.P. No. 15177 of 2007.

7. Mr. N.R. Chandran, learned senior counsel in addition to the contention of Mr. R. Muthukumarasamy, learned senior counsel would submit that

in the subjectwise reservation, which is equivalent to regional selection, the chance of meritorious candidates is minimum as persons with lesser

marks in different streams like, Arts and Vocational studies are able to get admission under 25% category of reservation, which will be a gross

discrimination against the meritorious students. He would also submit that as far as the communal reservation is concerned, in the review petition in

P.A. Inamdar case the Supreme Court dismissed the claim of the State Government made on the basis of Tamil Nadu Act 45 of 1994 and

therefore, the State Government is estopped from raising the issue again. It is his further contention that in respect of the Schedule of activities,

apart from infringing the powers of the Central body, it is purely without any reason, for, according to the learned senior counsel, among the

professional courses, the Teacher Training Course is in fact the last resort and therefore, the last date for admission of students by third week of

July is practically impossible. Further, the Schedule of activities was not incorporated in consultation with the NCTE at all. According to the

learned senior counsel, even the First Year examinations for the candidates admitted in the year 2006-2007 have not been scheduled by the

respondents, who are admittedly the examining body and admission for 2007-2008 is yet to be completed and the respondents themselves have

not followed the scheme as propounded in the impugned Government Order.

8. On the other hand, it is the contention of Mr. N. Kannadasan, learned Additional Advocate General appearing for the respondents that the

State Government being the examining body as per the NCTE Act, should be treated as affiliating body. He would also refer to various provisions

of the NCTE Act to contend that the Act itself empowers the State Government to lay down norms and standards in consultation with the Central

Government. He would further refer to the admission procedure found in the approval letter of the NCTE wherein it is clearly stated that the

selection process of the students must be based on the policy of the State Government. He would also submit that the latest resolution passed by

the NCTE based on the orders of this Court in W.P. No. 15177 of 2007 itself would recognise the status of the State as examining body.

According to the learned Additional Advocate General, the conduct of the State Government by incorporating the schedule to the impugned

Government Order is in consonance with the NCTE regulations and it is not in derogation of the Central legislation as well as the regulations made

by the NCTE. He would submit that it is true that under Entry 66 List I of Seventh Schedule, the Central agency is the authority, but, by virtue of

Entry No. 25 in List III (concurrent list) of the Seventh Schedule of Constitution of India, the State Government has the role to play while admitting

students as examining body which cannot be said to be contrary to the provisions of the NCTE Act. According to him, no one of the provisions of

the impugned Government Order is in violation of the NCTE Act. He would further submit that the Central authority, NCTE, has never raised

objection about the Government Order and hence, it is not open to the petitioners to raise the same.

9. According to the learned Additional Advocate General when the State Government has not framed any Scheme based on the NCTE Act as

examining body for the purpose of conducting the examinations bringing out the syllabus prescribing the term, days, etc., the Government Orders

passed have to be treated as a proper guideline. He would submit that fixing of academic year from June to July in the impugned Government

Order in normal understanding of any person would make no difference. He would submit that as far as the academic year 2006-2007 is

concerned, some problems were created not because of the respondent, but partly because of NCTE in granting recognition throughout the year

and also because of the grievance raised by the private Management like the petitioners, and therefore, various Government Orders were issued

extending the time for approval of teachers and admission of students in the Institutions for the academic year 2006-2007. He would submit that as

an agency, which is not unconnected with the conducting of private educational institutions, the State Government cannot stand as a passive

spectator when the unscrupulous Managements, by giving false information to the NCTE, are obtaining approval and proceeding to commence

classes without qualifying teachers, which will certainly affect the standard of students in the State of Tamil Nadu and the State Government is

entitled to see that the academic career of students should be brought up in a proper manner. He would also submit that in respect of the newly recognised institutions only the extension of date for admission as well as approval of teachers has been given. Unless and until the teachers list is approved by the State Government as per the direction of the NCTE, such institutions are not entitled to admit any students. According to the learned Additional Advocate General, it is true that if any deficiency is found, it will be reported to the NCTE for proper action, but no one can compel the State Government to give approval to the teachers when the State authority has found that there is patent violation of norms prescribed by the NCTE in respect of qualification of teachers. It is his contention that it is strange to say that even before the approval of teachers with necessary qualifications, the institutions can admit students, which is antithesis to the concept of education itself.

10. I have heard the learned senior counsel and other counsel for the respective petitioners and the learned Additional Advocate General for the respondents and perused the entire records.

11. Considering the submissions made by the respective counsel, it can be categorised that the impugned Government Order is challenged on three grounds, viz.,

(i) Subjectwise allotment of seats in respect of Unaided institutions by directing 50% of the seats to be allotted to the science students; 25% to be allotted to Arts students and the remaining 25% to be allotted to the vocational stream students is ultra vires;

(ii) The communal reservation by directing Self Financing Non-minority Teacher Educational Institutions to follow the policy of reservation in the following manner, viz.,

(a) Scheduled castes : 18%

(b) Scheduled Tribes : 2%

(c) Most Backward Class : 20%

(d) Backward Class : 30% and

(e) Open category : 31%,

is illegal;

(iii) The calendar of activity by fixing dates for admission etc., to be followed

from 2007-2008, is not practicable, and therefore, illegal.

12. Out of the three grounds raised by the petitioners, in respect of the challenge on the basis of communal reservation, in a batch of writ petitions,

viz., W.P. No. 37233 of 2006 etc., batch, wherein G.O.Ms.(1D) No. 226 School Education (U1) Department dated 28.08.2006, in which the

policy of reservation of the State Government was directed to be followed in respect of admission of students in Teacher Training Institutions, was

challenged and based on the judgement of the Apex Court, especially in P.A. Inamdar v. State of Maharashtra 2005 (6) SCC 537, this Court has

held that such reservation is not permissible in respect of admission of students in the private Self Financing Non-minority Institutions. In that case,

it was held that in the event of the respective Institutions intending to follow the rule of reservation, there is no bar. In this case also as fairly

submitted by the learned senior counsel Mr. R. Muthukumarasamy, it is left open to the petitioner Institutions to follow the said principle of

reservation. In view of the same, no separate order is necessary as far as this issue is concerned and the order passed in the above batch of cases

shall be binding.

13. Therefore, the only other two issues to be considered in these batch of writ petitions are,

(i) Subjectwise reservation; and

(ii) Calendar of activities to be followed from the year 2007-2008 onwards.

14. Before adverting the above said points, it is relevant to point out some of the provisions of the National Council for Teacher Education Act,

1993. The said Act has been passed by the Government of India under Entry 66 of List I (Union List) of the Seventh Schedule to the Constitution

of India. The said Entry 66 reads as follows:

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

By virtue of the 42nd Amendment to the Constitution of India, which came into effect from 03.1.1977, Entry No. 11 of List II (State List) was

omitted. After the said Constitutional Amendment, Entry No. 25 of List III (Concurrent List) stands as follows:

25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I;

vocational and technical training of labour.

Therefore, the provision regarding "Co-ordination and determination of standards in institutions for higher education or research and scientific and

technical institutions" always remains within the purview of the Parliament either before or after the 42nd Amendment. Even as per Entry No. 25 of

List III, the same is made subject to Entry No. 66 of List I. Therefore, it is clear that the legislation with regard to the Co-ordination and

determination of standards in institutions for higher education or research and scientific and technical institutions is always within the domain of the

Parliament.

15. The National Council for Teacher Education Act, 1993 (in short, "NCTE" Act) has been enacted by the Parliament with a view to achieving

planned and coordinated development of Teacher Educational system throughout the country, the regulation and proper maintenance of norms and

standards in the teacher education system and the matters connected therewith. The said Act defines the term "Teacher Education" in Section 2(1)

as follows:

2(1) "teacher education" means programmes of education, research or training of persons for equipping them to teach at pre-primary, primary,

secondary and senior secondary stages in schools and includes non-formal education, part-time education, adult education and correspondence

education.

Therefore, "teacher education" includes the Diploma as well as Degree in Teacher education.

16. The term "examining body" is defined u/s 2(d) of the NCTE Act, as follows:

2(d) "examining body" means a University, agency or authority in which an institution is affiliated for conducting examinations in teacher education

qualifications.

17. The term "University" is defined u/s 2(n), which runs as under:

2(n). "University" means a University defined under Clause (f) of Section 2 of University Grants Commission Act, 1956, and includes an institution

deemed to be a University u/s 3 of that Act.

While Chapter II provides for Establishment of the Council, Chapter III deals with the functions to be performed by the Council. Section 20 of the

Act which is in Chapter V deals with the creation of Regional Committees to be constituted by the National Council for Teacher Education,

created as per Section 3(1) of the NCTE Act. The said Regional Committees are:

- (i) the Eastern Regional Committee;
- (ii) the Western Regional Committee;
- (iii) the Northern Regional Committee; and
- (iv) the Southern Regional Committee.

Chapter IV of the NCTE Act deals with Recognition of Teacher Educational Institutions. Sections 14, 15 and 16 deal with procedure to be

followed for granting recognition, permission for starting new course or training by recognised institutions and powers of the affiliating body to grant

affiliation. The said sections are as follows:

Section 14(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 Sub-section (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. (1) Where any recognised Institution intends to start any new course or training in teacher education, it may make an application to seek

permission therefore 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 Sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application from an institution under Sub-section (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-clause (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. 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, u/s 14 or permission for a course or training u/s

15.

Under Section 20(6) of the NCTE Act, the Regional Committees are having the same powers as that of the Central Committee, viz., the powers in

Sections 14, 15 and 17, in addition to any other functions, which may be assigned by the Council.

18. The term ""Council"" is defined u/s 2(c) of the Act, which is as follows:

2(c). ""Council"" means the National Council for Teacher Education established under Sub-section (1) of Section 3.

19. Section 17 enables the Regional Committee to withdraw recognition of any recognised institution, apart from stating the procedures to be

followed for such de-recognition. Section 17 as follows:

Section 17. (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 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 falls 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.

However, against such order, an appeal lies to the Council. Section 12 of the Act empowers the National Council for Teacher Education to lay

down guidelines in respect of minimum qualifications for a person to be

employed as teacher in Schools or in recognised institutions, to lay down norms for any specified category of courses or training in Teacher Education, including the minimum eligibility criteria, to lay down guidelines for compliance by recognised institutions for starting new courses or training, to lay down standards in respect of examinations leading to teacher education qualifications, etc. The said Section 12 is as follows:

Section 12. It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may:

- (a) undertake surveys and studies relating to various aspects of teacher education and publish the result thereof;
- (b) make recommendations to the Central and State Governments, Universities, University Grants Commission and recognised institutions in the matter of preparation of suitable plans and programmes in the fields of teacher education;
- (c) co-ordinate and monitor teacher education and its development in the country;
- (d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions;
- (e) lay down norms for any specified category of courses or training in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;
- (f) lay down guidelines for compliance by recognised institutions, for starting new courses or training, and for providing physical and institutional facilities, staffing pattern and staff qualifications;
- (g) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;
- (h) lay down guidelines regarding tuition fees and other fees chargeable by recognised institution;
- (i) promote and conduct innovation and research in various area of teacher education and disseminate the results thereof.

(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council, and to suitably advise the recognised institutions;

(k) evolve suitable performance appraisal systems, norms and mechanisms for enforcing accountability on recognised institutions;

(l) formulate schemes for various levels of teacher education and identify recognised institutions and set up new institutions for teacher development programmes;

(m) take all necessary steps to prevent commercialisation of teacher education; and

(n) perform such other functions as may be entrusted to it by the Central Government.

20. Section 31(1) of the Act enables the Central Government, by notification in the official gazette, to make rules to carry out the provisions of the

Act, which includes apart from the constitution of the Members of the Council, the manner in which and persons by whom the inspection of

Institutions has to be conducted, the fees payable on application for obtaining recognition u/s 14(2) of the Act.

21. Section 32 enables the Council, by notification in the official gazette, to make regulations which includes apart from the procedures of the

meeting of the Council, the following matters regarding the norms, guidelines and standards in respect of

(i) the minimum qualifications for a person to be employed as a teacher under Clause (d) of Section 12;

(ii) the specified category of courses or training in teacher education under Clause (c) of Section 12;

(iii) starting of new courses or training in recognised institutions under Clause (f) of Section 12;

(iv) standards in respect of examinations leading to teacher education qualifications referred to in Clause (g) of Section 12;

(v) the tuition fees and other fees chargeable by institutions under Clause (h) of Section 12;

(vi) the schemes for various levels of teachers education, and identification of institutions for offering teacher development programmes under

Clause (l) of Section 12.

22. In consonance with the said provisions of the NCTE Act, the National Council for Teacher Education has framed Rules called ""National

Council for Teacher Education (Recognition, Norms & Procedure) (Amendment) Regulations, 2006, (hereinafter called as ""2006 Regulations""),

which was promulgated on 27.12.2005 by the NCTE and notified on 13.01.2006. By the said Amended ""2006 Regulations"", certain changes

were made in the National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2005, especially in relation to

Regulation 7, which deals with ""Processing of Applications"". The Regulation No. 7 which stands as on today, viz., after the Amended ""2006

Regulations"", is as follows:

7. Processing of applications.

(1) Applications which are complete in all respects shall be processed by the office of the Regional Committee concerned within 30 days of receipt of the such applications.

(2) The applications shall be processed as under:

(i) The particulars of the institutions shall be hosted on the official website of the Regional Committee concerned of the National Council for Teacher Education.

(ii) This will serve as an electronic communication to the applicant and also the State Government/UT Administration concerned for necessary follow up action on their part.

(iii) A written communication in addition shall also follow to the applicant.

(iv) A written communication along with a copy of the application form submitted by the institution(s) of the concerned State/U.T. shall be sent to the State Government/U.T. Administration concerned.

(3) On receipt of the communication, the State Government/UT Administration concerned shall furnish its recommendations on the applications to

the office of the Regional Committee concerned of the National Council for Teacher Education within 60 days from receipt. If the recommendation

is negative, the State Government/UT Administration shall provide detailed reasons/grounds thereof, which could be taken into consideration by

the Regional Committee concerned while deciding the application. If no communication is received from the State Government/UT Administration

within the stipulated 60 days, it shall be presumed that the State Government/ UT Administration concerned has no recommendation to make.

(4) Though normally, the applicant institutions will ensure submission of applications complete in all respects, in order to cover the inadvertent

omission of deficiencies in documents, the office of the Regional Committee shall point out the deficiencies within 30 days of receipt of the

applications, which the applicants shall remove within 90 days. The date of receipt of the application after completion of deficiencies shall be

treated as the date of receipt of the application complete in all respects within the meaning of Regulation 7(1).

(5) Ordinarily, the inspection of infrastructure, equipment, instructional facilities etc. of an institution shall be conducted within 30 days of

completion of processing of its application by the office of the Regional Committee with a view to assessing the level of preparedness of the

institution to commence the course. Such inspection shall be in the chronological order of the date of receipt of the completed application in the

office of the Regional Committee concerned. Among the applications received on the same day, alphabetical order shall be followed.

(6) All the applicant institutions shall launch an own website simultaneously with the submission of their applications covering, inter alia, the details

of the institution, its location, name of the course applied for with intake, availability of physical infrastructure, (land, building, office, class rooms

and other facilities/amenities), instructional (laboratory, library) and the particulars of their proposed teaching and non-teaching staff etc. with

photographs for information of all concerned.

(7) At the time of receipt of the team of experts to an institution, the institution concerned shall arrange for the inspection to be videographed in a

manner that all important facilities are videographed along with interaction with the management and the staff (if available). The visiting teams shall

finalise and courier their reports along with the video tapes on the same day.

(8) the application and the report along with the video tapes of the Visiting Team shall be placed before the Regional Committee concerned for

consideration of grant of recognition or permission to an institution in its next meeting.

(9) The Regional Committee shall decide grant of recognition or permission to an

institution only after satisfying itself that the institution full-fills all the conditions prescribed by the NCTE under the NCTE Act, Rules or Regulations, including, inter alia, the Norms and Standards laid down for the relevant Teacher Education Programme/Course.

(10) The matter of grant of recognition, the Regional Committees shall strictly act within the ambit of the National Council for Teacher Education

Act, 1993, the National Council for Teacher Education Rules, 1997 as amended from time to time and the Regulations including the Norms and

Standards for various Teacher Education Programmes and shall not make any relaxation thereto. The Regional Director who is the convenor of the

Regional Committee while putting up the proposal to the Regional Committee shall be responsible for ensuring that the provisions in the NCTE

Act, Rules and Regulations including Norms and Standards for various Teacher Education Programmes have been brought to the notice of the

Regional Committee to enable the Regional Committee to take appropriate decisions.

(11) The institution concerned shall be informed of the decision for grant of recognition or permission subject to appointment of qualified faculty

members before the commencement of the academic session.

(12) The Institution concerned, after appointing the requisite faculty/staff, shall put the information on its official website and also formerly inform

the Regional Committee concerned. The Regional Committee concerned shall then issue a formal unconditional recognition order.

(13) In cases where the Regional Committee, after consideration of the report of the Visiting Team is of the opinion that the institution does not full-

fill the requirements for starting/conducting the course, such an institution will be allowed one more opportunity for inspection after removal of the

deficiencies. For such inspection the institution concerned shall again deposit a fee of Rs. 40,000/- to the Regional Committee concerned through a

Demand Draft from any nationalised bank drawn in favour of the Member Secretary, NCTE payable at the city where the Regional Committee is

located. However, no such fee is required if the deficiencies pointed out are minor in nature not involving civil construction or the like and the

rectifications are verifiable without physical inspection.

(14) The reports of inspection of the institutions along with the names of the

Visiting Team Experts shall be made available on the official website of the Regional Committee concerned after the same have been considered by the Regional Committee.

23. Regulation 8 deals with the Conditions for the grant of Recognition, which reads as follows:

8. Conditions for Grant of Recognition:

(1) An institution must full-fill all the prescribed conditions related to norms and standards as prescribed by the NCTE for conducting the course or

training in teacher education. These norms, inter alia, cover conditions relations to financial resources, accommodation, library, laboratory, other

physical infrastructure, qualified staff including teacher and non-teaching, personnel etc.

(2) In the first instance, an institution shall be considered for grant of recognition for the basic unit as prescribed in the norms and standards for the

particular teacher education programme.

(3) An institution shall be permitted to apply for enhancement of intake in a teacher education course already approved after completion of the

academic session of running the course.

(4) An institution shall be permitted to apply for enhancement of intake in secondary teacher Education Programme - B.Ed., and B.P.Ed.,

Programme, if it has accredited itself with the National Assessment and Accreditation Council (NAAC) with a grade of B+ on a nine point scale

developed by NAAC.

(5) No institution shall be granted recognition under these Regulations unless it is in possession of required land on the date of application. The land

free from all encumbrances could be either on ownership basis or on lease for a period of not less than 30 years. In cases where under relevant

State/UT laws the maximum permissible lease period is less than 30 years. The State Government/UT Administration law shall prevail.

(6) The institution/society shall furnish an affidavit on Rs. 100/- stamp paper duly attested by Notary Public stating the precise location of the land

(village, district, state etc.), the total area in possession and the permission of the competent authority to use the land for education purposes, mode

of possession, i.e. ownership or lease.

(7) The affidavit shall be relied upon by the Regional Committee as an authentic self-declaration. The copy of the affidavit shall be displayed by the institution on its official website so as to make the self-declaration available in public domain. In case the contents of the affidavit are found to be incorrect or false, the society/trust or the institution concerned shall be liable for action under the relevant provisions of Indian Penal Code and other relevant laws. In case of Government institutions the said affidavit shall be furnished by the Principal or the Head of the Institution or any other higher authority.

(8) At the time of inspection, the building of the institution shall be complete in the form of a permanent structure on the land possessed by the institution in terms of Regulation 8(5), equipped with all necessary amenities and fulfilling all such requirements as prescribed in the norms and standards.

(9) In case of change of premises, prior approval of the Regional Committee concerned shall be necessary, which could be accorded after due inspection of the institution at the new site. The change can be permitted to a site which, if applied initially, could have qualified for establishment of an institution as per prescribed norms of NCTE. The change should be displayed on website thereafter. The application for change of premises shall be accompanied by a demand draft of Rs. 40,000/- of a Nationalised Bank drawn in favour of the Member Secretary, NCTE and payable at the city where the Regional Committee is located.

(10) An institution shall make admission only after it obtains unconditional letter of recognition from the Regional Committee concerned, and affiliation from the examining body.

(11) Whenever there are changes in the norms and standards for the course or training in teacher education, the institution shall comply with the requirements laid down in the revised norms and standards immediately but not later than the date of commencement of the next academic session, subject to conditions prescribed in the revised norms.

(12) An institution shall have copies of all relevant Acts, Rules and Regulations of NCTE, Central and State/UT Govt., affiliating/examining bodies, and other Central/State/UT authorities, relevant to the running of an educational institution currently in force. The institution shall make all the

information/documents available to the NCTE or its authorised representatives as and when demanded by them. Failure to produce/show any of

these documents, shall be treated as a breach of condition for recognition.

(13) The institution shall maintain records/registers and other documents etc., which are essential for running an educational institution especially

those prescribed in the relevant norms and standards and guidelines/instructions/rules etc., of the Central/State/UT Govts., affiliating/examining

bodies.

(14) The institution shall adhere to the mandatory disclosure in the prescribed format and display up-to-date information on its official website.

24. A combined reading of the said Regulations shows that under Regulation 7(11), the Regional Committee can grant recognition or permission

subject to certain conditions and after the concerned institution complies with the various requirements, an unconditional order of recognition is

issued under Regulation 7(12) of the Regulations.

25. It is brought to the notice of this Court that the Southern Regional Committee in its 145th Meeting held on 16th, 17th and 18th October, 2007

has passed a resolution resolving to issue unconditional recognition as directed by this Court subject to the submission of an affidavit by the

Management concerned regarding the appointment of staff on Rs. 100/- stamp paper in the prescribed format and an affidavit on Rs. 10/- from the

individual staff members in the prescribed format and also the staff profile of the faculty appointed, if the institution has appointed staff with requisite

qualifications as prescribed by NCTE in the norms and standards for the particular course. It is also informed that in the said resolution, the

Southern Regional Committee has also decided to incorporate Para 8(1) of NCTE Regulations dated 13.01.2006, which is in the following words:

An institution shall make admissions only after it obtains affiliation from the examining body.

26. The Norms and Standards for Elementary Teacher Education Programme leading to Diploma in Education [D.Ed.] has been prescribed by the

NCTE in the ""National Council for Teacher Education (Recognition, Norms and Procedure) (Third Amendment) Regulations, 2006 published on

15th November, 2006, (Appendix 2) which is as follows:

1.0 Preamble

1.1.1 Free and compulsory elementary education (6-14 years) is the fundamental right of every child in our country. The aim of elementary

education is to fulfill the basic learning needs of all children in an inclusive school environment bridging social and gender gaps with the active

participation of the community.

1.1.2 The objectives of elementary education are to enable the child to develop skills of literacy, numeracy, communication and problem solving

and acquire knowledge and understanding of the physical and social world around and attitudes and skills related to enhancing productivity and

quality of life.

1.1.3 The elementary stage of education marks the beginning of formal introduction of the child to the 3R's gradually moving on to the study of the

disciplines. It should provide for a learning environment for children that promote joyful, activity based and participatory teacher and learning.

1.1.4 The elementary teacher education programme carries different nomenclatures like BTC, diploma in Education, TTC and so on. Both the

duration of training and entry qualifications differ across states. The course is offered in elementary teacher education institutions and in DIETs. The

programme is aimed at preparing teachers for primary (I-V) level education.

2.0 Duration and working days

(a) The elementary teacher education programme shall be of duration of two academic years.

(b) There shall be at least 200 working days each year exclusive of the period of examination and admission, out of which at least 40 days shall be

for practice teaching/skill development in nearby elementary schools.

(c) A working day shall be of a minimum of 6 hours in a six day week, during which physical presence in the institution of all the teachers and

student teachers is necessary to ensure their availability for individual advice, guidance, dialogues and consultation as and when needed.

3.0 Intake, Eligibility and Admission Procedure

3.1 Intake

3.1.1 There shall be a unit of 50 students, for each years.

3.2.1 Candidates with at least 50% marks in the senior secondary examination (+2) or its equivalent are eligible for admission.

3.2.2 There shall be relaxation of marks/reservation of seats for SC/ST/OBC and other categories as per the Rules of the Central

Government/State Government/UT Administration concerned.

3.3 Admission Procedure

3.3.1 Admission shall be made on merit on the basis of marks obtained in the qualifying examination and/or in the entrance examination or any

other selection process as per the policy of the State Government/UT Administration.

4.0 Staff

4.1 Academic

4.1.1 (a)(i) Number (for an intake of 50 each year, total 100 in the 2 years)

Principal - 1

Lectures - 5

4.1.1 (a)(ii) Additional intake which will be in the multiple of 50 student, the number of full time teacher educators shall be increased by three.

4.1.1. (a)(iii) Appointment of teachers shall be such as to ensure the availability of expertise for all methodology courses and foundation courses.

4.1.1. (a)(iv) For activities such as Health and Physical Education, Art, Work Experience, Music, ICT etc., part-time teachers may be appointed.

4.1.1(b) Qualifications Principal:

(a) Academic and professional qualification will be as prescribed for the post of lecturer; and

(b) 2 years" experience of teaching in an elementary teacher education institution.

Lecturer:

(a) M.Ed. (or M.A. Education with B.Ed.) and diploma in Elementary Teacher Education / 5 years" teaching experience in recognised elementary

school / elementary teacher education institution.

OR

(b) Master"s Degree in relevant school subject and Bachelor of Elementary Education or B.Ed. with Diploma in Elementary Education with five

years" teaching experience in elementary school/teacher education institution.

4.1.2 Technical Support Staff

(a) Number

Librarian - one (full time)

Art (Fine Arts/

performing Art

/music) - Part-time

Health & Physical

Education - Part time

Work experience - Part time

(b) Qualifications as prescribed by the State Government/UT Administration concerned.

4.1.3 Administrative staff

(a) Number

(i) UDC/Office Superintendent 1 (Regular)

(ii) Computer Operator-cum-Store

Keeper 1 (Regular)

(iii) Helpers 2 (Regular)

(b) Qualifications as prescribed by the State Govt./UT Administration concerned.

4.2 Terms and conditions of service

(a) The appointment shall be made on the basis of recommendations of the Selection Committee constituted as per the policy of the

Central/concerned State Government/Board whichever is applicable.

(b) All appointments are to be made on full-time and regular basis excepting those specified as part-time.

(c) Appointment of part-time instructors and other supporting staff shall be made as per norms of the concerned Government.

(d) The academic and other staff of the institutions shall be paid such salary as may be prescribed by the concerned Government by account payee

cheque or as per advice into the bank account of the employee, specially opened for the purpose.

(e) The management of the institution shall discharge the statutory duties relating to pension, gratuity, provident fund, etc. for its employees.

(f) The age of superannuation of staff shall be determined by the policy of

concerned Government.

Facilities

5.1 Infrastructure

Built-in area consisting of class-rooms etc. shall not be less than 1500 sq.mts. space in each instructional room shall be 10 sq.ft. per student.

5.1.2 There shall be provision for two class-rooms, one multi purpose hall, one multi purpose laboratory, seminar/tutorial rooms, resource room

for education of handicapped, separate rooms for the principal, for the faculty members, for the office and for the administrative staff and a store

appropriate space is provided for music art drama work experience activities. For every instructional room like class room, laboratory, library etc.

space shall not be less than 10 sq.ft. per student. Multi purpose hall shall have the seating capacity for 150 persons.

5.1.3 There shall be games facilities with a play ground. Alternatively, the play ground available with the attached school or local body may be

utilised exclusively for fixed periods. Where there is scarcity of space as in metropolitan towns/hilly regions, facilities for small court games, yoga

and indoor games may be provided.

5.1.4 Safeguard against fire hazard be provided in all parts of the building.

5.1.5 The institutional campus, building, furniture etc. should be barrier free.

5.2 Instructional

(a) The institution shall have easy access to sufficient number (5-10) of recognised elementary schools for field work and practice teaching related

activities of student teachers. A list of such schools shall be prepared. It is desirable that it has an attached an elementary school of its own.

(b) There shall be a multi purpose educational laboratory with psychology and science sections, a workshop attached to it.

(c) The science section shall have the apparatus required to demonstrate all the experiments as per the syllabus of elementary schools.

(d) The psychology section shall have the facilities for observation of children counselling and guidance Personality and Interest Inventories.

(e) There shall be hardware and software facilities for language learning.

(f) There shall be an Educational Technology laboratory with hardware for projection and duplication and educational software, required for

imparting Information Technology (IT), Literacy including TV, camera etc.

(g) ROT (Received Only Terminal) and SIT (Satellite Interlinking Terminal) shall be desirable.

(h) There shall be a library equipped with minimum 2000 titles including text and reference books related to the prescribed course of study,

educational encyclopaedias, year books, electronic publications (CD Roms) and 5 educational journals on elementary education and related

subjects. It should be augmented with addition of 200 titles annually. The library shall have photocopying facility and computer with internet facility

for the use of faculty students - teachers.

(i) There shall be an art and music section, equipped with art paper, also notes, brushes, colours etc. for visual art. Simple musical instruments such

as harmonium, dabla, flute, mridingam other local popular instruments, costumes and accessories for staging dance and drama performance,

curtains and other accessories.

5.3 Amenities.

5.3.1 Functional and appropriate furniture for the purpose in required number shall be provided for instructional and other purposes. Tables and

chairs for teachers and students, for laboratories and workshops, computer room, library, office, store room etc. should be provided fully as

needed.

5.3.2 The institution shall provide common rooms for female teacher educators/trainees.

5.3.3 Safe drinking water be provided in the institution.

5.3.4 Sufficient number of toilets, separate male and female, shall be made available to staff and students.

5.3.5 Arrangement shall be made for a canteen, telephone facility and parking of vehicles etc.

5.3.6 Effective arrangements shall be made for the repair and replenishment for furniture and other equipments as and when needed and regular

cleaning of campus, water and toilet facilities.

General

If one or more courses in teacher education are run by the same institution in the same building, the facilities of play ground, multi purpose hall,

library and laboratory (with proportionate addition of books and equipments) and instructional space may be shared.

27. Therefore, it is clear that the admission procedure, qualifications required for the post of Principal, Lecturers, Technical Support Staff and

Administrative Staff and their service conditions have been clearly laid down in the norms Prescribed by the NCTE and as stated above, the

NCTE which was in the habit of issuing conditional recognition and thereafter issuing unconditional order of recognition after compliance of various

requirements, has now decided to grant unconditional recognition based on the order of this Court passed in the batch of writ petitions, viz., W.P.

No. 15177 of 2007 etc. batch dated 25.04.2007 (Oxford Teacher Training Institute rep. By its Correspondent and Ors. v. NCTE and Ors.),

wherein this Court has held as follows:

15. Considering the submissions made on either side the above writ petitions are disposed of with the following direction:

All the petitioners shall submit affidavit by the management regarding the appointment of staff in Rs. 100/- stamp paper in the prescribed format,

affidavit in Rs. 10/- from the individual staff members in the prescribed format and staff profile if the same have not already been submitted within a

period of two weeks from the date of receipt of a copy of this order and on receipt of such request from the writ petitioners, the same shall be

considered by NCTE and pass appropriate orders thereon within a period of two weeks therefrom and grant unconditional recognition without

insisting for the approval by the concerned affiliating body like University, SCERT, DTER, DSERT etc.

Therefore, as on date, there is no conditional recognition granted by the NCTE in respect of Teacher Training Institutions.

28. In each year, the number of working days are 200 with 40 practical teaching classes, and one unit must consist of 50 students. While

stipulating the admission procedure as enumerated above, it is stated that the admission to the Diploma in Teacher Education has to be made on

merit based on the marks obtained in the qualifying examinations or in the Entrance Examination or any other selection process as per the policy of

the State Government or UT Administration. Now, in the State of Tamil Nadu the admission procedure is based on the marks obtained in the

qualifying examinations, and there is no difficulty to come to the conclusion that it is the marks obtained in the +2 examinations, which is the criterion for admission of students.

29. Section 12(b) of the NCTE Act only enables the National Council for Teacher Education to make recommendations to the State

Governments, Universities and UGC in the matter of preparation of suitable plans and programmes in the field of Teacher Education and it cannot

be said to have conferred any power on the State Government beyond the powers of the NCTE. It is true that Regulation 8(10) makes it clear that

an institution shall make admission only after obtains unconditional recognition from the Regional Committee concerned and affiliation from the

examining body. As stated above, the examining body is defined as not only the University, but also agency or authority to which an institution is

affiliated for conducting examinations in Teacher Education qualifications. However, the term, "affiliation" is not defined. While construing the term

examining body"" u/s 2(d) of NCTE Act there is no difficulty to conclude that the State Government as well as the Director of Teacher Education,

Research and Training is the examining body. The question which can be raised in this case is as to whether the examining body, viz., respondents

1 and 2 can be equated to the affiliating body, viz., the University.

30. University is a statutory creature, having its own Statutes, Ordinances and Regulations framed in accordance with the concerned law. The

Ordinances and Regulations elaborately explain various procedures to be followed for inspection of Colleges to find out the infrastructure facilities

available, apart from verifying the qualifications required for appointment of teaching staff, prescribing syllabus, etc. before granting affiliation.

31. It is also pertinent to point out at this stage that while dealing with the concept of affiliation by the Universities to B.Ed., degree courses in the

light of various provisions of the NCTE Act, a Full Bench of this Court (in which I am also a party) in W.P. No. 28304 of 2007 by judgment

dated 06.10.2007, after taking note of various judgements of the Supreme Court in State of T.N. and Another Vs. Adhiyaman Educational and

Research Institute and Others, ; Thirumuruga Kirupananda Variyarthavathiru Sundara Swamigalme Vs. State of Tamil Nadu and Others, and Jaya

Gokul Educational Trust Vs. The Commissioner and Secretary to Government

Higher Education Department, Thiruvananthapuram, Kerala State

and Another, , held that when the concerned AICTE Act, Indian Medical Council Act and NCTE Act prescribe the manner and procedure as per

Entry 66 of List I of the Seventh Schedule to the Constitution of India, the field is occupied by the Central Government, but also held that it does

not mean that once the Central body grants recognition or approval, the concerned University by closing its eyes should necessarily grant affiliation,

since the University owes its existence to its statutes and one cannot direct the University to disobey its own statutes by relying on the judgment of

the Supreme Court in A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another, . Ultimately, the Full Bench

has held that while granting affiliation, the University cannot be expected to act as a rubber stamp after the recognition or approval granted by the

Central body and it has to apply its statute before granting affiliation, however, not insisting any standard or requirement, which is more than what is

required by the Central authority by virtue of its powers under Entry 66 of List I of the Seventh Schedule to the Constitution of India.

32. The abovesaid cases related to Universities which were bound by their own statutory guidelines. But as far as the Director of Teacher

Education is concerned, it is admitted that the State Government has not framed any guidelines or Rules and Regulations for the purpose of either

granting approval for the teachers appointed by the private Management or for any other matters except periodical Government Orders issued

relating to the fixation of date for the purpose of admission of students for Diploma in Teacher Education, fixation of date for approval of teachers

in the said Institutions, etc. Therefore, the crucial issue to be considered is as to the role of the examining body, viz., the State Government as well

as the Director of Teacher Education, Research and Training in respect of approval of Teachers. In the absence of proper guidelines framed by the

State Government to follow uniform procedure in respect of the Institutions, which are granted recognition, the guidelines which are stated to be

available to the State Government are only the Government Orders passed from time to time.

33. Now, it is relevant to find out as to how the said Government Orders can be treated as proper guidelines for the purpose of approval of

teachers appointed by the Self Financing Non-minority Educational Institutions and for the method of inspection and for framing the Scheme of

Education for the students of Diploma in Teacher Education.

34. G.O. (1D) No. 111 School Education (U1) Department dated 17.07.2003, which is the earliest one regarding the guidelines to be issued for

admission of students speaks about the subjectwise admission, viz., 50% of the students should be from science discipline; 25% from arts

discipline and 25% from vocational stream. That apart, it provides for the following of reservation, viz., 18% for Scheduled Castes; 1% for

Scheduled Tribes; 20% for Most Backward Class; 30% for Backward Class; and 31% for Open Category. As far as the said communal

reservation is concerned, the matter at large, pending before the Supreme Court. As it has been held by the Seven Judge Bench of the Supreme

Court in P.A. Inamdar's case in respect of Un-aided Non-minority Institutions that such reservation cannot be insisted upon, however, in the event

of the Management willing to follow the reservation, there is no bar.

35. In addition to the same, the said Government Order also contemplates for admission under Single Window System, by granting 50% to the

Non-minority Self Financing Institutions and directing that the remaining 50% should be surrendered to the Government as Government quota. It is

relevant to point out that in all the present cases there is no much dispute regarding the admission by Single Window System and also for

surrendering a particular percentage of seats to the Government treating the remaining as Management quota for admission.

36. G.O.Ms. No. 212 Higher Education (J2) Department dated 18.07.2006 relates to the apportionment of seats between the Government and

Management in respect of Unaided Engineering Colleges. G.O.(1D) No. 226 School Education (U1) Department dated 28.08.2006 relates to the

admission in the Educational Institutions for the year 2006-2007 based on G.O.Ms. No. 212 dated 18.12.2006. G.O.Ms. No. 212 dated

18.12.2006 itself was issued, based on the consensus arrived at between the Management and the Government for the year 2005-2006, and

regarding the said G.O., orders were passed in W.P. No. 15701 of 2006 etc. batch cases on 06.07.2006.

37. In G.O.Ms. No. 133 School Education Department dated 14.06.2007, ad hoc

rules have been framed for appointment of posts (academic) in the Directorate of Teacher Education, Research and Training, District Institutes of Education and Training and Government Teacher Training Institutes in the Department of Teacher Education and Training. It is under the said Rules, the Directorate of Teacher Education, Research and Training, District Institutes of Teacher Training and Government Teacher Training Institutes have been brought within the ""Tamil Nadu Teacher Educational Service."" The said Government Order is as follows:

School Education Department

G.O.(Ms) No. 133 Dated: 14.06.2007

Read:

1. G.O.Ms. No. 748 Education, dated 04.06.1990
2. G.O.Ms. No. 106 School Education, dated 11.03.1997.
3. G.O.Ms. No. 715 Education, dated 05.08.1912.
4. G.O.Ms. No. 35 Education, dated 06.01.1934.
5. G.O.Ms. No. 1410 Education, dated 11.08.1967.
6. G.O.Ms. No. 1396 Education, dated 10.09.1968.
7. G.O.Ms. No. 910 Education, dated 14.05.1976.
8. G.O.Ms. No. 1799 Education, dated 07.12.1988.
9. G.O.Ms. No. 211 School Education, dated 11.12.2001.
10. G.O.(1D)No. 98 School Education, dated 13.08.1997.
11. G.O.Ms. No. 80 School Education, dated 22.03.1999.
12. G.O.(1D)No. 15 School Education, dated 19.1.2000.
13. G.O.Ms. No. 64 School Education, dated 21.5.2002.
14. G.O.Ms. No. 122 School Education, dated 06.08.2002.
15. From the Director of Teacher Education,
Research and Training Letter Rc.
No. 0770/A1/2004 dated 03.02.2004
and 06.01.2006,
30.4.07 and 25.5.07.

...

ORDER:

The administration of Teacher Training Institutes including District Institutes of Education and Training was under the administrative control of the

Director of School Education. The Service Rules applicable to the teaching and administrative posts in the School Education Department were

followed for the members of staff working in the Government Teacher Training Institutes, District Institutes of Education and Training and

Directorate of Teacher Education Research and Training also. There has been rapid growth and expansion in the field of Teacher Education

particularly in the area of In-service Training covering thousands of teachers in the Elementary sector after the information of District Institutes of

Education and Training. With a view to have effective administration and for quick implementation of the schemes, the Government decided that a

separate Directorate be formed for looking after Teacher Education and accordingly orders were issued in G.O.Ms. No. 748 Education (F2)

Department, dated 04.06.1990. Subsequently orders were also issued in G.O.Ms. No. 98 Education dated 13.08.1997 streamlining the

recruitment procedure and implemented it after obtaining the willingness of the staff concerned. Vacancies in various categories were also filled up

by promotion and direct recruitment was also resorted to, through Teachers Recruitment Board. The service conditions of number of teaching staff

working under the control of the Director of Teacher Education a non-vacation department, could not be regulated due to absence of separate

Service Rules governing the posts. In order to regulate the service conditions of teaching staff of the Directorate of Teacher Education Research

and Training. The Director of Teacher Education Research and Training has submitted the draft Ad hoc Rules governing the posts sanctioned in

Directorate of Teacher Education Research and Training, District Institutes of Education and Training and Government Teacher Training Institutes,

which shall constitute ""Tamil Nadu Teacher Educational Service"".

The Government accept the draft Ad hoc Rules of the Tamil Nadu Teacher Educational Service.

The following Notifications appended to this order will be published in the Tamil Nadu Government Gazette.

38. A reading of the abovesaid Ad hoc Rules framed shows that they are all

governing the creation, qualification and function of the above

authorities and nowhere the said Ad hoc Rules states anything about method or scheme under which the first and second respondents are to grant

permission either to the Teachers or to the Institutions after such institutions are recognised by the NCTE.

39. It is also relevant to point out the letter of the Secretary to Government addressed to the Member Secretary, NCTE, New Delhi in Letter No.

16100/U1/07-02 dated 19.09.2007, in which the Government informed its desire to adhere to Appendix 5 of Gazette Notification dated

13.02.2002, which was subsequently changed as Appendix No. 2 in the Gazette Notification on 03.02.2006, in terms of qualification prescribed

for T.T.I. faculty as per regulation of the NCTE dated 13.01.2006 and also sought for permission from the NCTE, New Delhi to follow the norms

in vogue prior to 11.12.2006, to enable the State to grant approval to the upcoming TTIs.

40. For the year 2006-2007 for fixation of cut-off date for admission in the Diploma in Teacher Education, the State Government has issued G.O.

(2D) No. 59 School Education (U1) Department dated 14.11.2006, in which the State Government has fixed 30.11.2006 as last date for

admission to Diploma in Teacher Education for the academic year 2006-2007 and also directed to provide instruction classes to the candidates for

220 days as per the calendar of activities.

41. By a subsequent G.O.(2D) No. 7 School Education (U1) Department dated 09.02.2007, again, while dealing with the admission for the

academic year 2006-2007, the cut of date for approval of teaching faculty which was fixed earlier as 20.11.2006 has been extended to

09.03.2007. Again, by a subsequent Government Order in G.O.(2D) No. 29 School Education (U1) Department dated 13.06.2007, the State

Government has extended the cut off date for admission of students for the year 2006-2007 as 16.03.2007. It is also relevant to point out that

before the NCTE Act has come into existence, it was the Tamil Nadu Private Schools Regulation Act, 1976, which was made applicable for

Teacher Training Institutes also. After the NCTE Act has come into existence on 19.09.1993, which is a Central Act, the above said Tamil Nadu

Act has no application as far as the Teacher Educational Institutions are

concerned, especially when the field has been occupied by the Central Government by virtue of its power under Entry 66 in List I of the Seventh Schedule to the Constitution of India.

42. In such circumstances, especially in the absence of any guidelines to be followed by the Director of Teacher Education, Research and Training

for the purpose of deciding about the approval of teachers appointed by the Self Financing Teacher Training Institutions, etc., the above said

various Government Orders extending the period of time for approval of teachers and admission of students even for the year 2006-2007 upto

16.03.2007 and 09.03.2007 show that based on various circumstances the second respondent has passed orders even for fixing different cut off

date for admission of students for the year 2006-2007. It is alarming to note that in respect of students admitted for the year 2006-2007, even till

date the second respondent is not able to fix the dates for first year examinations. It is in the light of the above factual back ground, we have to

proceed with the above said two points.

43. As it is narrated earlier, NCTE Regulations are clear about the required qualifications of a person to be admitted to the D.T.Ed. course and the

norms are exhaustive and in the absence of any proper scheme framed by the State Government in consonance with the Norms and Standards for

Elementary Teacher Education Programme leading to Diploma Education framed by the NCTE, the State Government, which is certainly the

examining body as per Section 2(d) of the NCTE Act, has to necessarily follow the various norms and standards prescribed by the NCTE in

Appendix No. 2 for the purpose of verification as to whether the teachers who are sought to be appointed by the Self Financing Non-minority

Educational Institutions conform to the qualifications prescribed by the NCTE norms and also to verify about the number of working days, which

are necessarily to be carried out by the Institutions, apart from prescribing the syllabus.

44. By applying the law laid down by the Full Bench of this Court in W.P. No. 28304 of 2007 on 06.10.2007, there is no difficulty to come to the

conclusion that even in the absence of proper guidelines and scheme, the State Government, has to grant affiliation as per Section 14(6) of the

NCTE Act being the ""examining body"". It is true that while granting recognition

of any Teacher Training Institution, the Regional Committee is satisfied about the adequacy of financial resources, accommodation, library, qualified staff, laboratory etc. and it is only after being satisfied with the same, such final recognition is granted by NCTE. Further, it is true that those particulars regarding the financial resources, accommodation, library, qualification of staffs etc. are directed to be displayed in the website by each of the Institutions and therefore, there is no point in saying that the respondents are not aware of the qualifications of teachers, etc. Nevertheless, Section 14(4) of NCTE Act makes it clear that every order granting recognition to an Institution shall be published in the official gazette and communicated in writing for appropriate action to such institution and to the concerned examining bodies, the local authority or the State Government and the Central Government in the following terms:

14(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.

45. On receipt of such communication from the Regional Committee, the examining body grants affiliation to the institution etc. as follows:

14(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.

46. The term "affiliation" in Section 14(6) of NCTE Act in strict sense of law may be said to be applicable to the Universities which offer degree

courses in education like B.Ed., M.Ed., etc. and the mere absence of the term, "approval of teachers and students" in the said Section 14(6) does

not mean that the State Government has no role to play at all especially when the State Government is indisputably the "examining body" under the NCTE Act.

47. The subtle difference between the words "recognition and affiliation" came to be decided by the Supreme Court in *The Principal and*

Others Vs. The Presiding Officer and Others, . The Supreme Court has in categorical terms held that "affiliation" is meant to prepare and present the

students for public examinations, while "recognition" is for other purposes mentioned in the Act and only if the School is recognised by the

appropriate authority", it becomes amenable to other provisions of the Act. The relevant portion of the judgment of the Supreme Court which

explained the distinction is as follows:

6. ...It appears to us that since the School was affiliated to the Board, the Delhi Administration caused its name to be included in the aforesaid list.

The fact that the School is affiliated or attached to the Board is also of no consequence and cannot justify the conclusion that the School is a

"recognised school". There is a significant difference between "affiliation" and "recognition". Whereas "affiliation" it may be noted is meant to

prepare and present the students for public examination, "recognition" of a private school is for other purposes mentioned in the Act and it is only

when the School is recognised by the "appropriate authority" that it becomes amenable to other provisions of the Act....

Therefore, it is clear that "affiliation" to a University is for the purpose of preparing the students for examination, while "recognition" by NCTE is a

condition precedent for the institute to come into existence. As such, applying the same, it is clear that recognition by NCTE is necessary for an

institute to come into existence, while the institution is activated by the examining body, which actually prescribes the syllabus for the students, apart

from preparing schedule of examinations, conducting examinations etc. Merely because the NCTE is satisfied about the qualification of the

teachers before granting recognition as per its regulations, it cannot be said that the State Government or respondents 1 and 2 have nothing to act

at all. Arriving at such conclusion would make the provisions of Sections 14(4), 14(6) and 16 of NCTE Act nugatory. Mere absence of proper

guidelines by the State Government cannot take away its powers as conferred under the Central Act in the above said provisions.

48. As rightly contended by the learned Additional Advocate General, even if the State Government has not constituted Selection Committee as

per the provisions of the Central Act, especially Regulations, 2006 Appendix 2, Clause 4.2, when the NCTE itself has prescribed clear guidelines

regarding qualifications, the State Government has to satisfy itself whether the qualifications prescribed by the NCTE Regulations are in fact

possessed by the teachers. There is no doubt that the State Government or the Director of Teacher Education, Research and Training is having not

only a statutory right but also a duty to verify the correctness of the particulars furnished by the Institutes to NCTE for obtaining its recognition. It is

true that on the State Government finding that such particulars furnished by the Institutes to the NCTE for obtaining recognition are not in fact

available or the qualifications furnished to the NCTE are not correct, it is for the second respondent to take immediate action by referring the same

to the Regional Committee of the NCTE, and till NCTE takes action in accordance with the Central Act, it cannot be said that second respondent

has no right to withhold the granting of approval in respect of such teacher whose qualification is not in conformity with the NCTE Regulations. As

I have stated above, in spite of the State authorities finding that the particulars furnished by the Institutes regarding the qualification of the particular

teacher to the NCTE for granting approval are not in fact available, if the State authorities are to be directed to approve the list as per the

provisions of Sections 14(2), 14(6) and 16 of the NCTE Act, it will make the entire provisions a mockery. Therefore, the contention of the learned

senior counsel that in spite of State authorities on verification having found that the qualification of the concerned teachers are not in accordance

with the norms prescribed by the NCTE Regulations, the State authorities should grant approval is not sustainable. Even if the powers of the State

authorities are secretarial or ministerial in the matter of verifying the particulars furnished by the respective Institutes, one cannot ignore that such

powers are conferred under the Central Act as well as Regulations framed thereunder. In this regard, it is relevant to point out the observations of

V. Ramasubramanian, J. in a batch of writ petitions, viz., W.P. No. 47503 of 2006 etc. batch in the order dated 03.04.2007, which are as

follows:

24. From the aforesaid National Council for Teacher Education (Recognition Norms and Procedure) Regulations 2005, which came into effect

from 13.1.2006, there is no escape from the conclusion that the Institutions are entitled to admit students only after the following steps are fulfilled

viz.,:

(a) Obtaining an order of recognition.

(b) Appointing qualified Faculty Members, putting the information on the Official Website and formally informing the Regional Committee concerned.

(c) Getting an unconditional order of recognition.

(d) Getting affiliation from the Examining Body.

The Examining Body viz., the University concerned or the State Government (depending upon whether the Course is an Undergraduate/Post-

Graduate Course or a Diploma/Certificate Course), can grant affiliation only after the list of staff members is approved. After the publication of the

Amended Regulations of the year 2006 in respect of the Norms and Standards, with effect from 11.12.2006, the role of the Examining Body has

been enlarged, in the matter of examining and granting approval to the staff members appointed by the Institution, under para-4.2 of Appendix 2

Norms extracted in para-21 above.

49. It is also relevant to point out that the learned Judge has upheld the validity of G.O.(2D) No. 59 School Education (U1) Department dated

14.11.2006, under which the date of admission of students in the Diploma in Teacher Education for the first year, viz., 2006-2007 has been

extended upto 30.11.2006, with the following directions:

27. Therefore, in fine, all the writ petitions are disposed of with the following directions:

(a) The impugned Government Order G.O.(2D) No. 59, School Education Department, dated 14.11.2006, prescribing 30.11.2006 as the last

date for admission of students for the academic year 2006-2007, is upheld as perfectly valid and the same is binding on all Teacher Training

Institutes.

(b) Since the last date for approval of Faculty Members had been extended by the State Government under G.O.(2D) No. 7, School Education

Department, dated 9.2.2007 from 20.11.2006 to 9.3.2007, the Director of Teacher Education Research and Training shall approve the admission

of students in all Private TTIs, if their admission had taken place before 30.11.2006 and the list of Faculty Members had been submitted before

9.3.2007. This concession is only in respect of the current academic year 2006-2007, since the Amended Regulations, 2005 were notified on

13.1.2006 and the revised Appendix-2 Norms and Standards under Amended Regulations 2006 were notified only on 11.12.2006.

(c) Within two months from the date of receipt of a copy of this order, the State Government shall issue a compendium of guidelines, prescribing

the calendar of activities for the Teacher Training Institutes, indicating (i) the date of commencement of the Course, (ii) the cut off date for approval

of staff members, (iii) the cut off date for admission of students, (iv) the cut off date for holding Single Window Counselling, for sponsoring

candidates under the Government Quota, (v) the method of recruitment of Teaching Faculty, administrative and technical support staff, (vi) the

calendar of activities for the academic year including the days of instruction and days of internship, (vii) the schools in which the internship could be

undergone, (viii) the Schedule for the Examination as well as the Commission Work and Observation Work and (ix) such other matter as required

for streamlining the system of Teacher Education in the State. The said compendium of guidelines, shall be issued by the Government within two

months and it shall take effect from the academic year 2007-2008 onwards.

(d) In the compendium of guidelines, the State Government shall make it clear that the question of grant of affiliation or approval of admission of

students and appointment of Faculty Members, would be considered for every academic year, only in respect of those Institutes which get orders

of recognition upto a particular date, say 31st July or 31st August of a year. The date so prescribed shall be in tune with the calendar of activities

prepared by the State Government, taking note of para-2 of Appendix 2 Norms and Standards prescribed under Amended Regulations of the

year 2006. The Institutes which receive orders of recognition beyond the cut off date so prescribed by the State Government, would be entitled to

have affiliation and approval of admission of students and appointment of staff members only for the following academic year.

(e) Since NCTE has now modified the format of the orders of recognition and the academic year is not mentioned in the orders of recognition, the

Institutes will have a right (from the academic year 2007-2008 onwards) to admit students only after the grant of approval of staff members and

the grant of affiliation by the State Government, in view of Regulation No. 7(11), 7(12) and 8(10) of National Council for Teacher Education

(Recognition Norms and Procedure) Regulations 2005 published in the Government Gazette on 13.1.2006.

(f) Since one of the objections taken in this batch of writ petitions is that the impugned Government Order was not published in the Government

Gazette, the respondents are directed to publish the compendium of guidelines in the Government Gazette, so that such an objection could be avoided.

It is based on the directions given by the learned Judge, the Government has passed the Government Order, particularly with reference to the

imposing of calendar of activity from the year 2007-2008.

50. The Order passed in W.P. No. 22161 of 2006 etc. batch cases by Prabha Sridevan, J. was relating to G.O.Ms. No. 90 School Education

(U1) Department dated 21.06.2006, in which the Government has appointed a High Level Committee to enquire into the deficiencies in Private

Teacher Training Institutes and B.Ed. Colleges and to find out as to whether they possessed the required infrastructural facilities. The learned Judge

has set aside the Government Order on the basis that the State Government has no supervisory power after the recognition is granted by the

NCTE and such executive action of the Government is totally without jurisdiction. The operative portion of the judgment is as follows:

28. Ostensibly, the State Government only wants to ensure that deficiencies in the infrastructural facilities have not been overlooked in the grant of

approval to the institutions listed in the Annexure to the G.O. or the subsequent communication. When the State Government's role in the entire

scheme of things with regard to grant of approval is limited to issuing a NOC vide Regulation 6 of the State Act and it is only the Central Council

which satisfies itself with regard to the infrastructural facilities by making an inspection prior to grant of approval, and the final decision of the

NCTE does not depend upon the grant or rejection of NOC, as we have seen in St. John's case (supra), I am unable to trace the genesis of the

State's power for issuing this G.O. after the institutions have come up. The State Government is given no scope to act as a supervisory body to

check whether there has been any irregularity on the part of the NCTE in the grant of approval. The executive action is totally without jurisdiction

and is a trespass into the field occupied by the Central legislation. Repeatedly,

the Supreme Court has held in Adhiyaman's case (supra), Thirumuruga Kirupananda Variarthavathiru Sundara Swamigalme Vs. State of Tamil Nadu and Others, and Jaya Gokul's case (supra) that the power of the Central Council is supreme and any exercise of power by the State under Entry 25 is limited. Intrinsically, the area of operation of the Central Council as per the Central legislation is almost identical in all these Acts, be it the AICTE Act, the Medical Council Act, the Dental Council Act or the NCTE Act and therefore, what applies in the case of any one of these applies equally to the NCTE. In Adhiyaman's case, the State Act has also been considered, and it has been held that the provisions of the State Act insofar as they impinge upon the AICTE Act are void. Here too, the same State Act is referred to, viz. Tamil Nadu Private Colleges Regulation Act. Therefore, the ratio laid down in that case will apply on all fours here.

51. In the present case, the contention that the State Government has no role to play at all after the recognition granted by the NCTE is not only against the provisions of NCTE Act, particularly Sections 14(4) and 14(6) read with Section 16, which recognises the State Government's powers, but also against the law laid down by the Supreme Court consistently starting from State of T.N. and Another Vs. Adhiyaman Educational and Research Institute and Others, . Since the field is occupied by the Central government, the power of the State Government is limited and it cannot transgress into the powers of the Central Government under Entry No. 66 of List I of the Seventh Schedule to the Constitution of India.

Therefore, in my considered view, the respondents 1 and 2 certainly have the right of superintendence over the institutions which are situated within the territory of the State and the said right is limited so that it should not transgress into the powers of the NCTE. The right of superintendence of the respondents 1 and 2 encompasses within it the power to verify whether the particulars given to the NCTE by the Institutions are in fact available or any of the Institutions have played fraud on NCTE by not furnishing proper particulars and in such event, it is for the first and second respondents to inform the same to the NCTE for taking appropriate action. Till such appropriate action is taken, no one can compel the State Government, which has in fact found some defects in the particulars furnished by

the Institutes to the NCTE, to grant approval to the appointment of teachers. Therefore, the contention of the learned senior counsel that all the particulars have been furnished to the NCTE even before the grant of unconditional recognition and such particulars have been hosted on the website has no basis, for, the State authorities can find out only on verification, as to whether such particulars are in fact available as per the terms of the NCTE Regulations.

52. Therefore, as far as the approval of teachers to be granted by the State authorities is concerned, it is open to the State authorities to verify the correctness of statements furnished by the Institutes to the NCTE either on specific complaints or suo motu when the State authorities have

materials to believe that correct particulars are not furnished. It is also made clear that the power of the State which is only to the limited extent of

verifying the factual particulars cannot be used by the authorities concerned for any unnecessary harassment especially in the circumstances that the

State Government has not framed any Rules or Schemes regarding such verification. In the absence of such Rules or Schemes, it is open to the

State Government to follow various instructions issued by means of Government Orders, which can be referable to the executive power of the

Government under Article 162 of the Constitution of India, so long as such instructions are not in transgression of the powers of the Central

authorities. Therefore, it is made clear that till the Government frames necessary Rules or schemes in this regard for the purpose of verification, as

stated above, the respondents shall grant approval to the list of teachers except when specific complaint has been made or on probe it is found that

the qualification of such teachers are not in accordance with the norms of NCTE Regulations and not otherwise. In cases where the second

respondent desires to make a suo motu enquiry regarding the qualification of teachers, it shall be only for proper and acceptable reasons and that

too only in respect of the specified teacher and withhold approval for other teachers, who confirm to the Central Regulations. As laid down by the

Supreme Court in State of A.P. Vs. K. Purushotham Reddy and Others, , both the Union as well as the States have the power to legislate on

education, including medical education, subject, inter alia, to Entry 66 of List I, which deals with laying down standards in institutions for higher

education or research and scientific and technical institutions as also coordination of such standards. The State has, therefore, the right to control

education including medical education so long as the field is not occupied by the Union legislation and to the extent that the State legislation is not in

conflict with the Central legislation. The State legislation, though purported to have been made under Entry 25 of the Concurrent List but in effect

encroaches upon legislation including subordinate legislation made by the Centre under Entry 25 of the Concurrent List or under Entry 66 of the

Union List, is to be held void or inoperative. By applying the said yardstick, the powers of the State Government to verify the particulars furnished

by the Institutes to the NCTE as to their correctness cannot be said to be transgression into the powers of the Central authorities especially by

virtue of Sections 14(4) and 14(6) of the NCTE Act.

53. In the above said background, apart from the two points urged by the learned senior counsel, viz., subjectwise allotment of seats and the

practicability of the schedule prescribed by the Government for the year 2007-2008, it is incumbent to point out that a certain solution has to

necessarily be drawn in respect of admission of students for the year 2006-2007 and 2007-2008 in the larger interest of all concerned. This is

relevant because, as I have stated earlier, the State Government under various Government Orders has been extending the time limit for admission

of students upto 16.03.2007 for the year 2006-2007 and approval of teachers upto 09.03.2007 for the year 2006-2007. Adding to that, it is the

admitted case that NCTE is in the habit of considering the applications for recognition throughout the year and such statutory functions cannot also

be curtailed.

54. Considering the first submission regarding subjectwise reservation, the factual position is that as per the impugned Government Order, out of

the total number of candidates, in respect of the candidates allotted to the Management under Management quota for the Unaided Non-minority

Institutions, the admissions are sought to be done on the basis that out of the number of seats allotted under the Management quota, 50% of the

same shall be filled up from the students of science faculties; 25% from arts faculties and the remaining 25% from vocational courses.

55. As I have enumerated above, there is no such stipulation by the Central

authorities by reserving seats to be admitted on subjectwise quota. In

State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others, , the Supreme Court while dealing with Entry No. 66

of List I of the Constitution of India, in the context of NCTE Act has held that,

Any policy consideration of the State in the matter of establishment of a new college cannot prevent such institution to come into effect that when

once the Central authority under NCTE Act has granted recognition and therefore, the question of obtaining NOC from State Government does

not arise.

The Supreme Court has held that it is not for the State Government or the University to consider the local conditions or apply State policy to refuse

permission to start a new Teacher Training Institution in the following words.

74. It is thus clear that the Central Government has considered the subject of secondary education and higher education at the national level. The

Act of 1993 also requires Parliament to consider teacher-education system ""throughout the country"". NCTE, therefore, in our opinion, is expected

to deal with applications for establishing new BEd colleges or allowing increase in intake capacity, keeping in view the 1993 Act and planned and

coordinated development of teacher-education system in the country. It is neither open to the State Government nor to a university to consider the

local conditions or apply ""State policy"" to refuse such permission. In fact, as held by this Court in cases referred to herein above, the State

Government has no power to reject the prayer of an institution or to overrule the decision of NCTE. The action of the State Government,

therefore, was contrary to law and has rightly been set aside by the High Court.

The stand of the State Government that the State Government alone can correctly assess and know the extent of requirement of trained manpower

and supply of trained teachers keeping in view the requirement, change of occupation and demand of such teachers was expressly rejected by the

Supreme Court in the above said case.

56. The only reason adduced by the respondents to counter the contention against the subjectwise admission is that after the introduction of Higher

Secondary Scheme, the ratio of 50% of seats to Science candidates; 25% seats to Arts candidates and 25% seats to Vocational group students

are given to cater to the needs of students who graduate from Higher Secondary Schools, in proportion to the strength of such categories of

students pursuing Higher Secondary Course in the State. It is also stated that to ensure quality of education at all levels, the of calendar of activities

regarding admission, conducting classes, internship training etc. have been fixed.

57. This part of the impugned order also affects the legitimate expectation of the Institutions in the sense that the same has been introduced for the

first time without any basis whatsoever. In a similar circumstance, when a question arose about the imposition of policy of the Government in

introducing Tamil/mother tongue as medium of instruction for admission of students in Matriculation School, a Full Bench of this Court in Tamil

Nadu Tamil and English School Association v. State Government and 2 Ors. 2000 (11) CTC 344 has held as follows:

53. Coming to the present case, as already pointed out the Matriculation Schools have been teaching in English medium for over fifty years. They

have been permitted to continue ever since the date of recognition of all the Schools and that recognition has been granted without any condition.

54. The Managements can be said to be reasonable in claiming that they expected this to continue. It is not necessary that there should have been a

representation by the Government and that the Schools were opened by the management only believing those representations. It is not disputed

that these managements have spent considerable amount in improving their respective schools.

55. In the circumstances, we are of the considered opinion that the managements are perfectly justified in claiming that on the principles of

legitimate expectation the impugned order is liable to be quashed which order we have already found to be irrational, arbitrary and unreasonable.

58. While dealing with the Private Unaided Non-minority Educational Institutions, the Eleven Judge Bench of the Supreme Court in T.M.A. Pai

Foundation and Others Vs. State of Karnataka and Others, has held that imposing an unreasonable restriction regarding the admission of students

is unacceptable, unless the said conditions coincides with the requirements to ensure the excellence of education and for admission into any

professional institution, merit must play an important role. The relevant portion of the judgment is as follows.

54. The right to establish an educational institution can be regulated; but such regulatory measures must, in general, be to ensure the maintenance of proper academic standards, atmosphere and infrastructure (including qualified staff) and the prevention of maladministration by those in charge of management. The fixing of a rigid fee structure, dictating the formation and composition of a governing body, compulsory nomination of teachers and staff for appointment or nominating students for admissions would be unacceptable restrictions.

68. It would be unfair to apply the same rules and regulations regulating admission to both aided and unaided professional institutions. It must be borne in mind that unaided professional institutions are entitled to autonomy in their administration while, at the same time, they do not forego or discard the principle of merit. It would, therefore, be permissible for the university or the Government, at the time of granting recognition, to require a private unaided institution to provide for merit-based selection while, at the same time, giving the management sufficient discretion in admitting students. This can be done through various methods. For instance, a certain percentage of the seats can be reserved for admission by the management out of those students who have passed the common entrance test held by itself or by the State/ University and have applied to the college concerned for admission, while the rest of the seats may be filled up on the basis of counselling by the State agency. This will incidentally take care of poorer and backward sections of the society. The prescription of percentage for this purpose has to be done by the Government according to the local needs and different percentages can be fixed for minority unaided and non-minority unaided and professional colleges. The same principles may be applied to other non-professional but unaided educational institutions viz., graduation and postgraduation non-professional colleges or institutes.

59. In *P.A. Inamdar and Ors. v. State of Maharashtra* 2005 (6) SCC 537, the Supreme Court has again reiterated that in respect of Unaided Educational Institutions, whether Minority or Non-minority, there can be no State policy of reservation that would apply in the matter of admission on lesser percentage of marks, or there can be no nationalisation of seats and the Unaided institutions can have their own admission if it is done

fairly, transparently, non-exploitatively and based on merit. It was also specifically held that the local needs of the State cannot be a ground for the purpose of fixing the quota for seat sharing in the following words:

130. For the aforesaid reasons, we cannot approve of the scheme evolved in Islamic Academy to the extent it allows the States to fix quota for seat-sharing between the management and the States on in the unaided private educational institutions of both minority and non-minority categories.

That part of the judgment in Islamic Academy in our considered opinion, does not lay down the correct law and runs counter to Pai Foundation.

60. It is further relevant to note that by fixing the present percentage, it really does not intend to give admission to meritorious students. As rightly

contended by Mr. N.R. Chandran, learned senior counsel appearing for the petitioners that a person in science subject, who has got higher marks

may be denied admission while a person from vocation course with lesser mark may be admitted under 25% quota for want of candidates and this

can never be said to maintain quality of education.

61. Further, as pointed out by Mr. R. Muthukumarasamy, learned senior counsel, even in respect of the said subjectwise sharing of seats, an

exemption is granted to Anglo-Indian Teacher Training School saying that in the event of non-availability of the candidates, the said reservation

need not be followed, which is denied to the petitioner institutions and it is certainly an arbitrary exercise of powers affecting the right guaranteed

under Article 14 of the Constitution of India. Therefore, the portion of the impugned Government Order directing the Unaided Non-minority

Institutions in allotting percentage of seats based on subjectwise is arbitrary and unconstitutional and set aside.

62. The next point for consideration is about the calendar of activities prescribed under the impugned Government Order from the year 2007-

2008. As I have stated above, the said calendar of activities are stated to have been issued by the Government on the basis of the directions issued

by this Court in the batch of writ petitions, viz. In W.P. No. 47503 of 2006 etc. batch cases, dated 03.04.2007. Even though it is not much in

dispute among the learned Counsel for the petitioners that the State Government has the power to issue such direction and it is not transgressing

the powers of the Central authority, viz., NCTE, the learned Counsel have

contended that by the conduct of the respondents themselves, the calendar of activities has proved to be not workable.

63. A reading of the impugned government Order makes it clear that the calendar of activities are to be followed from the year 2007-2008. As I

have stated earlier, by reading of the provisions of the NCTE Act, the State Government is empowered to approve the list of Teachers and being

the "examining body", it is entitled to prescribe the calendar for every academic year in respect of the number of term days of the students,

conducting of examinations, etc. and such directives are only regulatory in nature, in fact for better implementation of the basic policy enunciated by

the NCTE through the Government of India under Entry 66 of List I of the Constitution of India. The Scheme of calendar of activities dealing with

the Single Window System (SWS) of the State policy cannot be questioned. The contention of the learned senior counsel is with particular

reference to the years 2006-2007 and 2007-2008, even though there is no much difficulty for adopting the calendar of activities for the year 2008-

2009. Mr. N.R. Chandran, learned senior counsel submits that the last date for admission of students in the D.T. Ed. course may be extended on

the practical approach that among the professional courses students may come to this course only as a last resort and therefore, the Government

may be lenient as far as the admission procedure is concerned.

64. There is certainly substance in the contention of the learned senior counsel in this regard. It is true that while opting for professional courses,

students give their option by preference, say Medical, Engineering and so on, and after the expiry of the cut off dates for those courses, they try for

the other professional courses like B.Ed., D.T.Ed., etc. In any event, it is not for this Court to fix the calendar of activities and it is for the

Government to decide the same based on the administrative convenience, of course taking into consideration the genuine grievance of the petitioner

Institutes, and the actual reality of the situation, which can be implemented from the year 2008-2009.

65. It is made clear that the Government shall take a pragmatic approach in this regard considering the factual position and also the difficulties

experienced by the private institutions, and keeping in mind the fact that while passing previous Government Orders, the Government had taken

into the consideration the grievance of the institutions and the difficulties experienced by the students on the administration side. Therefore, taking all the aspects into consideration, it is for the Government to formulate proper calendar of activities from the year 2008-2009, which shall be scrupulously followed from the said year onwards. It is incidentally made clear that in the event of formation of such a concrete Scheme from 2008-2009 onwards, the institutions imparting Diploma in Teacher Education shall obtain unconditional approval from the NCTE and shall not make admission of students before that date in respect of that academic year. If such approval is obtained two months before the beginning of the academic year as fixed by the Government, the Institutes shall approach the Government with all particulars of Teachers for approval of Teachers" list, in which event the Government shall grant approval of Teachers for that academic year, which shall continue for the subsequent academic years also, however, subject to changes made in the process of appointment which are to be carried out with the approval of the NCTE and the subsequent permission by the Government, and so on. It is needless to state that by considering the grant of approval of teachers, it is not open to the State or Director of Teacher Education, Research and Training to impose any more condition than what is prescribed in the NCTE Regulations as held by this Court (D. Murugesan, J.) in a batch of Writ Petitions, viz., W.P. No. 26630 of 2004 etc. batch cases, by order dated 09.11.2004 (Vivekananda Teacher Training Institute for Women, Elayampalayam, Tiruchengode and Ors. v. The Regional Director, NCTE and Ors.) in the following words:

18. ...By imposing the impugned condition, the Regional Committee has only directed the DTERT to approve the faculty list on the basis of the educational and professional qualification awarded by the University or the examining body. It is a matter of procedure for verification and the condition does not invest any power on the DTERT either to prescribe the academic or professional qualification or to impose any additional conditions than one prescribed under Clause 5 of Appendix 5....

66. Relating to the admission of students, the contention of the learned senior counsel Mr. N.R. Chandran, placing reliance on the judgment of the learned single Judge of this Court (R. Banumathi, J.) in Marimuthuammal @

Marimuthu and Anr. v. R.P.P. Construction (P) Ltd., Chennai and

Ors. 2007 (5) MLJ 1059 is not acceptable. That was a case wherein under Workmen Compensation Act, a workman was entitled for

compensation from the date of injury. It was due to the delay caused, that too, not because of the conduct of the workmen, the compensation was

paid at a later point of time and in those circumstances, the learned Judge has held that the workman is entitled for compensation from the date of

accident and interest is payable after 30 days from the date of accident, since the Act is a social welfare legislation the provisions of which are

interpreted liberally. In the present case the contention raised by the learned senior counsel is that even though the applications were made for

recognition to the NCTE, the NCTE either kept them for long time or returned the same on flimsy grounds, because of which the applications were

pending and ultimately, after a long period the recognition came to be given and the delay was not due to the fault of the Management, and

therefore, it should be presumed that approval granted by the NCTE should be treated as coming into effect from the date of application or for the

academic year in which the application was made and therefore, on that basis the Management should be permitted to admit students. I am afraid

that this contention will create complications not only in the academic stream but also it is against the well considered principle that no student can

be admitted before recognition or affiliation by the competent authorities and the University concerned, and the law is very clear that such

sympathy, if shown to students would be a misplaced sympathy. In any event, the delay caused by NCTE, which is the appropriate/competent

authority cannot be equated with the delay caused by the authority under the Workmen's Compensation Act, wherein the liability of payment

arises from the date of accident. In the present case, simply because the application was made for the purpose of recognition, there can be no

presumption that the recognition is from the date of application ignoring the time taken by the authorities for consideration which is incidental.

67. In my considered view, the calendar of activities prescribed by the Government cannot be said to be in contradiction of the provisions of the

NCTE Act or the various Regulations made thereunder and the same are regulatory in nature and in fact intended for a better implementation of the

Scheme for maintaining excellency in Teacher Education in a coordinated manner.

68. Now, coming to the factual unfortunate situation of the students admitted for the academic year 2006-2007 and 2007-2008, I have already narrated the various Government Orders, including G.O.(2D) No. 59 School Education (U1) Department dated 14.11.2006, under which the last date of admission of students in Diploma in Teacher Education for the year 2006-2007 was extended upto 30.11.2006, G.O.(2D) No. 7 School Education (U1) Department, dated 09.02.2007, under which the Government has directed 09.03.2007 to be the last date for approval of teachers or faculty for the recognised private Teacher Training Institutes for the academic year 2006-2007 and G.O.(2D) No. 29 School Education (U1) Department, dated 13.06.2007, under which the Government has extended the period of admission of students for the year 2006-2007 upto 16.03.2007. The learned Additional Advocate General has also produced the details about the number of Institutions and dates of First Year examinations held for Diploma in Teacher Education from 1999-2000 to 2006-2007 as follows:

Sl. No.	Year	No. of institutions	Date of First
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Year	Examination	Remarks
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1	1999-2000	83 7/22/00
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2	2000-2001	83 7/23/01
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3	2001-2002	83 9/3/02
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Single Window System Admission Introduced.		
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4	2002-2003	83 9/24/03
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5	2003-2004	83 7/28/04
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6	2004-2005	305 11/23/05
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7	2005-2006	398 12/18/06
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8	2006-2007	611 Date not yet fixed
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A perusal of the said particulars given by the learned Additional Advocate General shows that the concept of academic year, viz., from July to

June has almost been maintained from 1999-2000 to 2003-2005, which may be due to the reason that the number of Unaided Institutions in

existence at that time were only 83. It was in 2004-2005, the number got

increased to 305 and the First Year examination was held on

23.11.2005, similarly in the year 2005-2006 the number of institutions were 398 and the first year Diploma examination was held on 18.12.2006.

However, in the year 2006-2007, the number of institutions were 611 and the examination for the First Year D.T.Ed., course which should have

been held in July, 2007 has not been held so far. The reason as I have stated earlier, is obvious from the reading of those Government Orders, that

the admission of students for 2006-2007 has been extended even upto 16.03.2007, and therefore, there was no possibility for the Government to

conduct examination for the First Year course in July, 2007 for the students admitted in 2006-2007.

69. The contention raised by the learned Additional Advocate General that the said Government Orders are applicable only to the newly

recognised institutions, has no meaning. When the approval of list of teachers for the year 2006-2007 was extended upto 09.03.2007 and the

admission of students was extended till 16.03.2007, there is absolutely no ground to accept that the calendar of activities as given for 2007-2008

can be made applicable for 2006-2007 also. It is relevant to point out that the respondents have taken different stands in respect of approval of

teachers in the private Educational Institutions imparting Diploma in Teacher Training Education. A new concept of countersigning the certificates

produced on behalf of the teachers appointed by the Institutes by the District Institute of Education and training was introduced and on that basis,

the respondents have prolonged the order of approval. In one such case, viz., in Shri Ponniah Ramajathammal Educational & Charitable Trust,

Thanjavur v. State of Tamil Nadu and Ors. in W.P. No. 8700 of 2006, by order dated 19.04.2007, the learned single Judge of this Court came

across a very curious situation that the person who has issued the impugned proceedings refusing to accept the approval of appointment of staff,

himself happened to be the competent authority to put countersignature, which is really making the entire system a mockery. The learned Judge has

in fact held as follows:

3. It is curious to note that the authority, who is specified as the competent authority for counter signature is none other than the person who has

issued the proceedings and we cannot understand why she had not counter

signed. This is a clear case of non-application of mind and this has unnecessarily driven the petitioner to file the writ petition. Hence, the writ petition is allowed. No costs. M.P. Nos. 1 and 2 of 2006 are closed.

The third respondent is directed to pass orders, forward the service certificate of the P.R. Teacher Training Institute after duly countersigning it and

thereafter, the 2nd respondent shall pass orders on the staff list submitted by the petitioner. For total non application of mind of the third

respondent, which has necessitated the petitioner to file this petition, the third respondent shall personally pay costs to the petitioner, a sum of Rs.

1,000/- (Rupees one thousand only).

70. In some other cases also, it was found that even after the compliance report was made, the respondents have been prolonging the staff

approval and directions were given by the Court to consider the same within specified time. In the circumstances which I have narrated above, it is

the duty of the first and second respondents to approve the appointment of teachers made by the Institutes, when the qualification of the concerned

teachers is in accordance with the norms prescribed by the NCTE Regulations and on verification if it is found to be true and there is absolutely no

justification for the second respondent in keeping it pending on various grounds like, obtaining counter signature, etc. The above said instances are

the classic cases to show as to how the unguided powers can be misused by the authorities concerned to the detriment of the Institutes and the

students at large. Therefore, in the absence of such a scheme imposing a time limit on the part of the authorities in granting approval of the teachers

list, it is made clear that as far as 2006-2007 is concerned, all applications pending with the second respondent, viz., Director of Teacher

Education, Research and Training, Chennai shall be cleared within a period of 10 days from the date of receipt of copy of the order. It is further

made clear that the second respondent shall not raise any ground which is opposed to the NCTE Regulations and such conduct will be treated as

gross violation of conduct of a public servant. On production of records by the concerned Institutes to the second respondent, within 10 days from

the date of receipt of copy of this order, the students admitted in all the Self Financing Private Institutions till 16.03.2007 for the academic year

2006-2007 shall be treated as students admitted for First Year of the academic

year 2006-2007 and it is open to the respondents to fix a date for examination after calculating the required number of days for attendance from the said cut-off date made by the Government itself for admission.

71. The contention of the learned Counsel for the respondents that out of the total number of teachers [for instance, for 50 students 5 teachers + 1

Principal are required], if one of the teacher's qualification is found to be wrong, the entire list is liable to be rejected is unfounded. Such a policy

has never been enunciated either in NCTE Act or the Regulations framed thereunder. If it is found by the Director of Teacher Education, Research

and Training that out of the total number of teachers, one person is lacking qualification or the qualification prescribed by the NCTE is not found

available, he has to consider the case of that particular person only and inform the same to the Southern Regional Committee of the NCTE and

shall grant approval to the qualification of the other teachers.

72. It is made clear that this order is passed regarding 2006-2007 only purely based on the peculiar facts and circumstances and considering the

various orders issued by the Government as well as the conduct of the second respondent, viz., Director of Teacher Education, Research and

Training, Chennai.

73. In respect of 2007-2008, it is the contention of the learned Counsel for the petitioners that admissions are being approved even as on date as

per the schedule for the year 2007-2008. If the last date for admission of students by the Self Financing Institutes is 31st July, 2007, filling up of

the Government seats under Single Window System should have been at least from third week of June to first week of July. As submitted by the

learned senior counsel Mr. R. Muthukumarasamy, as a sample, one candidate, by name, G. Ponnarasu, was allotted under the Government quota

on 30.07.2007, which is beyond the cut-off date prescribed by the Government itself. It is also contended by the learned senior counsel, similarly

there are many other instances wherein for the year 2007-2008, the admission through the Single Window System for the Government quota itself

was not completed within the prescribed time and the same is still going on. Even though it is the case of the learned Additional Advocate General

that for the year 2007-2008, the admission process has been completed, there is no record to prove the same. In view of the above said facts,

especially in the circumstances that for the year 2006-2007, the last date for admission of students is stated to be 16.03.2007, there is absolutely

no impediment for the Government in completing the process of selection for the year 2007-2008 also. In view of the fact that the last date for

admission of the students has been fixed by the Government for the year 2006-2007 as 16.03.2007, learned senior counsel for the petitioner

submitted the following calculation:

Month	No. of days	No. of working days
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March, 2007	15	9
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April	30	19
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May	31	22
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June	30	20
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July	31	22
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August	31	22
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September	30	20
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October	31	22
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November	30	20
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December	31	19
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January 2008	8	5
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Total	298	200
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The calculation itself shows that the First Year students for 2006-2007 would complete the required number of working days by 08.01.2008, and

therefore, the respondents are directed to complete the admission process including the Management quota for the year 2007-2008 within 10 days

from the date of receipt of copy of this order and direct commencement of classes for the year 2007-2008 forthwith, so as to complete the

required number of working days either by the end of July, 2008 or in August, 2008 to enable them to conduct First Year D.T.Ed., examination

for the students admitted for the academic year 2007-2008.

74. It is made clear that the second respondent shall complete the process of approval of teachers within the above said period and admission both

for the Government quota as well as the Management quota has also to be completed by then. Again it is made clear that this arrangement is made

for 2007-2008 considering the peculiar circumstances of the case and considering the totality of the situation and interest of the students of the

Institutions, especially in order to streamline the admission process based on the calendar of activities at least from 2008-2009.

75. It is made clear that the Government shall prepare, in consultation with the Management of private institutions, a fresh scheme of Calendar of

activities for the academic year 2008-2009, which shall be published in advance, preferably in the month of April, 2008, enabling the admission

process being commenced for the said academic year immediately, which shall be considered by the Government preferably from the end of July.

Consequently, it is held that the calendar of activity which may suitably be modified by the Government shall be made applicable from the

academic year 2008-2009. In respect of 2006-2007 and 2007-2008, considering the peculiar circumstances, as a special case, the directions

given above shall be followed and it is made clear that the directions shall not be taken as precedent for future years.

76. It is also made clear that even though it is open to the NCTE to grant recognition throughout the year, only those institutes which are given

recognition upto April of a particular year will be entitled to be considered by the Director of Teacher Education, Research and Training for

approval of teachers, for admission of students and to commence classes for that academic year. In cases where the NCTE has granted

recognition of Institutes beyond the above said date, the respondents being the ""examining body"" are entitled to consider the approval of teachers

etc. for the next academic year only, which shall be intimated to the concerned Institute making it clear that no student shall be admitted before

granting such approval by the Director of Teacher Education, Research and Training.

77. Needless to reiterate that from academic year 2008-2009 onwards unless and until the Director of Teacher Education, Research and Training

grants approval within the time specified above, no Institute shall admit students and those students who are admitted without the approval of

teachers as stated above, are not entitled to take part in the examination for the particular academic year.

78. The writ petitions are allowed in part with the following directions:

(i) G.O.Ms. No. 108 School Education (U1) Department dated 17.05.2007 in so far as it imposes reservation of admission based on subjectwise

in relation to Non-minority Self Financing Private Teacher Training Institutions imparting Diploma in Teacher Training is set aside;

(ii) The portion of the impugned G.O.Ms. No. 108 School Education (U1) Department dated 17.05.2007 relating to communal reservation in so

far as it relates to Non-minority Self Financing Private Teacher Training Institutions is set aside, however, with an observation that it is open to the

Private Management to accept to follow the Government's reservation policy voluntarily, in which event, this portion of the judgement shall not

stand in their way;

(iii) The respondents being ""examining body"" under the NCTE Act are authorities entitled to approve the teachers list on the harmonious

construction of Section 14(4), 14(6) and 16 of the NCTE Act, however, not imposing conditions more than the NCTE Act and Regulations made

thereunder and can suo motu on sufficient reasons or on specific complaint verify the correctness of the particulars with specific reference to the

qualifications of the teachers furnished by the Institutes while obtaining recognition from the NCTE. In cases of discrepancy regarding qualification,

it is open to the 2nd respondent to inform the same to the Southern Regional Committee of NCTE in respect of the concerned teacher and shall

grant approval regarding the other teachers, who confirm to the requirements of the NCTE;

(iv) The calendar of activity found in the impugned Government Order, as modified by the Government in the terms stated above, shall be made

applicable and shall be scrupulously followed by all parties concerned from the academic year 2008-2009;

(v) The State Government and the authorities empowered by the State are empowered to approve the list of teachers, conduct examinations and

prescribe syllabus for the students of Diploma in Teacher Education, in consonance with Sections 14(4) and 14(6) of the NCTE Act;

(vi) Based on the NCTE Regulations, for the academic year 2006-2007, the list of teachers sent by the private Institutions shall be considered and

approved by the second respondent, viz., Director of Teacher Education, Research and Training, Chennai within 10 days from the date of receipt

of copy of this order;

(vii) The second respondent, viz., Director of Teacher Education, Research and Training, Chennai shall fix the date for First Year D.T.Ed.,

examination for the students admitted in the year 2006-2007 in January, 2008, after calculating the number of working days by taking into

consideration the last date of admission of students for academic year 2006-2007 as per the Government Order;

(viii) For the academic year 2007-2008, the admission process including the approval of teachers shall be completed within 10 days from the date

of receipt of copy of this order. It is made clear that Institutes which have not forwarded the list of new teachers approved by the NCTE etc. shall

submit the list forthwith to the second respondent and the second respondent shall approve the list based on the NCTE regulations within the time

stipulated above;

(ix) The second respondent shall fix the date of Examination for First Year D.T.Ed. Course, 2007-2008 batch by calculating number of working

days from first week of January" 2008 and fix the date of examination in July or August, 2008; and

(x) The Government as well as Director of Teacher Education, Research and Training shall issue fresh calendar of activities for the academic year

2008-2009 in consultation with the Institutes, the calendar of activities shall be published and intimated to all Institutes by April, 2008 and the same

shall be scrupulously followed by all concerned from the academic year 2008-2009 onwards.

There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

I place on record my deep sense of appreciation of the efforts and the persuasiveness of Mr. N.R. Chandran and Mr. R. Muthukumarasamy,

learned senior counsel and Mr. N. Kannadasan, learned Additional Advocate General, but for whose assistance the task of disposal of this batch

of cases at the earliest point of time could not have been achieved.