

(2010) 04 MP CK 0091

In the Madhya Pradesh High Court

Case No : Writ Petition No's. 2264, 2265, 2707 and 2708 of 2010

Sendhwa Welfare and Education Society

APPELLANT

Vs

Devi Ahilya Vishvavidyalaya, Indore and another

RESPONDENT

Date of Decision : 27-04-2010

Acts Referred:

Citation : (2010) 4 MPLJ 55

Hon'ble Judges : S.S. Kemkar, J

Bench : Single Bench

Advocate : Vivek Dalai and O.P. Solanki, for the Appellant; Vivek Sharan for respondent Nos. 1 and 2, for the Respondent

Judgement

Shantanu Kemkar, J.

These petitions have been filed by the Colleges as well as by the student seeking directions to the respondent-University to permit the students of the course of Bachelor of Physical Education (B.P.Ed.) admitted by the Colleges to appear in the First Semester Examination scheduled from 3-3-2010.

According to the petitioners-Colleges and the petitioners students, the Colleges are duly recognized by the NCTE for running B.P.Ed, and M.P.Ed, courses. The Colleges have also been affiliated by the respondent-University with intake capacity of 50 students of B.P.Ed, course.

The case of the petitioners is that in terms of Ordinance No. 163 of the University conducted Common Entrance Test for admission in the colleges for B.P.Ed. In the petitioners-Colleges though the students got admitted but not to the extent of permitted strength of 50 students. To fill the vacant seats the petitioners-Colleges admitted the students for the said course. The grievance of the petitioners is that Roll Numbers and the Admit Cards for the students who have been admitted by the Colleges have not been issued by the respondent-University. In the circumstances, the said students are being disentitled and are deprived of to appear in the First Semester B.P.Ed, examination. According to the

petitioners the action of the respondent-University in not issuing the Admit Cards and allowing the students to appear in the examination is illegal and violative of the norms and standards of NCTE.

The respondents have filed reply in the Writ Petition No. 2264/2010. It has been stated by the Learned Counsel for the respondents that the said reply may be treated as reply in all the petitions. This prayer of the counsel for the University has not been opposed by the counsel for the petitioners as such the prayer is accepted.

The case of the respondent-University is that admission in B.P.Ed. Course is regulated by Ordinance No. 163 of the University. According to the said Ordinance the admission in the course can only be given after written and practical examination conducted by the University. In terms of Ordinance No. 163 the University conducted the Common Entrance Test, both written and practical. After conduction of the Examination/Entrance Test the University issued a list of selected students who in their turn in counselling opted for different colleges including the petitioners-Colleges which run B.P.Ed, course. So far as the petitioners college only few students opted for counselling. In the process some seats of the petitioners-Colleges remained unfilled. Having regard to the request made by various colleges the University conducted yet another Entrance Test in the month of August, 2009. In the said second Entrance Test some more students were admitted through counselling. They opted the colleges in the counselling as per the availability of the seats. This time also the petitioners-Colleges could not fill up all the remaining vacant seats. Thus, the case of the respondent-University is that the petitioners-Colleges were given opportunity twice for filling up their seats by conducting two separate Entrance Tests. However, they could not fill their vacant seats. In order to fill up the vacant seats the petitioner Colleges unauthorisedly admitted the students at their own. According to the respondents-University in view of the ordinance and the norms of the NCTE it was not open for the petitioners-Colleges to have filled up the seats at their own. In support reliance has also been placed by the respondents on Clause 3.3 which are the norms prescribed by NCTE for admission in the B.P.Ed. Degree Course.

Head Learned Counsel for the parties and perused the documents.

The contention of the Learned Counsel for the petitioners is that for no fault of students they will suffer if the permission to appear in the examination by ordering for holding of separate examination in respect of these students is not ordered. It is also the case of the petitioners that they were having intake capacity of 50 students and, therefore, if their seats remained unfilled in the examination conducted by the University, it was open for them to have filled up the seats at their own.

Shri Vivek Sharan Learned Counsel for the respondent-University on the other hand submits that in view of the ordinance and norms for admission prescribed

by NCTE the admission to the said course was permissible only by way of Common Entrance Test. The petitioners-Colleges having given opportunity twice could not be able to fill up the seats as per the permissible intake capacity. He submits that even if the seats have remained vacant it was not open for the petitioners-colleges to have filled up the seats at their own.

Having considered the contentions raised by the Learned Counsel for the parties, I find no merit in these writ petitions. The petitioners could not show any authority under which they could have admitted the students at their own. The admission was required to have been done strictly in accordance with the procedure prescribed in Ordinance No. 163 of the respondent-University and the norms prescribed by the NCTE. The Ordinance No. 163 clearly provides that the admission will be made on merit and it will be based on written and practical test. Admittedly, the Common Entrance Test was to be held by the respondent-University and not by the Colleges. Thus, the students who have been admitted by the Colleges contrary to the prescribed procedure for admission cannot be allowed to appear in examination that too by ordering conduction of special examination.

Having regard to the aforesaid, the writ petitions deserve to be and are hereby dismissed.