

(2008) 02 GUJ CK 0026

In the Gujarat High Court

Case No : Special Civil Application No. 13643 of 2007 with Special Civil Application No. 13644 of 2007

Sharada Education Trust

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 15-02-2008

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14, 14(6), 32(2)

Citation : (2008) 02 GUJ CK 0026

Hon'ble Judges : Jayant Patel, J

Bench : Single Bench

Advocate : Prakash K. Jani, for the Appellant; Shukla, AGP for Respondent 1 and Harshadray A. Dave, for Respondent 2, for the Respondent

Final Decision : Allowed

Judgement

Jayant Patel, J.—Rule. Mr. Shukla, learned AGP waives service of notice of rule for respondent No. 1 and Mr. Dave, learned Counsel, waives service of notice of rule for respondents No. 2 and 3. With the consent of the learned Counsel appearing for both the sides, the matter is finally heard today.

2. The petitioners have preferred the petitions for appropriate writ to direct respondents No. 2 and 3 to include the petitioner Colleges in the list of affiliated Colleges for B.Ed. Course and to direct respondent No. 2 University to allot students to the petitioner Colleges as per the intake sanctioned by the National Council for Teacher Education (NCTE).

3. It appears that the issues which arise for consideration in the present cases are covered by the decision of this Court (Coram: D.A. Mehta, J.) dated 01.11.2007 in Special Civil Application No. 19088 of 2007 and allied matters. In the said Judgment, this Court inter alia observed at para 16 to 35 as under:

3. Under Chapter-IV of the National Council For Teacher Education Act, 1993 (the Act) which deals with Recognition of Teacher Education Institutions Section 14

provides for the procedure for obtaining recognition. Sub-section (6) of Section 14 of the Act is the trump card on the basis of which the petitioners have moved the petitions founded on the submission that every examining body is bound to grant affiliation to the Institution who has been granted recognition by NCTE. Over and above reliance on Section 14(6) of the Act, reliance has also been placed on the decision of the Apex Court in the case of State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others, . In light of the aforesaid decision of the Apex Court, the learned advocates for respondent-Universities did not dispute the fact that upon recognition having been granted by NCTE, the examining bodies had to grant affiliation but, the principal thrust of the argument was based on the rights of the University to seek adherence by the Institutions to the academic schedule fixed by the University. The submission was that the academic schedule was not fixed only for the B.Ed. Course but was a schedule fixed for all other courses in all other faculties of the Universities and if other Institutions/Colleges conducting various other courses were required to abide by the academic schedule, no exception could be made in case of Institutions/Colleges intending to run B.Ed. Course, only because NCTE kept on issuing recognition orders without having regard to the academic schedule of the respective Universities to which the Institutions were seeking affiliation.

4. The grievance is justified. Even the learned Counsel for NCTE could not seriously resist this submission. It was submitted that in fact to avoid such a situation, NCTE had amended the relevant Regulation so as to remove the last date for application for recognition of aspiring Institutions and simultaneously also ensured this by issuing recognition orders wherein no particular academic year was mentioned. Thus leaving it open to the examining body to grant affiliation to an Institution on the basis of the academic schedule of the examining body itself.

5. The learned senior counsel appearing for the Universities have submitted that irrespective of allotment of students and the admission granted in their favour by the petitioners, the Universities would like the Court to examine the legality and validity of the decision taken by the Universities to refuse affiliation/allotment of students for the current academic year, namely, academic year 2007-08 in the context of the academic schedule fixed by the Universities, as well as the provisions that require requisite percentage of attendance by every student in each academic term so as to achieve a composite minimum attendance. According to the learned senior counsel for the Universities, the issue has not to be viewed only from the stand-point of the petitioner-Institute or the University but has also to be considered from the angle of the students themselves, including the demand for reshuffling by the students who have already been granted admission in a particular Institution, but are seeking admission to a preferred Institution located in city/town of preference of the student depending on various factors like native place of the student, residence of the student, etc.

6. Though contentions were raised on behalf of the Universities regarding the last

date for making an application by the students and allotment of students in context of the right of the Universities to adhere to academic schedule fixed by the Universities in so far as present group of petitions is concerned, the Court does not enter into the said controversy considering the fact that the students have already been granted admission pursuant to orders made by this Court.

7. On behalf of the respondent-Universities, attention was invited to Norm 2.0 which deals with Duration and Working Days as provided in Norms and Standards for Secondary Teacher Education Programme leading to Bachelor of Education (B.Ed.) Degree as appearing in Appendix-I to Regulations 2006. It was submitted that Norm 2.1 stipulates that B.Ed. programme shall be of a duration of at least one academic year, but the term Academic Year having not been defined by either NCTE Act or the Regulations thereunder should get meaning from the academic year fixed by the Examining Body and that should be the period which should be taken into consideration for the purpose of duration of the B.Ed. programme. That in the event, recognition order from NCTE is issued and/or received after the date of commencement of the academic year as fixed by the examining body neither the petitioners nor NCTE should be heard to submit that by virtue of provisions of Section 14(6) of the Act and the Apex Court decision in case of *State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Ors.* (supra) affiliation and allotment of students must be made regardless of the academic year having commenced. That the right available to an applicant-Institution to seek affiliation and allotment of students can be exercised by the Institution for the immediately succeeding academic year, but none can be heard to contend that affiliation must be granted and students must be allotted during an academic year regardless of the time that may have elapsed vis-a-vis the academic schedule fixed by the Examining Body/University in a given case.

8. In this context, attention was also invited to Norm 2.2 which provides for Working days and stipulates that there shall be at least 200 working days out of which at least 40 days shall be for practice-teaching in about ten schools at different levels like upper primary/secondary/senior secondary level, and such period of 200 days has to be exclusive of the period of examination and admission etc. In other words, the period of 200 days stipulated by Norm 2.2 was for the purpose of imparting theoretical tuitions and practical teaching comprising of each working day to be a minimum of six hours in a six-day week. Elaborating on the submission, it was contended that the Norm itself required that for at least 200 working days, which is the minimum prescribed, physical presence of teacher- students and teachers is necessary in the Institutions to ensure their availability for individual advice, guidance, dialogues, and consultation as and when needed. That this minimum presence as prescribed by the Norm laid down by NCTE cannot be equated with, nor can be substituted for, the minimum attendance prescribed by Examining Body/University as per its own academic schedule read with the relevant provisions which provide for the prescribed percentage of attendance.

9. According to the learned Counsel for respondent-Universities, NCTE vide Norm 4 provided for staff, and their qualifications. However, NCTE, after granting recognition, had virtually shifted the responsibility of ensuring availability of adequate staff to be monitored by the Examining Body/University and for ensuring this also, the Examining Body/University had to be granted time during which such an exercise of verification could be undertaken. It was therefore submitted that the Examining Body/University cannot be expected to grant affiliation and allot students immediately upon Institutions approaching the University, nor can the University grant affiliation round the year disregarding academic schedule fixed by the University.

10. A further contention was that in the earlier Regulations of 2002 - NCTE had provided 31st December of a calendar year as the dead line for receiving applications from Institutions seeking recognition but in the present Regulations, 2006 no such dead line is provided. That this has resulted in a situation where NCTE keeps on receiving applications round the year and also grants recognition at any time of the year, in the process upsetting the academic schedule of the respective examining body.

11. The last submission made on behalf of the respondent-University was that NCTE must be directed to ensure that grant of recognition is made on or before a particular date of a calendar year so as to ensure that the students are able to obtain admissions for the academic term that normally commences from 15th June of every calendar year. This in turn would ensure compliance with the Norm of NCTE regarding Duration and Working Days and also enable the students to meet with prescribed statutory percentage of attendance, as prescribed by the respective Universities. That even if NCTE did not mention in its order of recognition that such order was applicable for a particular academic year NCTE must state in clear terms in the recognition order that the affiliation and allotment of students shall be subject to the academic schedule of the examining body. Thus indicating to the Institutions that on basis of the recognition order, affiliation can only be sought for the immediately next succeeding academic year.

12. During course of hearing one of the issues on which lot of debate took place was the right of the Examining Bodies/Universities to inspect the infrastructural facilities of the applicant- Institutions. The stand of the petitioners being that in light of the Supreme Court decision in case of State of Maharashtra v. Sant Dnyaneshwar Shikshan Shashtra Mahavidyalaya and Ors. (supra) such a right no longer existed even if provided in the respective Statutes of the University. On the other hand, the stand of the University was that if the examining body was to ensure compliance with the Norms and Standards stipulated by NCTE, the right of the Examining Body/University to inspect infrastructural facilities cannot be taken away, and such right, even if not exercised before affiliation and allotment of students should be permitted to be exercised even post affiliation to verify the availability of infrastructure as shown to be existing as per application made by the Institution to NCTE. Alternatively, it was submitted that if a representative of

an Examining Body is included in inspection team nominated by NCTE before recognition is granted, the grievance of both the petitioners and the respondent-University would stand redressed and only bona-fide Institutions would come into existence who can really impart education to the student- teachers.

13. On behalf of Saurashtra University it was also submitted that the earlier Norms for applications provided a consent/No Objection Certificate obtained from the University to be attached to the application that the Institution may make to NCTE but as the said provision has been deleted, the University has no check or no means to verify the capability of the applicant to run a B.Ed. Course. Hence, if the said provision is reintroduced, it may possibly result in a smooth process of granting affiliation immediately after recognition order is issued by NCTE.

14. One more area of conflict which has come to the Notice of the Court as ventilated by the learned advocates for the petitioners as well as the respondent-Universities is the requirement of NCTE to provide staff profile while the application for recognition is being processed. It was submitted on behalf of the petitioners that the practical difficulties faced by the applicant-Institutions are being overlooked by NCTE on one hand and by the Universities on the other hand. That after submission of staff profile by an applicant-Institute it is not known as to how much period will NCTE consume before granting the final recognition order. Similarly, at times NCTE makes conditional orders, one of the conditions being appointment of staff and only on fulfillment of the said condition, issuing of final recognition order. That in such event, even if an applicant-Institute complies with such a condition there is no certainty as to when:

(i) Final recognition order will be issued by NCTE;

(ii) Affiliation shall be granted and Students allotted by the University.

This leads to a situation, according to the petitioners, wherein even if the staff is appointed, the Institute which has not commenced functioning is required to bear the expenses of such staff already appointed. Furthermore, considering the number of Institutes conducting B.Ed. Courses it becomes difficult, if not impossible to retain the staff so appointed in absence of any certainty as to the point of time of allotment of students. The submission was that in such circumstances, the insistence by NCTE to submit staff profile and/or appoint staff before final recognition order is issued is an idle formality and does not achieve any purpose.

15. That there is one more practical difficulty faced both by the applicant Institutions and the Universities. Normally, appointment of staff is required to be vetted by the Universities and for this purpose, the Universities have consistently provided that the selection process for the staff has to be through a selection committee wherein one of the members is a representative of the University while the remaining members are representatives of the Government and the Management. That the University would not like to undertake a selection process

by nominating a representative to the selection committee unless and until the Institute concerned has been granted affiliation. Thus in effect ultimately, delay in commencement of the educational activities in majority of the cases, beyond the date of commencement of the academic year.

16. After hearing the learned advocates for the petitioners, for the respondent-Universities and NCTE it is clear that this litigation has been generated on the one hand by NCTE issuing orders of recognition without any cut-off date resulting in the petitioners claiming affiliation and allotment of students for the current academic year; on the other hand, either due to tardy response on part of the Universities or no response by the Universities. In the circumstances, the Court has found it to be just and proper if the parties are asked to streamline their respective procedures so as to ensure that at-least in future, this unwarranted litigation is not generated.

17. NCTE is an apex body who is supposed to achieve a planned and co-ordinated development of the teacher education system throughout the country by making appropriate regulations and providing for a proper maintenance of Norms and Standards in the teacher education system as stated in the preamble to the Act. When the Bill was presented in 1992 in the Statement of Objects and Reasons it was stated that the Bill seeks to empower the Council to make qualitative improvement in the system of Teacher Education by phasing out sub-standard institutions and courses for Teacher Education. Unfortunately, NCTE has not been able to achieve the said objects for which the Act has been brought on the statute book. To the contrary, the functioning of NCTE has given rise to sub-standard institutions by permitting affiliation of institutions which do not have the requisite infrastructural facilities, which do not have requisite staff members, which do not have adequate administrative staff back up to achieve the object of planned and co-ordinated development by establishing a suitable system of teacher education system. One instance of this situation which has come to the notice of the Court is the case of one Maheshwar Education Trust - Petitioner of Special Civil Application No. 18937 of 2007. One need not dwell more on this aspect of the matter as the said petition is yet to be finally heard and decided.

18. In light of the powers conferred u/s 32(2) of the Act, NCTE has framed Regulations and they have been amended from time to time. The last of the Regulations being National Council For Teacher Education (Recognition Norms and Procedure) (Amendment) Regulations, 2006?? (Regulations 2006).

19. In the case of State of U.P. and Others Vs. D.K. Singh and Others, the Supreme Court was called upon to decide the question whether a course of study should commence in January or July of a year. The High Court had, while repelling the stand of the authorities that every year the Post Graduate Course is commenced in January, expressed a view that it was unreasonable on part of the authorities to compel the students to wait for six months for no fault of theirs and the authorities were rigid in their view that the course should commence in January only. Reversing the decision of the High Court, the Apex Court observed:

3. Having considered the matter we think that the High Court was not justified in interfering in a matter of such an academic nature as this. The question whether a course of study should commence in January or July of a year in a post graduate medical institution is dependent on number of factors like the availability of seats, the availability of beds in the Hospital, the availability of teachers, laboratories and equipment and perhaps a host of other factors with which we are not familiar. Ordinarily, it should, therefore, be matter best left to the University. In the case of medical studies the Medical Council of India must also have a say in the matter. We find that the Medical Council of India has prescribed a teacher-student ratio of 1:1 for post graduate medical courses. To have two parallel post graduate medical courses running simultaneously will certainly disturb the teacher-student ratio. This is certainly a serious matter concerning the standard of medical education and cannot be lightly brushed aside. We also notice that admissions to post graduate courses in all medical colleges in Uttar Pradesh are made once a year only and never twice a year. We do not think that the authorities can be said to have acted arbitrarily and unreasonably in not departing from the practice which they had invariably been following. When an academic year should commence and when it should end is eminently a matter for the education authorities and not for the court. We cannot dislocate the time schedule of the university merely for the convenience of a few students. The appeal is, therefore, allowed. The judgment of the High Court is set aside and the writ petition is dismissed. (emphasis supplied)

Therefore, the settled legal position is that it is not open to the Court to dislocate the time schedule of the University merely for the convenience of a few students, and when an academic year should commence and when it should end is eminently a matter for the education authorities and not for the Court. What applies to students shall equally apply to the Institutions conducting various courses including B.Ed. Course. The self financed institutions cannot be permitted to insist that students must be allotted regardless of the point of time when the recognition orders are issued by NCTE. In light of this established position in law it has become necessary to ensure that NCTE revises its own schedule so as to make it compatible and in consonance with the academic schedule fixed by the University. As already noted hereinbefore, the entire genesis of litigation is issuance of recognition orders made by NCTE throughout the year without having regard to the academic schedule fixed by the Universities, namely, the Examining Bodies, who directly interact with the students and are answerable to the student community at large by conducting timely examinations. A direct consequence of insisting for allotment of students after commencement of an academic term is that the student concerned is either not imparted the requisite quality of education and for requisite period; or if education is imparted the exercise takes place within such a compressed period that the student is not in a position to fully grasp the education imparted to the student. The net result being poor performance by the student at the University examinations resulting in saddling the society at large with poor/sub-standard teachers; and the University being

asked to shoulder blame for poor quality of results without the underlying reasons being addressed.

20. Hence, NCTE would be well advised to ensure that in the first instance applications made to NCTE for recognition and permission to commence a new course are restricted upto a particular date in a calender year so as to give NCTE enough time to process the application well within time and pass the final order of recognition in such a manner that the Institute is in a position to commence functioning in line with the academic schedule fixed by the examining body. In other words, the final order of recognition has to be made at a point of time leaving enough period available to the University to comply with the requisite formalities of affiliation and allotment of students so that the studies commence at the start of the academic year and in accordance with the academic schedule fixed by the University. For this purpose, NCTE shall have to make appropriate modification in its Regulations by stipulating cut-off date for receipt of applications and also stipulate an outer limit for issuance of recognition orders for a particular academic year. The term academic year in this context will have to be the academic year of the University concerned with whom the applicant Institute is seeking affiliation and NCTE will have to bear this in mind while fixing its own schedule for receipt of applications, processing of applications, and issuance of final order.

21. The consensus amongst the counsel for the various parties in the present proceedings is that in so far as State of Gujarat is concerned, different Universities have uniformly adopted 15th June of a calender year as the date of commencement of academic year. So the academic schedule which concludes in the month of April of the next calender year, takes within its hold the first academic term, followed by Diwali vacation, the second academic term, and the conducting of examinations.

22. In the aforesaid circumstances if NCTE provides for 31st October of a calender year as cut-off date for receipt of applications for the immediately succeeding year, it would result in an ideal situation. The next termini being 15th May of the succeeding calender year for the purpose of issuance of final recognition order. This would give NCTE six and half months and leave four weeks from the last date of issuance of final recognition order to the date of commencement of the academic schedule, namely, 15th June, for the Universities.

23. Simultaneously, NCTE should make appropriate changes in its Regulations and dispense with the requirement of furnishing the staff profile along with the applications moved by the applicants. The grievance voiced on behalf of the petitioner-Institutions and the Universities regarding the practical difficulties faced by them merits consideration. An Institute cannot be expected to hold on to people who are yet to be appointed considering the time span that is consumed in processing of application and issuance of final order of recognition by NCTE. Similarly, even the period between the conditional order of recognition

and issuance of final order of recognition by NCTE cannot be of such a nature to insist that appointed persons continue with the applicant-Institute without being aware as to when:

- (1) final order of recognition would be made available and;
- (2) when affiliation shall be granted and actual allotment of students would take place.

In fact, in effect and in practice, the requirement of furnishing of staff profile does not serve any useful purpose either in the processing of application moved by an applicant-Institute or for the purpose of issuance of final order of recognition considering the fact that after such final order of recognition the Universities/Examining Bodies are expected to ensure compliance of certain conditions imposed by NCTE before students are actually allotted. Hence, NCTE should, in all fairness to all concerned, namely, the applicant-Institute, the Universities and the faculties dispense with requirement of furnishing staff profile at the stage of processing of application by making appropriate modification in the Regulations. There is one more practical aspect which cannot be lost sight of. NCTE does not have any machinery or procedure to verify the staff profile submitted by an applicant and thus, the condition of furnishing staff profile is an empty formality which remains a mere paper exercise without achieving any tangible result; except for achieving some collateral purpose?

24. The entire litigation that has been brought before the Court has been projected as if this is a dispute on the one hand between the petitioner-Institutions and the Universities, and on the other hand between NCTE and the Universities. One cannot help but observe that the approach is, to say the least, misguided and misdirected. Each of the litigating parties, namely, the petitioner-Institutions, the Universities/Examining Bodies and NCTE have all lost sight of the fact that the purpose for which NCTE exists, the Universities exist, and the petitioner-Institutions are being set up is to impart education to student-teachers who are to train the future citizens of this Country. One may usefully refer to what the Apex Court has stated in the case of *Andhra Kesari Education Society v. Director of School Education and Ors.* AIR 1989 SC 183 188.

20. Before parting with the case, we should like to add a word more. Though teaching is the last choice in the job market. the role of teachers is central to all processes of formal education. The teacher alone could bring out the skills and intellectual capabilities of students. He is the "engine" of the educational system. He is a principal instrument in awakening the child to cultural values. He needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefiter. He must keep himself abreast of ever changing conditions. He is not to perform in a wooden and unimaginative way. He must eliminate fissiparous tendencies and attitudes and infuse nobler and national ideas in younger minds. His involvement in national integration is more important. indeed

indispensable. It is, therefore, needless to state that teachers should be subjected to rigorous training with rigid scrutiny of efficiency. It has greater relevance to the needs of the day. The ill trained or sub. standard teachers would be detrimental to our educational system. if not a punishment on our children. The Government and the University must therefore, take care to see that inadequacy in the training of teachers is not compounded by any extraneous consideration.

25. At this stage, the learned advocate for the petitioners states that the aforesaid observations are relevant even today and the only change that has taken place is the first sentence in the paragraph reproduced hereinbefore. Today, there are persons aspiring a career as a teacher as of choice and hence, the necessity of more Institutions. Even if one agrees with this contention the fact remains that neither NCTE, nor Universities nor the applicant-Institutions are taking care to see that inadequacy in the training of teachers is not compounded by any extraneous consideration. The position is in fact contrary. If the teachers of tomorrow are to be subjected to rigorous training with rigid scrutiny of efficiency as envisaged by the Supreme Court, NCTE has to undertake an exercise of introspection and amend its Regulations and procedure for processing the applications. NCTE as a premier body cannot ignore the object with which NCTE has been set-up.

26. One of the areas which requires immediate attention is the constitution of the Inspection Team of NCTE to examine and verify the infrastructure facilities being provided by the applicant-Institutions. At present, there is a duplication in as much as in the first instance, the inspection team of NCTE is stated to visit the premises concerned and verify the facilities available. Once again the University also undertakes local inspection by constituting a Local Inspection Committee in compliance with the provisions of the University Act and its Statutes. In some of the cases, as the record reveals, there are glaring discrepancies in the reports of two inspections carried out by two different agencies leading to avoidable wastage of time, levelling of charges, and unwarranted heart burning. The consequence being fruitless litigation which has been instituted before this Court. Litigation which could have been avoided has been brought before the Court directly leading to the Court being burdened and put under pressure by perceived paucity of time for allotment of students.

27. In this context, NCTE should have no hesitation, while constituting the inspection team in inviting a representative of the concerned University to be a part of an inspection visit so as to avoid duplication and subsequent pointing of fingers at each other. This will also ensure that there is transparency in the process which has been found wanting in certain cases which have come up before this Court. NCTE must not deviate from the basic object for which the Council has been granted statutory powers. It is primarily a policy making body expected to oversee planned, co-ordinated development of the education system in the country and should refrain itself from getting involved in individual cases

while busying itself with the macro requirements of the education system for teacher training as a whole. For this purpose, NCTE should have one representative of the respective State Government on its Regional Committee so as to ensure planned and co-ordinated development. Planning based on co-operation is the key. The representative of the State Government, say the Secretary, Education Department, would be able to contribute the relevant inputs like number of existing institutions in a particular area, total population and number of existing schools vis-a-vis schools to be set-up in that area, total number of existing teachers, etc. In the event, the suggestions made by the Court are implemented in true spirit each one of the litigating parties would stand to benefit resulting in saving of time and resources of all concerned, namely, NCTE, the Universities and the applicant Institutions.

28. One of the contentions raised on behalf of NCTE was that the recognition orders which are now issued by NCTE do not stipulate the validity of the order being restricted to any particular academic year and therefore, there is no compulsion on the Universities to grant affiliation and allot students in a particular academic year. However, this submission by itself does not resolve the basic issue; i.e., clamour by the petitioner-Institutions for allotment of students immediately upon an order being issued by the NCTE and thus upsetting the academic schedule fixed by the Universities as referred to hereinbefore. As can be seen from the affidavits filed on behalf of the NCTE in some of the matters NCTE openly came out in support of the petitioner-Institutions stating that the Universities have no role to play once NCTE granted recognition without appreciating that such a statement on behalf of the NCTE would permit petitioners to pressurise and mislead Courts to undertake an exercise which is otherwise not permissible in law, namely, disturb the academic schedule fixed by the University, as laid down by the Supreme Court. The academic schedule fixed by the Universities should be treated as sacrosanct and should not be dislocated either by the High Court or by anybody else, including NCTE.

29. One more connected issue is the condition stipulated by NCTE in the order of recognition whereby it is provided that the Institutions shall comply with various other Norms and Standards prescribed in the NCTE Regulations as amended from time to time. Norm 2.2 of the Norms and standards for Secondary Teacher Education Programme leading to Bachelor of Education (B.Ed.) degree as prescribed by NCTE stipulates that there shall be at least 200 working days exclusive of the period of examination and admission etc., out of which at least 40 days shall be for practice-teaching in about ten schools at different prescribed levels like upper primary/secondary/senior secondary levels etc. How does one really expect that the Norm regarding 40 days of practice-teaching shall be fulfilled when the student-teachers are to undertake such practical training in 10 schools at different levels if the academic schedule is not to be followed? The Norm also further requires that each working day should be of minimum six hours in a six day week, during which physical presence of the Teacher and the Students is a must in the Institutions. After prescribing such a Norm, NCTE itself

conducts itself in such a manner that the Institutions in whose favour a recognition order has been made is not in a position to comply with the Norm. Hence, if NCTE accepts that the Norms laid down by NCTE are to be complied with by the applicant- Institutions, NCTE must undertake an exercise in the manner indicated hereinbefore to ensure that each Institution who is granted recognition is in a position to comply with the Norms while simultaneously complying with and adhering to academic schedule fixed by the Universities.

30. As noted hereinbefore the students, namely, teachers of tomorrow, who are to be beneficiaries of the entire exercise of granting recognition order by NCTE so as to ensure orderly establishment of Institutions, become the sufferers instead of beneficiaries. The moment the academic schedule is disturbed it becomes impossible to comply with the Norms stipulated by NCTE itself. While dealing with a similar situation in case of Institutions seeking allotment of students to PTC course this Court opined as under in the case of Sagar Education & Charitable Trust v. State of Gujarat in Special Civil Application No. 19132 of 2006 and cognate petitions vide order dated 27.09.2006.

In the conclusion, I find that it is not possible to accept the petitions. Granting any order in favour of the petitioner would only amount to unduly hurrying the process of granting of admissions eventually resulting into a curtailed educational activities for the first year of otherwise two year course. I fail to understand how the petitioners contend that even if the admissions are granted at this stage, it would be possible for them to impart education for actual 180 days as required under the rules. Calculations placed on record by the petitioner do not inspire confidence. As noted earlier, it is impermissible to start these colleges before Diwali Vacation. Effectively, therefore, students would attend classes only from 1st November or thereabouts. Examinations are to be conducted in April or May 2007. Less than six months time will be left. Their stand however, appears to be that they would curtail vacations, they would work on Sundays and public holidays and would add one hour in the morning and evening session of the college to ensure fulfillment of 180 days of actual educational activities. Only to permit the petitioners to start colleges for this academic year to stretch the requirements to such unreasonable limits cannot be countenanced. Educational institutions set up their calendars as per long standing practise and norms. Students who have to undergo rigorous training, require periodical breaks. Holidays, Sundays and vacations are meant for recreation and recouping. Certain number of hours are fixed for active classes so that for the remaining period, students either may prepare themselves for studies or divert time for recreational activities. By mindlessly adding additional coaching time and by providing for working of college round the clock through out the year would completely destroy this purpose and would leave the foundation of the students weak. Human mind cannot work as Robot and cannot be expected to absorb training without enough gaps to strengthen the foundation. It is unfortunate that the petitioners who seek to espouse the interest of the students also come up with suggestions of running their course virtually without breaks only to suit their

purpose. Both ideas run counter to each other.

31. Thus, if in a two year course like P.T.C. such overburdening of students should not be undertaken, all the more reason not to force students of one year B.Ed. Course to undergo such a compressed course within a shortened period of less than a year. The contention: that if the students are willing the Court should not come in way : requires to be stated to be rejected. Students cannot be left hapless and at the mercy of the self financed institutions who are more interested in "Self Finance" than complying with NCTE Norms. Hence NCTE should conduct itself with the responsibility which has been assigned to NCTE under the Act.

32. Therefore, if NCTE sincerely wishes to bring about the changes for the betterment of the students NCTE should ensure that over and above the aforesaid changes which have become necessary in the Regulations and the procedure, while issuing the final recognition order a condition is incorporated in the order whereby the order shall become effective only upon the requisite qualified staff being appointed within a period of 30 days in the maximum from the date of the recognition order and such appointment shall be in consonance with and after following procedure prescribed by the respective Universities to which the applicant-Institutions are seeking affiliation. The condition shall further stipulate that the applicant-Institutions shall not seek allotment of students before the Staff is so appointed and the respondent-University shall not allot students till the staff is so appointed. This will also ensure that there is a check put in place so as to achieve appointment of staff as per qualifications prescribed by NCTE in the relevant Norm in this regard.

33. In so far as the role of Universities is concerned, it is necessary to record that it does not make for a happy reading. More particularly, Saurashtra University has been found to be adopting a recalcitrant approach based on various technicalities. The Court expects the Universities to play a more pro-active and positive role in ensuring that the education system is put on the right track. Such a result cannot be achieved by the Universities adopting a negative attitude. Once NCTE has granted recognition there should be no hesitation in granting affiliation and allotment of students. The Universities should guide applicant-Institutions in recruitment of staff and fulfilling other requisite formalities. In case of deficiencies in the application the Universities must ensure a prompt response suggesting the remedial action at the earliest point of time. This will ensure that there is no heartburning which has been occasioned by the laid back attitude adopted by the Universities.

34. To summarise, NCTE shall:

- (i) In the first instance, delete the requirement of furnishing of staff profile at the stage of processing of applications;
- (ii) Invite a representative of the State Government as a member of the Regional Committee;

(iii) Provide for a cut-off date, preferably 31st October of a calendar year, for receipt of applications for recognition being granted for the subsequent academic year;

(iv) Constitute an inspection team which includes a representative of the University to which the applicant-Institution is seeking affiliation;

(v) Provide for the outer limit by prescribing a cut-off date when the order of recognition shall be made which should preferably be 15th May of the immediately succeeding calendar year as this will ensure that there would be a gap of four weeks from the last date on which the order of recognition is issued and academic year commences;

(vi) Incorporate a condition in the final order of recognition for appointment of staff within maximum period of 30 days from the date of the order in consultation with and after following the prescribed procedure of the respective University with whom affiliation is sought;

(vii) The condition shall both negatively and positively provide that the Institutions shall not seek allotment of students prior to appointment of staff and the University shall allot students only after the appointment of staff is made within the prescribed period.

34. The Universities shall ensure that within the period of 30 days i.e., 4 weeks from 15th May to 15th June all the formalities shall be completed so as to ensure that the academic year which commences on 15th June and the academic schedule shall be adhered to by the Institutions and the students.

35. In case of the petitioners wherein affiliation has not been granted so far the respective Universities shall undertake the said process and complete the same as expeditiously as possible, preferably on or before 7th December, 2007. In so far as the other reliefs prayed for in the petitions are concerned the students have already been allotted pursuant to interim orders made earlier, hence no further directions are required to be made.

It further appears that pending the petition, by interim order, the students were ordered to be allotted and they were allotted and, therefore, the University shall take decision, keeping in view the fact that by interim order, this Court had directed allotment of the students and their pursuing of the studies under the interim order is not put to jeopardy.

As such, in view of the aforesaid, similar direction is required to be issued in the present case.

The pertinent aspect is that, as per the view expressed by this Court in the above referred Judgment, it is required for the University to undertake the formalities so as to ensure that before commencement of the relevant academic year, the decision is taken and communicated. Further, it has also to give appropriate weightage and accept the order passed by the NCTE so far as recognition given

by NCTE under the NCTE Act and for compliance to the NCTE Act. The University has also to take pragmatic approach in the larger interest in the field of education.

In view of the aforesaid, similar directions as were given in the above referred decision also deserves to be given in the present case.

Hence, it is directed that the University shall within a period of 30 days, complete the formalities and shall ensure that before the end of the academic year, the decision is taken for grant of affiliation to the institution. It is also observed that in case the formalities are not completed, the university shall undertake the process and complete the formalities preferably within a period of two weeks from the receipt of the order of this Court. In so far as the other relief as prayed in the petitions are concerned, as the students are already ordered to be allotted pursuant to the interim order, no further order is required to be passed.

In the result, the petitions are allowed to the aforesaid extent. Rule made absolute accordingly. No order as to costs.