

**(2016) 03 SHI CK 0114**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWP No. 4755 of 2015**

|                                                  |            |
|--------------------------------------------------|------------|
| Shimla Educational Society Trust and another     | APPELLANT  |
| Vs                                               |            |
| National Council for Teachers Education and Ors. | RESPONDENT |

---

**Date of Decision :** 22-03-2016

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2016) ILRHP 500 : (2016) LatestHLJ(HP) 509

**Hon'ble Judges :** Mr. Mansoor Ahmad Mir, C.J. and Mr. Tarlok Singh Chauhan, J.

**Bench :** Division Bench

**Advocate :** Mr. Suneet Goel, Advocate, for the Appellant; Mr. Sanjeev Bhushan, Senior Advocate with Mr. Rajesh Kumar, Advocate, Mr. Lovneesh Kanwar, Advocate, Mr. Shrawan Dogra, Advocate General with Mr. Romesh Verma and Mr. Anup Rattan, Addl. A.Gs. and Mr. J.K. Verm

**Final Decision :** Disposed Off

---

## Judgement

Mr. Mansoor Ahmad Mir, C.J.—Petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India and have prayed for the following main reliefs, on the grounds taken in the writ petition:

"(i) That the impugned decisions refusing recognition of D. El. Ed. Course of petitioners may be quashed and set aside.

(ii) That the respondent No. 2 may be directed to grant recognition for D. El. Ed. Course for sessions 2015-17 to the petitioners after setting aside the observations/findings recorded by respondent No. 2 in the minutes of its meetings and consequently petitioner may be allowed to start D. El. Ed./JBT course for 2015-17, with all consequential benefits; alternatively this Hon'ble court may grant recognition to the petitioners for the D. El. Ed./JBT course for 2015-17, with all consequential benefits.

(iii) That the respondent No. 3 may be directed to allow the petitioner to participate in counselling for D. El. Ed. Course session 2015-17.

(iv) That Respondent No. 3 may kindly be directed to grant affiliation to the petitioners for the session 2015-17 for D. El. Ed. Course (JBT Course)."

2. Respondents No. 1 to 3 have filed the replies, while respondent No.5 has opted not to file the same. It appears that the petitioners have been dragged from pillar to post and post to pillar, particularly, by respondents No. 1 and 2.

3. Facts, as are coming forward, are summarised thus. Petitioner No. 1 is an educational Trust, having established a Senior Secondary Public School and is also running a B.Ed. College in the name and style of "Shimla College of Education". In order to introduce new professional course i.e. Diploma in Elementary Education (hereinafter referred to as the course in question) in the Shimla Education of College, applied to respondent No. 2 i.e. Northern Regional Committee, National Council for Teachers Education, (for short, NRC), initially in December, 2008, which application of the petitioners was rejected vide letter dated 15th January, 2009, applied again on 16th May, 2009, was again rejected by respondent No.2 on the ground of delay. Thereafter, the petitioners time and again applied to the respondents for grant of permission to run the course in question, but the said requests as also the appeals stood rejected by the respondents on different counts till 13th August, 2010, the details of which have been given in the writ petition.

4. Consequent thereto, the petitioners preferred a writ petition, being CWP No. 5944 of 2010, before this Court. During the pendency of the writ petition, respondent No. 2 carried out the inspection of the Institute of the petitioners. Therefore, the writ petition was disposed of, vide judgment dated 23rd April, 2012, with a direction to respondent No.2 to take appropriate action in light of the inspection report as also the action taken by the management of the institute. Again, the order was made against the petitioners.

5. Against the said order of rejection, the petitioners preferred an appeal before the Appellate Authority, which was accepted and the matter was again remanded to respondent No. 2 with a direction to conduct inspection of the institute afresh. The inspection was conducted in the first week of March, 2013, upon which respondent No. 2 issued show cause notice, dated 31st May, 2013, to the petitioners to submit a list of teaching faculty members for the B.Ed. course, which the petitioners were already running. Petitioners filed reply to the show cause notice, which was considered by respondent No. 2 in its meeting held on 27th and 28th June, 2013, wherein it was observed as under:

"....Therefore, the NRC came to the conclusion that the institution is running the B.Ed. Course without approved faculty since the grant of recognition by the NRC, NCTE. It is a violation of the provisions of the NCTE Regulations."

6. Upon the above observations, show cause notice was issued to the petitioners in regard to existing B.Ed. course, and the application for grant of permission to run the course in question was decided to be kept in abeyance. In the meeting of respondent No. 2 held on 28th January, 2014, it was decided to withdraw the

affiliation in respect of B.Ed. Course granted to the petitioners. Against the said decision, the petitioners preferred an appeal. When no decision was taken, the petitioners filed a writ petition, being CWP No. 1062 of 2014, before this Court, which was disposed of vide order dated 1st May, 2014, with a direction to the Appellate Authority to decide the appeal within six weeks.

7. Subsequent thereto, the appeal of the petitioners was allowed and the matter was remanded to respondent No. 2, where after, in the 235th meeting of respondent No. 2, held on 15th to 18th April, 2015, the recognition in respect of the B.Ed. course was restored. In regard to granting of recognition in favour of the petitioners for running the course in question, a letter of intent dated 24th April, 2015, (Annexure P-10), was issued to the petitioners. In compliance to the said letter, the petitioners requested respondent No. 3/Board, vide letter dated 25th April, 2015 (Annexure P-11), to constitute a selection committee for the selection of faculty/staff for running the course in question.

8. Respondent No. 3, in turn, directed the Principal, District Institute of Education and Training, Shamlaghat to constitute a committee for the selection of faculty members. The said selection committee held meeting on 2nd May, 2015 in the office of the Chairman of Shimla College of Education, Sanjauli, Shimla and thereafter on 6th May, 2015. Vide letter dated 14th May, 2015, (Annexure P-13), issued by respondent No. 3 to the petitioners, approval of the teaching faculty was conveyed, which, thereafter, was submitted to respondent No.2 by the petitioners along with other necessary documents.

9. The case of the petitioners for recognition was taken up on the last day of 238th meeting held between 20th to 31st May, 2015, despite it figured at agenda item No.2, and in respect of the case of the petitioners, certain objections were raised, which were responded to by the petitioners vide representation dated 4th June, 2015 (Annexure P-16). Petitioners also preferred representation dated 11th June, 2015 (Annexure P-17) pointing a finger at respondent No. 4 that he was nurturing a grudge against the petitioners and also requested to issue formal recognition to the institute of the petitioners for running the course in question.

10. Again, the case of the petitioners was taken up in the meeting of respondent No. 2 held on 30th June and 1st July, 2015, wherein the recognition for running the course in question was refused on the grounds mentioned in Annexure P-19. Against the said decision, the petitioners filed appeal before the Appellate Authority and also approached this Court by way of CWP No. 3279 of 2015. The said writ petition was disposed of vide order dated 6th August, 2015 with a direction to respondent No. 2 to examine the case of the petitioners without associating respondent No.4 in the decision making process. It is apt to reproduce paragraph 3 and 4 of the said decision hereunder:

"3. The learned counsel for the petitioner submitted at the Bar that this petition may be disposed of at this stage by directing respondent No. 2 to examine the case of the petitioner and pass fresh orders but while doing so, respondent No. 4

be directed not to participate as a Member of the Consideration Committee.

4. It appears that there is some dispute between petitioner and respondent No. 4 and the apprehension of the petitioner is that respondent No. 4 may try to influence the other members, particularly respondent No.2. Whether the apprehension is correct or otherwise, in order to have a fair chance and in the interest of justice, we deem it proper to dispose of this writ petition by directing respondent No. 2 to examine the case of the petitioner, without associating respondent No. 4 in the process, within four weeks from today."

11. As a consequence, the case of the petitioners was again considered in the 242nd meeting of respondent No. 2 held between 1st to 3rd September, 2015, wherein also recognition was not granted to the institution for running the course in question, against which, the petitioners preferred an appeal to the Appellate Authority. The petitioners also preferred writ petition, being CWP No.3945 of 2015, before this Court, which was disposed of vide order dated 17th September, 2015, with a command to the Appellate Authority to decide the appeal within a period of six weeks. When the appeal was not decided, a letter was written to the Member Secretary of respondent No. 1 for listing the appeal of the petitioners, but, when no action was taken, the petitioners filed CWP No. 4283 of 2015, which was disposed of vide order dated 30th November, 2015, with the following directions:

"Learned counsel for the parties stated at the Bar that during the pendency of the writ petition, appeal was heard, the matter has been remanded and the lis is pending before respondent No. 2. Their statement is taken on record.

2. In the given circumstances, we deem it proper to dispose of this writ petition with a direction to respondent No. 2 to decide the matter after hearing the parties within three weeks and report compliance before the Registrar (Judicial). The writ petitioners are at liberty to seek appropriate remedy at appropriate stage."

12. Consequent thereto, the case of the petitioners was taken up by respondent No. 2 in its 246th meeting held on 9th to 12th December, 2015 and stood rejected on the earlier grounds. It has been averred that during the decision making process, respondent No. 4 was also associated.

13. The petitioners specifically alleged that respondent No. 2 discriminated the petitioners viz-a-viz KLB DAV College of Girls, Palampur, District Kangra and Kshatriya College of Education, Indora, District Kangra, for which institutions, respondent No. 2 has allowed the inclusion of existing B.Ed. faculty for teaching the students of the course in question.

14. In the above backdrop, the petitioners have filed this writ petition after long procedural hassles and fighting several rounds of litigation. The main ground of attack projected by the petitioners is that, despite specific directions passed by this Court vide judgment dated 6th August, 2015, in CWP No. 3279 of 2015,

respondent No. 2 associated respondent No. 4 in the decision making process.

15. Another ground urged by the petitioners is that respondent No. 1, while remanding the case of the petitioners to respondent No. 2, vide order dated 16th November, 2015, (Annexure P-29), has clearly observed that the petitioners have taken steps to remove deficiency. It is apt to reproduce the operative paragraph of order, dated 16th November, 2015, hereunder:

"And Whereas Appeal Committee noted that the Letter of Intent under Section 8(13) was issued to institution on 24.04.2015. The appellant institution furnished to N.R.C. on 30/5/2015, a revised list of faculty approved by the duly constituted selection Committee of the Himachal Pradesh Board of School Education, Dharmshala. There is valid evidence that the appellant institution had taken steps to remove deficiency in the earlier select list. Committee also noted that the appellant institution vide its letter dated 22.06.2015 addressed to R.D., N.R.C. had furnished a further revised list of faculty approved by the Himachal Pradesh Board of School Education on 17.05.2015 in which names of faculty which were erstwhile noticed to be working as B.Ed. faculty were replaced by new faculty exclusively selected for the D.El.Ed. course. Appeal Committee noted that the appellant institution as well as N.R.C. got entangled in levelling unnecessary allegations and counter allegation. The crux of the case is that the appellant institution was found fit for conducting D.El.Ed. course subject to fulfilment of certain conditions and the institution has finally completed the formalities under intimation to the N.R.C. The refusal order dated 09.07.2015 is not justified and hence the matter deserved to be remanded to N.R.C. for taking note of the revised list of faculty and, if need be, after getting the overwriting (erasing) verified through the issuing authority. The N.R.C. may thereafter take further action as per the Regulation."

16. Thus, from the above, it is clear that the petitioners, on one hand, were denied recognition on the ground that the deficiencies were not removed, and on the other hand, the Appellate Authority has categorically recorded that the petitioners have made efforts for removing the deficiencies.

17. The impugned order does not stand before the canons of law for yet another reason that the impugned order has been passed in breach of the orders passed by this Court (referred to above) for the reasons that respondent No. 4 was associated in the decision making process, which factum is writ large from a perusal of the decision taken by respondent No. 2 in its 246th meeting held between 9th to 12th December, 2015, Annexure P-33, wherein the names of all the Members have been mentioned and Prof. Y.K. Sharma (Retd.) (respondent No. 4) figured at Sl. No. 4, who has participated in the impugned decision making process, which, apparently, is contempt of the court and in breach of the orders passed by this Court.

18. The facts of the case also show that the petitioners, for the first time, applied to respondent No. 2 for permission to run the course in question in the year

2008. However, the said permission was denied to the petitioners by respondent No. 2 on one pretext or the other. As and when the case of the petitioners was rejected by respondent No. 2, the petitioners immediately approached the Appellate Authority prescribed under the statute. The petitioners also approached this Court by way of filing writ petitions on different occasions. The Appellate Authority on many occasions remanded the matter to respondent No.2 to take the decision afresh, but respondent No. 2, for the reasons best known to it, time and again, pointed out one deficiency after another. The motive of respondent No. 2 can well be evaluated from the fact that once the recognition granted in favour of the petitioners to run B.Ed. College was also snatched, which order was set aside by the Appellate Authority. The Appellate Authority, in its order, dated 16th November, 2015, (Annexure P-29), has categorically recorded that the petitioners have finally completed the formalities under intimation to the NRC.

19. In view of the above discussion, Annexure P-33 is quashed qua the petitioners and the respondents are directed to pass orders afresh, within a period of three months, in view of the orders passed by this Court from time to time, read with the decision made by the Member Secretary, National Council for Teachers Education on 16th November, 2015, (Annexure P-29).

20. Keeping in view the decision of the Madras High Court in Writ Appeal No. 884 of 2005 titled Government of Tamil Nadu and another v. Sri Nandha Educational Trust, read with discussion made herein-above, the respondents are directed to consider the case of the petitioners for allowing them to participate in the counselling process for the course in question for the academic year 2015-17 and admit the students.

21. The writ petition stands disposed of accordingly.