
(2021) 02 RAJ CK 0051
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2515 Of 2021

Shreenath Bstc School

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 16-02-2021

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14(1), 15(1)

Citation : (2021) 02 RAJ CK 0051

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : Ravindra Paliwal, Manish Vyas, Kailash Choudhary

Judgement

1. In wake of onslaught of COVID-19, abundant caution is being taken while hearing the matters in Court.

2. At the outset, counsel for the petitioner submits that in a matter involving identical issue (i.e. SBCWP No.13080/2020), Co-ordinate Bench of this

Court on 03.02.2021 while issuing notices passed interim order in the following terms :-

1. Mr. C.S. Kotwani and Mr. B.S. Sandhu, learned counsel for the petitioners - Institutions, submit that the petitioners -Institutions were issued a

recognition by the NCTE in terms of Section 14(1)/15(1) of the NCTE Act, 1993 and has been conducting course of D.El.Ed. Since 2018.

3. It is informed by learned counsel for the petitioners that inspite of the recognition granted by NCTE, the respondent - State did not issue NOC in

earlier year for which they were constrained to approach this Court by way of filing writ petitions, wherein initially interim orders were passed and

ultimately they came to be allowed by this Court vide its order dated 11.11.2020.

4. While disposing of the petitioners' earlier writ petition, this Court had directed the respondents - State to grant the petitioners NOC and affiliation, while keeping in mind the observation made by this Court in Sanskar T. T. College Vs. State of Rajasthan & Ors (SB Civil Misc. Writ Petition No.679/2017).

5. Learned counsel for the petitioners submit that as per the decision granted in the case of Sanskar T. T. College (supra) and in view of the law laid down by Hon'ble Supreme Court in Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of Uttar Pradesh & Ors. reported in (2013) 2 SCC 617 and State of Rajasthan Vs. LBS B.Ed. College & Ors - reported in (2016)16 SCC 110, the State has no authority to conduct the enquiry once NCTE has granted recognition; it can refuse to grant NOC only in the case of laxity or lacunae in an Institution, which maybe life threatening for the students; or there is drastic and inexcusable mistake or the recognition was obtained by fraud committed by the concerned Institution.

6. Upon perusal of the reply filed by the respondents and after hearing learned Additional Advocate General, this Court finds that no substantial irregularity has been pointed out from which it can be inferred that the life of the students pursuing courses in the concerned college is threatened or petitioners - Institution have fraudulently obtained the recognition.

7. Though certain discrepancies have been pointed out by the respondents, however, considering the petitioners' contention that firstly the State Government has no power to conduct inspection in light of judgments of Supreme Court/High Court and secondly that the inspection conducted in odd hours and that too without any notice to the petitioners, this Court is of the prima faice view that the communication/letter issued by the respondents to the NCTE to withdraw the petitioners' recognition is arbitrary and without any authority of law.

8. This being the position, the matters are admitted.

9. Mr. Manish Vyas, learned AAG, accepts notices on behalf of the respondents.

10. List these matters in the month of April, 2021.

11. Meanwhile, effect and operation of the communication dated 04.12.2020, written by the Principal Secretary, Department of Education to the NCTE asking to withdraw their recognition, shall remain stayed.

12. The respondents shall permit the petitioners - Institutions to take part in the ensuing counseling for admission of students for D.El.Ed. Course.

13. In the meanwhile, it will be required of the petitioners -Institutions to file response to the enquiry report so prepared and furnished by the respondents and try to meet the objections in accordance with law.

14. It is informed by the learned counsel for the petitioners that during pendency of the writ petitions, the respondent - State has conducted counseling, wherein the petitioners were not permitted and still many students, who have cleared entrance examination, are waiting for admission.

15. Hence, it is hereby directed that the respondent - State shall conduct fresh counseling in accordance with law, within a period of two weeks so

that all desirous students having cleared entrance examination may be accommodated in vacant seats available in the colleges and/or petitioners -

Institutions.

3. Hence, issue notice. Issue notice of stay application also, returnable within a period of four weeks.

Meanwhile, effect and operation of communication dated 04.12.2020 (Annex.7), written by the Principal Secretary, Department of Education to the

NCTE asking to withdraw their recognition, shall remain stayed.

List on 08.3.2021 alongwith SBCWP No.13080/2020.