

(2012) 09 MP CK 0292

In the Madhya Pradesh High Court

Case No : Writ Petition No. 15619 of 2010

Shri Ganesh B.Ed. college

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 03-09-2012

Acts Referred:

National Council for Teachers Education Regulations — Regulation 7, 8

Citation : (2013) 1 JLJ 196

Hon'ble Judges : Vimla Jain, J; Krishn Kumar Lahoti, J

Bench : Division Bench

Advocate : Siddharth Gupta, for the Appellant; P.K. Kaurav, learned Dy. A.G. for the State and Rani Durgawati University, Shri K.K. Singh, Counsel for National Council for Teachers Education, Shri Vibhudendra Mishra, Counsel for Awadhesh Pratap Singh University and Shri Mahendra Pateria, Counsel for Barkatullah University, for the Respondent

Judgement

1. This order shall decide the controversy involved in all the following cases.

1.

W.P. 15619/10

Shri Ganesh B.Ed. College. vs. State & ors.

2.

W.P. 15206/10

SaraswatiGyanPeeth College. vs. State & ors.

3.

W.P. 15620/10

New Era College of Education vs. State & ors.

4.

W.P. 16547/10

NeerachalamShikshaMahavidhyalaya vs. State

5.

W.P. 13441/12

Swami VivekanandSansthan & ors. vs. State & ors

6.

W.P. 13443/12

Sardar Vallabh Bhai Patel College vs. State & ors.

The dispute is in respect of the students who were admitted by the petitioners for the academic session 2008-09 for B.Ed. courses. It was submitted by the petitioners that the controversy has been settled by the Division Bench of this Court in W.P. 14932 of 2010 [Jawaharlal Nehru College vs. Barkatullah University and others] on 31.7.2012 and similar directions may be issued in the present cases. Though Shri V. Mishra, learned counsel appearing for the A.P.S. University opposed the aforesaid contention on the ground that in para 34(2) of the judgment of the Apex Court in Adarsh Shiksha Mahavidyalaya and Others Vs. Subhash Rahangdale and Others, , petitioners are not entitled for any relief but we have gone through the order dated 31.7.2012 in Jawaharlal College (supra) and found that a Division Bench after considering the judgment in Adarsh Shiksha (supra) has disposed of the matter with certain directions and we do not find any reason to defer with the aforesaid judgment. For ready reference, we quote the order of Jawaharlal Nehru College which reads thus :-

Shri Siddharth Gupta, learned counsel for the petitioner.

Shri Satish Chaturvedi, learned counsel for respondent No. 1.

Shri Puneet Shrotri, learned counsel for respondent State.

Shri K.K. Singh, learned counsel for respondent No. 4.

Order passed in this case shall also govern the disposal of Writ Petition Nos. 15118/2010, 15214/2010, 15298/2010, 15307/2010, 16037/2010, 17086/2010, 17088/2010, 17583/2010, 17584/2010, 4552/2012, 4558/2012, 4561/2012, 4562/2012, 4567/2012, 4569/2012, 4570/2012, 16206/2010, 15735/2010, 18352/2010, 18353/2010, 18354/2010, 18355/2010, 18357/2010, 1047/2010, 16046/2010, 591/2011, 594/2011 and 595/2011.

Common issue is being raised in all these petitions as to whether the students admitted in petitioner Colleges in the academic session 2008-09 for B. Ed courses would be entitled to take up the examinations as the same has been declined for the reason that the students have been directly admitted to these Colleges without taking recourse to selection through counseling as is the mode

prescribed under clause 3.3 of Appendix 7 of N.C.T.E. Regulations which specifies Norms and Standard for Secondary Teacher Education Leading to Bachelor of Education (B. Ed) Degree.

It is not in dispute that the admission to said course is on the basis of marks obtained in qualifying examination and/or in the entrance examination or any other selection process as per the policy of the State Government/Union Territory Administration and the University.

The cases at hand fresco some what different picture; wherein as contended by the petitioners that the State has not framed any policy for admission to the B. Ed course for the academic session 2008-09. In that event it is stated that the examining body, i.e., respective Universities were not justified in not conducting the examination for the students who were directly admitted by adhering to the norms set by the NCTE and were imparted teaching strictly in accordance with the stipulations contained in NCTE's Regulation.

We are commended to a decision by the Supreme Court in *Adarsh Shiksha Mahavidyalaya and Others Vs. Subhash Rahangdale and Others*, wherein similar issue had cropped up and Supreme Court while dwelling upon the same gave its verdict in the following term:

34. So far as these appeals are concerned, we deem it proper to give the following directions:

(i) Within one month from today, the concerned examining body shall declare the result of the students who were admitted for the session 2007-2008 keeping in view the directions contained in the impugned orders. This would mean that result of the students admitted for the session 2007-2008 by the institutions whose cases were scrutinised by the NCTE pursuant to the directions given by the High Court and who were found to have been validly recognised after compliance with the mandatory conditions specified in Section 14(3)(a) of 1993 Act and Regulations 7 and 8 of the Regulations shall be declared.

(ii) The result of the students admitted by an unrecognized institution or by an institution which had not been granted affiliation by the examining body shall not be declared. The result of the students who were admitted without qualifying the entrance examination shall also not be declared. In other words, the students admitted by the private institutions on their own shall not be entitled to declaration of their result. If any private institution had not complied with the requirements of completing the prescribed training, then the result of students of such institution shall also not be declared.

(iii) The directions contained in the preceding clause shall not be used for dealing with the admissions made for the sessions 2005-2006, 2006-2007 or 2008-2009. The admissions made for those years shall be dealt with by the Western Regional Committee and the concerned examining body in accordance with the relevant statutory provisions.

(emphasis by us)

(iv) Any institution aggrieved by the decision of the Western Regional Committee to reject the application for recognition or for permission to start a new course or training or withdrawal of recognition u/s 17 shall be free to avail remedy of appeal u/s 18 of the 1993 Act. If any such appeal is filed by the aggrieved party within 30 days from today, then the Appellate Authority shall entertain and decide the same on merits.

(v) If the Western Regional Committee has taken any action in furtherance of the directions given by the High Court, then the aggrieved person shall be entitled to challenge the same by availing remedy of appeal u/s 18 of the 1993 Act.

As apparent from paragraph 34 (3) that in case of cases pertaining to sessions 2005-06, 2006-07 and 2008-09 (we are concerned with 2008-09 academic sessions in these writ petitions) the admissions made for these years were directed to be dealt with by Western Regional Committee and the concerned examining body in accordance with the relevant statutory provisions.

We are apprised of an order dated 12.10.2011; whereby, the State Government has directed for constitution of a committee to examine the issue. However, there is no information as to what steps were thereafter taken by the State Government, the examining bodies and the Western Regional Committee in respect of admissions made for the session 2008-09.

To resolve this by order dated 20.4.2012 passed in W.P. No. 14932/2010 the State Government was directed to apprise this Court whether there was any policy for admission to B. Ed Course for the academic session 2008-09.

That, despite of repeated opportunities sought, the respondents have not come forward with any State policy which was prevalent for the academic year 2008-09 governing the admission to B. Ed. Course. That, further opportunity was sought today; however, keeping in view the issue and the future of number of students involved, we are not inclined to grant further opportunity to the State and its functionaries; instead we intent to dispose of the petition with the following directions:-

(i) That, the State Government in coordination with Western Regional Committee and respective examining bodies, i.e., Universities, shall take a decision within a period of one month in respect of admissions made for the academic session 2008-09 as to whether the same was in consonance with the Regulations framed by the NCTE and the statutory policy framed by the State Government, if any, and whether the students have been imparted the teaching in accordance with the norms laid down by the NCTE.

(ii) That, after ascertaining the above, and after having satisfied that the students in respective colleges were admitted strictly in accordance with the stipulations laid down vide Regulations framed by NCTE and the Policy of the State Government, if any, and that the students have undergone teaching course

as per Norms of the N.C.T.E, the examining body, i.e., respective Universities shall hold special examinations for the students of the year 2008-09 who are found eligible in pursuance to the enquiry conducted, within a period of 30 days from the date the State Government takes a decision in furtherance to above direction and shall declare the result within a period of 15 days therehence.

It is made clear that the State Government, Western Regional Committee and the examining bodies while examining the cases of respective students who were given admission for the academic session 2008-09 shall strictly examine it in the light of regulations so framed by NCTE and shall not deviate from the same. It is made clear that we have not expressed any opinion in respect of eligibility of the students or that of the institutions, i.e., petitioner Colleges, which has to be looked into by the NCTE, the State Government and the examining body.

2. As the controversy involved in these cases are identical, the Division Bench has already taken note (in sub para 2 of para 34) of the said judgment and has issued the direction, we find it appropriate to dispose of all the matters directing that the judgment in Jawaharlal College(supra) shall be applicable in the present cases as far as it is applicable. The said committee shall take a decision in respect of the petitioner/college also as directed in Jawaharlal College(supra).

3. At this stage, Shri Kaurav, learned counsel appearing for the State and the University, submitted that in the order dated 20.4.2012 there was no admission of the State Government because of the ad interim writ issued in the matter and subsequently the High Court in the case of Vikramaditya Mahavidhyalaya vs. Union of India in W.P. 6113 of 2008 held that the aforesaid academic session shall be treated as zero year and in view of the ad interim writ issued in that case, no admission was given so the petitioners are not entitled for any relief.

4. The committee which is to examine the matter shall also take note of the aforesaid judgment. The University and the State of Madhya Pradesh shall make available the aforesaid judgment to the Committee. With the aforesaid directions, all the petitions are disposed of finally.