
(2012) 06 AHC CK 0008

In the Allahabad High Court

Case No : Misc. Single No's. 3110 and 3113 of 2012

Shri Krishna Janka Devi Degree College Rura Ramabai Nagar
and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 26-06-2012

Acts Referred:

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

Citation : (2012) 7 ADJ 144 : (2012) 6 AWC 6064

Hon'ble Judges : Satyendra Singh Chauhan, J

Bench : Single Bench

Advocate : Karunanidhi Yadav, for the Appellant; Ravi Kumar Mishra, Anurag Verma and Shashi Prakash Singh, for the Respondent

Judgement

Hon"ble Satyendra Singh Chauhan, J.—Heard learned counsel for the petitioner, learned counsel for the University Sri Shashi Prakash Singh, Dr. Ravi Kumar Misra for opposite party No. 3 and learned Additional Chief Standing Counsel for opposite party No. 1. These petitions raise common question of law and fact, therefore, they are being decided, by a common judgment.

2. Writ Petition No. 3110 (MS) of 2012 relates to Shri Krishna Janka Devi Degree College, Rura, Ramabai Nagar which was established for imparting education to teachers" training. An application was made to the National Council for Teacher Education (for short the NCTE), a body constituted for granting recognition to the institutions imparting education to the teachers training. The recognition was granted to the petitioner-institution under the provisions of National Council for Teacher Education Act, 1993 (for short the NCTE Act"), but as contemplated under 14(6) of the NCTE Act, the examining body found certain shortcomings and, therefore, it proceeded to recommend, the shortcomings to the State Government for grant of affiliation as contemplated u/s 37(2) of the U.P. State Universities Act. After grant of recognition by the NCTE, the petitioner-institution applied for affiliation in respect of 100 seats in B.Ed. Course. The inspection was

made by the members of inspecting committee and recommendation was made on 24.3.2012 for grant of affiliation to the petitioner-institution w.e.f. 1.7.2012. After forwarding of the inspection report, the State Government found certain shortcomings and deficiencies in the petitioner-institution and so the State Government declined to grant affiliation to the petitioner-institution vide order dated 9.5.2012.

3. The identical situation arose in respect of Writ Petition No. 3113 (MS) of 2012, wherein learned Additional Chief Standing Counsel put in appearance on behalf of opposite party No. 1, Sri Anurag Verma appeared on behalf of opposite party No. 2 and Dr. Raw Kumar Misra appeared on behalf of opposite party No. 3.

4. The dispute in the aforesaid case is that the petitioner-institution was initially granted recognition for 60 students in B.Ed. course by the NCTE on 9.8.2000. The recognition of 60 students was enhanced to 100 students vide order dated 13.1.2003 passed by the NCTE. The University granted permanent affiliation for 60 seats on 26.8.2003. Thereafter vide order dated 13.10.2003, permanent affiliation was extended to 100 seats. The Vice-Chancellor granted affiliation on 26.8.2003. The NCTE granted further recognition for 100 additional seats on 3.10.2008. On 13.12.2009, an inspection was conducted of the petitioner-institution and recommendation was made for grant of affiliation for 2001 additional seats and the University forwarded the said recommendation to the State Government for granting affiliation. Thereafter, in pursuance of the direction of this Court, a letter was issued by the State Government on 30.12.2011 to the University requiring it to send the recommendation for according consent for grant of affiliation for 200 Additional seats within three days. The inspection was conducted by the Regional Higher Education Officer, Agra on 16.4.2012 and a report was submitted to the respondent-University. NAAC conducted an inspection and a confidential report was handed over by the members of NAAC to the petitioner-institution, mentioning therein that grading will be provided by NAAC in its next executive meeting which is scheduled to be held shortly. A report was submitted by the two members of the inspection committee, against whom, it is alleged that they were incompetent. On 3.5.2012, recommendation was made by the Vice-Chancellor, Agra for granting affiliation to the petitioner-institution. The opposite party No. 1 passed an order, whereby it proceeded to accord affiliation to the petitioner-institution in respect of 2001 seats only and the claim for enhanced 2001 seats was rejected.

5. The argument which has been advanced on behalf of the petitioner is that after the grant of recognition by the NCTE, no affiliation is required from the State Government or from the University. The University and the State Government both are required to adhere to the recognition granted by the NCTE and no additional requirement can be fixed upon the petitioner-institution for grant of affiliation. The grant of affiliation after the recognition being granted under the NCTE Act is an exercise which is not contemplated under law and the Central Act will prevail and any provision made to the contrary by the State

Government is of no avail and cannot prevail over the law propounded by the Apex Court.

6. In support of his contention, learned counsel for the petitioner has relied upon the following judgments:

(1) State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others, ;

(2) Modern Dental College and Research Centre and others v. State of Madhya Pradesh and others (Civil Appeal No. 4060 of 2009);

(3) Vikram Sarabhai Educational Trust and B.Ed. College, Keipamangalam v. Univeristy of Calicut and another, 2009(4) ESC 2826 (Ker);

(4) Jaya Gokul Educational Trust Vs. The Commissioner and Secretary to Government Higher Education Department, Thiruvananthapuram, Kerala State and Another, ;

(5) State of T.N. and Another Vs. Adhiyaman Educational and Research Institute and Others, ;

(6) National Council for Teachers Education and another v. Vaishnav Institute of Technology and Management (Civil Appeal No. 3505 of 2012) decided on 12.4.2012

7. Learned counsel for the opposite parties, on the other hand, has submitted that Section 14(6) of the NCTE Act itself contemplates that the affiliating body shall take into consideration the additional factors and further the recognition order itself has provided in Clause 3(v) that the institution shall make admission only after it obtains affiliation from the examining body in terms of Clause 8(12) of the NCTE Regulations, 2007, notified on 10.12.2007.

Clause 8(12) of the NCTE Regulations, 2007 reads as under:

8(12) An institution shall make admission only after it obtains order of recognition from the Regional Committee concerned under Regulation 7(11), and affiliation from the examining body.

8. Learned counsel for the opposite parties further submits that in view of Clause 8(12) of the Regulations of 2007, it is incumbent upon the petitioner-institution to obtain affiliation from the examining body and in the absence of the same, they are not entitled to take admission for running classes. Section 37(2) of the Act also contemplates that affiliation has to be obtained from the State Government and recommendation has to be made by the examining body. The inspection is made by the independent team and thereafter if any shortcoming is found, then the State Government is at liberty to refuse affiliation, as high standard of education has to be maintained in the State and mushrooming of institutions with inadequate infrastructure has to be checked.

9. Counsel for the opposite parties has also placed reliance upon the following

decisions;

(1) R.N. College, opposite Pandavan Mandir, Hastinapur, Meerut through its Secretary v. Chancellor, B.R. Ambedkar University, Raj Bhawan, Lucknow, (Writ Petition No. 193 (MB) of 2006);

(2) Chairman, Bhartiya Education Society and another v. State of Himachal Pradesh and others, 2011(4) ESC 546 (SC);

(3) Dev Education College, Barhan, Agra v. State of U.P. and others (Writ Petition No. 2286 (MB) of 2009);

(4) Shri Morvi Sarvajanic Kelavni Mandal sanchalit MSKM B.Ed. College v. National Council for Teachers' Education and others, 2012(1) ESC 43 (SC);

(5) Laxmi Sharma and others v. V.C., Chhatrapati S. Maharaj University and others, (2006)2 UPLBEC 2020;

(6) Rahul Dhaka Vikas Society and another v. Guru Gobind Singh Indraprastha University and others, AIR 2001 Del 154;

(7) State of Tamil Nadu and Another Vs. S.V. Bratheep (Minor) and Others, ;

(8) State of A.P. Vs. K. Purushotham Reddy and Others, .

10. Relying upon the judgment in the cases of Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (supra), Vikram Sarabhai Educational Trust and B.Ed. College, Keipamangalam (supra), Jaya Gokul Educational Trust (supra) and Adhiyaman Educational and Research Institute (supra), learned counsel for the petitioner has submitted that the same line of reasoning has been adopted in all the cases, wherein the law has been consistent and propounded that once an institution conforms to the standard laid down by the NCTE i.e. the recognizing body, then the State Government cannot refuse affiliation or derecognize any institution on the ground which is not otherwise provided under the NCTE Act, but the aforesaid argument of counsel for the petitioner fails on the ground that the recognition order itself contemplates in Clause 3(v) which reads as under:

3 (v) The institution shall make admission only after it obtains affiliation from the examining body in terms of Clause 8(12) of the NCTE Regulations, 2007, notified on 10.12.2007.

11. The aforesaid condition laid down in the recognition order itself adhered to the terms of Clause 8(12) of the NCTE Regulations of 2007. Clause 8(12) of the NCTE Regulations, 2007 enumerates that "an institution shall make admission only after it obtains order of recognition from the Regional Committee concerned under Regulation 7(11), and affiliation from the examining body."

12. The aforesaid provision under the Regulations of 2007 goes to indicate that affiliation from the examining body is sine qua non and only recognition cannot prevail nor the recognition granted by the NCTE would bind the affiliating body.

13. Reliance has been placed by the counsel for the opposite parties on a Division Bench decision of this Court in Writ Petition No. 193 (MB) of 2006, decided on 18.1.2006, wherein the Court observed as under:

The Act, 1993 defines the "examining body" in Section 2(d) as University, agency or authority to which an institution is affiliated for conducting examinations in teacher education qualifications. Institution" is also defined u/s 2(e) as an institution, which offers courses or training in teacher education. Further, according to Section 2(n) "University" means a University defined under clause (f) of Section 2 of the University Grants Commission Act, 1956, and includes an institution deemed to be a University u/s 3 of that Act. From these three definitions it is unambiguously made out that since the petitioner-Institution offers courses or training in teaching education, it is to be affiliated with some examining body, which may be either University or agency or authority to which an institution is affiliated for examinations. Neither learned counsel for the petitioner nor we could lay our finger at any provision under Act, 1993, by means of which an inference could be drawn that once the recognition is granted, the affiliation has to follow automatically. As mentioned in the letter of NCTE, itself the matter of affiliation was left to be considered by the examining body which in the matter of the petitioner is the Chancellor of the concerned University.

Thus as per scheme of the Act, 1993 as also according to letter of NCTE, the matter of affiliation was to be considered by the examining body i.e. concerned University in the matter in hand. "Recognition" and "affiliation" are two different and independent things. The same is clear from the judgment of Supreme Court also in *The Principal and Others Vs. The Presiding Officer and Others*, . The affiliation of a college is for the purpose of holding examination of the candidates while the recognition of an institution is for other purposes. When matter of affiliation has to be considered by University, it cannot be expected to act in mechanical manner without application of mind.

From the judgments of Supreme Court in *State of T.N. and Another Vs. Adhiyaman Educational and Research Institute and Others*, and *Jaya Gokul Educational Trust Vs. The Commissioner and Secretary to Government Higher Education Department, Thiruvananthapuram, Kerala State and Another*, , also it is clear that affiliation and recognition are different things but the only restriction is that while granting affiliation the University cannot impose any provision inconsistent to the provisions of the Central Act or Regulations and guidelines framed by the Council.

The Division Bench further held as under:

In view of above discussions, we are unable to accept the contention of the petitioner's counsel that the affiliation by university after recognition by NCTE is to follow as a natural consequence. Accordingly, we decide the point in negative against the petitioner.

14. The Apex Court in a recent judgment in the case of *Chairman, Bhartiya Education Society (supra)*, drew the difference between recognition and affiliation and came to the conclusion that examining body can impose its own requirement in regard to eligibility of students for admission to a course in addition to those prescribed by the NCTE. The recognition order was also relied upon and interpreted by the Apex Court. In Paras-22 and 24 of the said judgment, the Apex Court observed as under:

22. Sub-section (6) of Section 14 no doubt mandates every examining body to grant affiliation to the institution on receipt of the order of NCTE granting recognition to such institution. This only means that recognition is a condition precedent for affiliation and that the examining body does not have any discretion to refuse affiliation with reference to any of the factors which have been considered by NCTE while granting recognition. For example, NCTE is required to satisfy itself about the adequate financial re-sources, accommodation, library, qualified staff, and laboratory required for proper functioning of an institution for a course or training in teacher education. Therefore, when recognition is granted by NCTE, it is implied that NCTE has satisfied itself on those aspects. Consequently, the examining body may not refuse affiliation on the ground that the institution does not have adequate financial resources, accommodation, library, qualified staff, or laboratory required for proper functioning of the institution. But this does not mean that the examining body cannot require compliance with its own requirements in regard to eligibility of candidates for admissions to courses or manner of admission of students or other areas falling within the sphere of the State Government and/ or the examining body. Even the order of recognition dated 17-7-2000 issued by NCTE specifically contemplates the need for the institution to comply with and fulfil the requirement of the affiliating body and the State Government, in addition to the conditions of NCTE.

24. The examining body can therefore impose its own requirements in regard to eligibility of students for admission to a course in addition to those prescribed by NCTE. The State Government and the examining body may also regulate the manner of admissions. As a consequence, if there is any irregularity in admissions or violation of the eligibility criteria prescribed by the examining body or any irregularity with reference to any of the matters regulated and governed by the examining body, the examining body may cancel the affiliation irrespective of the fact that the institution continues to enjoy the recognition of NCTE. Sub-section (6) of Section 14 cannot be interpreted in a manner so as to make the process of affiliation, an automatic rubber-stamping consequent upon recognition, without any kind of discretion in the examining body to examine whether the institution deserves affiliation or not, independent of the recognition. An institution requires the recognition of NCTE as well as affiliation with the examining body, before it can offer a course or training in teacher education or admit students to such course or training. Be that as it may.

15. Emphasis laid upon an interim order of this Court passed in Writ Petition No. 2286 (MB) of 2009, laying down the preposition of law that affiliation was not required stands diluted in view of the judgment rendered by the Apex Court in the case of Chairman, Bhartiya Education Society (supra). Therefore, reliance placed upon the aforesaid interim order is of no consequence. The said interim order was stayed by the Apex Court on 22.7.2009.

16. The matter again came up for consideration before the Apex Court in regard to withdrawal of recognition, wherein several deficiencies were pointed out and the institution was found to be not equipped with the infrastructure as required under the Act and also not in a position to impart quality education. The Apex Court in the case of Shri Morvi Sarvajanic Kelavni Mandal sanchalit MSKM B.Ed. College (supra), deprecated the practice of granting approval in respect of institutions which are ill-equipped and noticed the mushroom growth of ill-equipped, under-staffed and unrecognized educational institutions. In the said case, certain shortcomings were found and withdrawal of recognition to B.Ed. College was under challenge. The Apex Court found that the deficiencies were in the nature of inadequacy of built-up area available to the institution, the land underlying the structure was not in the name of the appellant-Trust and the college was being run in a building that was used by two other institutions. The Apex Court took a serious view and proceeded to consider the case laws propounded by the Apex Court in this respect time and again. In paras- 8, 10 and 17 of the aforesaid judgment, the Apex Court held as under:

8. The High Court upon a consideration of the relevant records including the inspection report placed before it, dismissed the writ petition relying upon the decisions of this Court in Chairman, Bhartiya Education Society and Another Vs. State of Himachal Pradesh and Others, , N.M. Nageshwaramma v. State of Andhra Pradesh and another, (1986) Supp. SCC 166, Students of Dattatraya Adhyapak Vidyalya v. State of Maharashtra and others, SLP (C) No. 2067 of 1991, decided on 19.2.1991, Andhra Kesari Educational Society Vs. Director of School Education and Others, and a few others. The High Court held that the appellant was not entitled to any relief in the writ proceedings filed on its behalf and accordingly dismissed the writ petition. Hence the present appeals, assail the said judgment and order.

10. Mushroom growth of ill-equipped, under-staffed and unrecognised educational institutions was noticed by this Court in State of Maharashtra Vs. Vikas Sahebrao Roundale and others, . This Court observed that the field of education had become a fertile, perennial and profitable business with the least capital outlay in some States and that societies and individuals were establishing such institutions without complying with the statutory requirements. The unfortunate part is that despite repeated pronouncements of this Court over the past two decades deprecating the setting up of such institutions. The mushrooming of the colleges continues all over the country at times in complicity with the statutory authorities, who fail to check this process by effectively

enforcing the provisions of the NCTE Act and the Regulations framed thereunder

17. There is no distinguishing feature between the cases mentioned above and the case at hand for us to strike a discordant note. The institution established by the appellant is not equipped with the infrastructure required under the NCTE Act and the Regulations. It is not in a position to impart quality education, no matter admissions for the session 2011-2012 were made pursuant to the interim directions issued by the High Court. We have, therefore, no hesitation in rejecting the prayer for permitting the students to continue in the unrecognised institution of the appellant or directing that they may be permitted to appear in the examination. We, however, make it clear that this order will not prevent the respondent-University from examining the feasibility of reallocating the students who were admitted through the University process of selection and counseling to other recognised colleges to prevent any prejudice to such students. Such reallocation for the next session may not remedy the situation fully qua the students who may have to start the course afresh but it would ensure that if such admissions/reallocation is indeed feasible, the students may complete their studies in a recognised college instead of wasting their time in a college which does not enjoy recognition by the NCTE. We, however, leave this aspect entirely for the consideration of the University at the appropriate level, having regard to its Rules and Regulations and subject to availability of seats for such adjustment to be made as also the terms and conditions on which the same could be made. This order shall also not prevent the affected students from seeking such reliefs against the appellant college as may be legally permissible including relief by way of refund of the fee recovered from them.

17. So far as the laying down of additional qualification by the State Government is concerned, the Apex Court in the case of Laxmi Sharma (supra), found that the college was granted only temporary affiliation and permanent affiliation was refused by the University. Though the students were admitted and permitted by the Court to appear in the examination, but the results were not declared. In those very special situation, direction was given to admit the students, but so far as affiliation was concerned, the affiliating body was directed for giving opportunity to the college and it was very clearly laid down that the Courts cannot direct the concerned authorities to grant affiliation, as it would amount to trespass on the jurisdiction of the University. The Apex Court in Para-20 of the said judgment held as under:

20. As far as the appeals preferred by the college against the common judgment and the order passed on the review application are concerned, we agree with the view expressed by the High Court that it is not for the Court to direct the concerned authorities to grant affiliation as that would amount to trespassing on the jurisdiction of the university. We can only request the university to consider the grant of such affiliation in view of the several inspection reports and the recommendations made by the inspection teams for grant of such recognition. The appeals preferred by the college are, therefore, disposed of with a direction

upon the university to consider the grant of permanent affiliation to the college after giving the college authorities a reasonable opportunity of being heard.

18. In another judgment in the case of *Rahul Dhaka Vikas Society (supra)*, a Division Bench of the Delhi High Court reiterated the same view drawing distinction between the recognition and affiliation. In Para-15 of the said judgment, the Division Bench observed as under:

15. While giving harmonious interpretation to the provisions of Section 14 and other related provisions of the NCTE Act and that of the Indraprastha Vishwavidyalaya Act, 1998, we may state at this stage that the Council gives the recognition only when it is satisfied that an institution has adequate financial resources, accommodation, library, laboratory, qualified staff and that it fulfills such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by Regulations. Thus when an institution is given recognition it has to be presumed that such institution satisfies all the aforesaid requirements. The Council is an expert body in so far as matter relating to teacher education is concerned and it has to be treated as specialist in this particular field. In fact the NCTE Act is enacted by the Parliament for this very purpose. On the other hand, the University is established as an affiliating and teaching university in number of fields like engineering, technology, managements studies, medicine, pharmacy, nursing, education law etc. Thus teacher education is one of many spheres/ activities of the University. Of course the Board of Affiliation for educational institutions would include the experts in the field of teacher education. Still NCTE Act being a Central Act providing for the planned and coordinated development of teacher education system throughout the country, once recognition is given by the Council the same should be respected in so far as the standards to-be maintained by such institution which has been given recognition, are concerned by proceeding on the basis that such institution fulfills all the requisite requirements for proper functioning for a course or training in teacher education. Therefore when such institution approaches in University for affiliation, the University would not normally refuse affiliation on the ground that such institution does not have adequate financial resources, accommodation, library, qualified staff, laboratory or it lacks conditions required for proper functioning of the institution for a course or training in teacher education. Therefore normally affiliation should not be refused on the grounds which are covered by Section 14(3) of NCTE Act and Council has already satisfied itself that the Institute meets these requirements. However, this would not be an absolute rule and the University shall still have the right to satisfy itself about the fulfillment of conditions for affiliation by the Institute in accordance with its Act, Statutes etc. But if the affiliation is refused on any of these grounds, it will be for the University to justify its decision that notwithstanding the recognition by the Council, the institution lacked any of the aforesaid facilities and the Council had not acted properly in granting the recognition. Moreover, apart from the considerations mentioned in Section 14(3) of the NCTE Act, there may be other valid considerations which may compel the

University to still refuse affiliation. After all it is the University which confers the degree. It is the credibility, reputation or the goodwill of the University which is at stake. While exercising the power of judicial review the aforesaid factors namely whether the grounds for refusing recognition were bona fides and valid or not, can be examined.

19. The Apex Court in the case of S.V. Bratheep (Minor) (*supra*), again held that so far as the additional standard, apart from the standard prescribed by the AICTE is concerned, that would not be illegal or anyway without power and if any higher standard was fixed, then the same was within the power of the State Government. The Apex Court in Para-9 of the said judgment held as under:

9. Entry 25 of List III and Entry 66 of List I have to be read together and it cannot be read in such a manner as to form an exclusivity in the matter of admission but if certain prescription of standards have been made pursuant to Entry 66 of List I, then those standards will prevail over the standards fixed by the State in exercise of powers under Entry 25 of List III insofar as they adversely affect the standards-laid down by the Union of India or any other authority functioning under it. Therefore, what is to be seen in the present case is whether the prescription of the standards made by the State Government is in any way adverse to, or lower than, the standards fixed by the AICTE. It is no doubt true that the AICTE prescribed two modes of admission - One is merely dependent on the qualifying examination and the other dependent upon the marks obtained at the Common Entrance Test. The appellant in the present case prescribed the qualification of having secured certain percentage of marks in the related subjects which is higher than the minimum in the qualifying examination in order to be eligible for admission. If higher minimum is prescribed by the State Government than what had been prescribed by the AICTE, can it be said that it is in any manner adverse to the standards fixed by the AICTE or reduces the standard fixed by it? In our opinion, it does not. On the other hand, if we proceed on the basis that the norms fixed by the AICTE would allow admission only on the basis of the marks obtained in the qualifying examination the additional test made applicable is the common entrance test by the State Government. If we proceed to take the standard fixed by the AICTE to be the common entrance test then the prescription made by the State Government of having obtained certain marks higher than the minimum in the qualifying examination in order to be eligible to participate in the common entrance test is in addition to the common entrance test. In either event, the streams proposed by the AICTE are not belittled in any manner. The manner in which the High Court has proceeded is that what has been prescribed by the AICTE is inexorable and that that minimum alone should be taken into consideration and no other standard could be fixed even the higher as stated by this Court in Dr. Preeti Srivastava's case. It is no doubt true as noticed by this Court in Adhiyaman's case that there may be situations when a large number of seats may fall vacant on account of the higher standards fixed. The standards fixed should always be realistic which are attainable and are within the reach of the candidates. It

cannot be said that the prescriptions by the State Government in addition to those of AICTE in the present case are such which are not attainable or which are not within the reach of the candidates who seek admission for engineering colleges. It is not very high percentage of marks that has been prescribed as minimum of 60% downwards, but definitely higher than the mere pass marks. Excellence in higher education is always insisted upon by series of decisions of this Court including Dr. Preeti Srivastava's case. If higher minimum marks have been prescribed, it would certainly add to the excellence in the matter of admission of the students in higher education.

20. In the case of K. Purushotham Reddy (supra), the question involved was as to whether the Act promulgated for setting up State Council for Higher Education in any manner was against the University Grants Commission Act. The Apex Court came to the conclusion that the University Grants Commission was having no power to act in the sphere of coordination and determination of standard of institution of higher education and research and technical institutions as an independent body and, therefore, the Act promulgated by the State Government was held to be within the competence of the State Government.

Section 37(2) of U.P. State Universities Act enumerates that the Executive Council may, with the previous sanction of the State Government, admit any college which fulfils such conditions of affiliation, as may be prescribed, to the privileges of affiliation or enlarge the privileges of any college already affiliated or subject to the provisions of sub-section (8), withdraw or curtail any such privilege."

21. Till such power exists in the Act, the claim of the petitioner that they cannot be compelled to obtain affiliation is wholly baseless and untenable under law and is a misconceived argument.

22. Learned counsel for the petitioner has placed reliance upon a latest judgment of the Apex Court in the case of National Council for Teachers Education and another v. Vaishnav Institute of Technology and Management, decided on 12.4.2012. In the said case, the Apex Court came to the conclusion that the recognition granted by the NCTE can be withdrawn as provided under the Act, but the question of grant of affiliation was not considered in the said case, although it was found that there were certain shortcomings and so an opportunity was given to make inspection within six weeks and the Council was directed to communicate the concerned institutions the result of such inspection and call upon the institutions to make up the deficiencies, if found during such inspection.

23. I am in full agreement with the law propounded by the Apex Court and direct that the petitioner may approach the State Government and remove the deficiencies within a period of one week and the State Government thereafter shall take a decision in regard to grant of affiliation within next fifteen days. Both the writ petitions are disposed of accordingly.