
(2007) 07 P&H CK 0097

In the Punjab And Haryana At Chandigarh

Shri Vaishno Devi Shiksha Samity and Others, Chaudhary
Kartar Singh College of Education, Netaji Subhash Chander
Bose College of Education and Adarsh Education Society

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 12-07-2007

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14, 20, 32

Citation : (2007) 07 P&H CK 0097

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—This judgment shall dispose of four Civil Writ Petition Nos. 20656, 20846 of 2006, CWP No. 10 and 306 of 2007, filed by seven institutes wherein the petitioners have claimed a writ of certiorari for quashing of order dated 20.12.2006 passed by the State Admission and Fee Committee for Technical Education and for directing the respondents to conduct counseling of the petitioner colleges for admission to B.Ed course for the session 2006-07 and in the alternative to direct the petitioner colleges to conduct counselling and admit students.

2. For the facility of reference, facts are taken from CWP No. 20656 of 2006, which is instituted by the Management of four colleges, which have been granted recognition subject to fulfillment of certain conditions by the National Council for Teacher Education (hereinafter to be referred as 'NCTE') for the grant of B.Ed. Decree. An Act called The National Council for Teacher Education Act, 1993 was enacted in the 1993 to provide for the establishment of National Council for Teacher Education with a view to achieving planned and co-coordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matter connected therewith. Section 14 of the Act

contemplate grant of recognition by Regional Committee to every institution offering course or training in teacher education. The Regional Committees are the Committees established u/s 20 of the Act. The Regional Committee on satisfaction that the institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by the regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations.

3. In terms of Section 32 of the Act, NCTE has published the Regulations called ? The National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2005 (hereinafter to be referred as ?2005 Regulations?), which have been produced on record as Annexure R-1/4 dated 27.12.2005. The Regional Committee in 111th Meeting held on November 30th to December 1st, 2006, considered the case of the petitioners for grant of recognition instead of conduct of B.Ed course of one year with annual intake of 100 w.e.f., the academic sessions 2006-07. The Committee has decided to grant recognition subject to condition of submission of the list of appointed qualified staff by following the selection procedure before the commencement of the course. The relevant extract from the minutes of the meeting, attached as Annexure P-11, reads as under:

On careful perusal of the original file of the institution, VT Report, Video CD, other related documents, Act of NCTE, 1993, Regulations and guidelines of NCTE published from time to time laid on the table of the Committee, the Regional Committee decided that recognition be granted to the B.Ed course of one year duration with an annual intake of 100 (one Hundred only) w.e.f., the academic session 2006-07 subject to the condition of submission of the list of appointed qualified staff by following the selection procedure before the commencement of the course.

4. On the basis of such minutes, letter dated 02.12.2006 was issued to all the institutions concerned and the Registrar of the concerned Universities of the respective States to ensure compliance of Para 3 (a) and (e) of the communication. The relevant extract of Clause 3 of the communication reads as under:

3. The institutions shall ensure the fulfillment of the following:

(a) The institution shall maintain the teaching staff strength as per the NCTE norms & standards for its respective approved courses.

(b) The institutions shall adhere to all the other regulations and guidelines as framed by NCTE from time to time.

(c) and (d) xx xx xx xx

(e) Further, the recognition is subject to fulfillment of all such other requirements

as may be prescribed by other regulator bodies like UGC/SCERT (as per the approved course) and State Government etc.

(f) The institutions shall submit to the regional Committee a Self-Appraisal Report at the end of each academic year along with a copy of the approval of the affiliating University/ State Directorate of Education/SCERT as per the approved courses about the appointment of faculty members and the statement of Annual Accounts duly audited by a Chartered Accountant?.

5. After the said recognition by the NCTE, Maharshi Dayanand University, Rohtak (hereinafter to be referred as 'MD University?'), respondent No. 2, granted conditional provisional affiliation to the petitioner colleges. However, such affiliation was made subject to certain conditions. The relevant extract from the communication dated 7.12.2006, Annexure P 2, reads as under:

The above provisional affiliation is further subject to the following mandatory conditions:

1. The College shall constitute Governing Body as per NCTE/University norms.
2. The admissions will not exceed beyond the sanctioned intake.
3. The teaching and other staff shall be appointed through properly constituted Selection Committees. CPF Scheme must be introduced. Service Rules for teaching/ non-teaching staff should be framed and a copy be sent to the University.
4. The Faculty shall be appointed as per NCTE norms in the pay scales prescribed by it from time to time. 5to9 xx xx xx xx
10. The College shall follow the mode of selection of candidates for admission as approved by the State Government/ University.
11. The College shall provide all academic and infrastructural facilities including classrooms, hostels, library, laboratories, workshops, play grounds and other amenities required for the smooth conduct of its affairs as per University norms.
6. It may be noted that in communication dated 2.12.2006, Annexure P-2, the name of the petitioner institute was Baba Jai Ram Dass College of Education, Pali, District Mohindergarh, but, as per condition of the Regional Committee, such name was changed to the present one which has been approved by the Regional Committee.
7. The State of Haryana authorised Kurukshetra University, Kurukshetra, to conduct centralized counseling for admission to B.Ed course in the State of Haryana Kurukshetra University issued a prospectus for State Level Common Entrance Test to be conducted on 16.07.2006. The said test was also contemplated to be conducted for the Self Financing Affiliated Colleges of Education in the State of Haryana. But the association of Education Colleges consisting of Self Financing Affiliated Colleges filed Civil Writ Petition No. 9547 of

2006 before this Court claiming a writ of mandamus directing the State of Haryana and Kurukshetra University to allow the petitioner association to hold a Common Entrance Test. The said writ petition was allowed on 22.08.2006 and the association was permitted to conduct the Common/ Joint Entrance Test for admission to B.Ed course for such self financed/ unaided affiliated colleges in the State of Haryana. The Common Entrance Test was to be conducted under the supervision of an observer to be appointed by the State Admission Committee of the State of Haryana. The operative part of the order reads as under:

The controversy involved in the present writ petition is squarely covered by the law laid down in PA Inamdar's case as well as the observations made by this Court in Amardeep's case (supra). Consequently, for the detailed reasons mentioned in Amardeep's case (supra), we allow the present petition. The petitioner-Association is permitted to conduct the Common/Joint Entrance Test for admission to B.Ed course for such colleges in the State of Haryana, which are self financed/ unaided. The aforesaid Common Entrance Test shall be conducted by the petitioner-Association under the supervision of an observer to be appointed by the State Admission Committee of the State of Haryana.

8. Admittedly, such Association of Self Financing Unaided Affiliated Colleges did not conduct any Common Entrance Test even though they had sought directions of this Court. But vide letter dated 28.09.2006, Annexure R-3/2, the State Government decided after detailed deliberation with the Chairman of State Admission and Fee Committee for Technical Education that admission against 85% of total sanctioned seats in the Self Financing Colleges of Education in Haryana for the year 2006-07 shall be made through Centralized Counselling by the Kurukshetra University. The remaining 15% seats have been kept for NRI quota which are required to be filled up as per judgment of Hon'ble Supreme Court in P.A. Inamdar's case. As a consequence to such Centralized Counselling by the Kurukshetra University, certain seats remained unfilled in the general category and NRI quota. On the communication from the President of the Association of Self Financing Colleges of Education, the State Government considered their request to convert the unfilled NRI quota seats into general category seats for B.Ed course for the session 2006-07 and filling up of the remaining vacant seats as per the merit of Common Entrance Test. The Self Financing Colleges were allowed to convert the NRI unfilled quota seats and to make admissions to B.Ed course against converted NRI seats and the remaining vacant seats in the different Self Financing Institutions. It was contemplated that the counselling will be held in all Self Financing Colleges of Education after giving wide publicity and that the norms/directions/instructions fixed by the State Government/Universities/ NCTE shall be strictly adhered to. It was also contemplated that the Counselling Schedule shall be intimated by all the individual institutions to Kurukshetra University well in time and the University in turn shall take necessary steps to appoint observers in respective institutions to oversee the admission process.

9. Vide another subsequent communication dated 28.11.2006, Annexure P-4, the State Government permitted Kurukshetra University to conduct Centralized Counselling for the general category seats in 16 additional colleges after giving wide publicity in the newspapers. It was contemplated that the counselling schedule will be intimated by these 16 Self Financing Colleges to the Kurukshetra University well in time and the University in turn shall take steps to appoint observers to oversee the admission process. The counselling for the vacant seats was contemplated to be completed by 15th December in all respects. The university representatives and the representatives of the Association were also directed not to hold counselling for any other college for academic session 2006-07. At this stage, reference may be made to another communication dated 12.12.2006 by the State Government, Annexure P-5, whereby vacant scheduled castes seats in the private self financed B.Ed colleges were permitted to be filled up from the category of scheduled castes candidates on the basis of merit list of the Entrance Test conducted by Kurukshetra University. The process was to be completed within 12 days from the issuance of the said letter.

10. Thus, it is apparent that Kurukshetra University was directed by the State Government to conduct Centralized Counselling for admission to B.Ed course three times, firstly, in respect of Government and Aided Colleges; secondly, in respect of member colleges of the Association of Self Financing Colleges of Education; and thirdly, vide communication dated 28.11.2006 in respect of 16 additional institutions which were granted recognition. The petitioner institutions were not recognized till then and were not in reckoning for seeking admission through Centralized Counselling conducted by the Kurukshetra University.

11. The petitioner institutions were given recognition subject to fulfillment of certain conditions on 2.12.2006 by NCTE and affiliated by the university on 7.12.2006. Soon thereafter, the petitioners filed a writ petition before this Court. This Court on 12.12.2006 on the consent of the parties directed the petitioners to approach the State Admission and Fee Committee on the strength of the statement of learned Counsel for the University who has stated that the petitioners have been recognized and granted affiliation by the University after holding of meeting of the State Admission and Fee Committee and issuance of communication dated November 28, 2006, therefore, the matter is required to be examined by the State Admission and Fee Committee. The writ petition was disposed of with liberty to the petitioners to approach the State Admission and Fee Committee for evolving a procedure for counselling of admission in the petitioner colleges in B.Ed course. The State Admission and Fee Committee was to take a final decision within one week of the filing of such representation.

12. In terms of the said directions, the State Admission and Fee Committee has passed a detailed order on 20.12.2006 commenting adversely upon the process of affiliation adopted by the MD University. It was found that appointment of teaching faculty of appropriate quality through proper procedure has been thrown out of the window and the minimum requirement of 180 teaching days as

per UGC norms is not possible to adhere to. It was observed that grant of provisional affiliation by the University in such a blatant haste raises pertinent questions about the capacity of these institutions to run these courses and to maintain quality. The Committee recorded that the University has dealt with such a sensitive and delicate matter involving the quality of education in such a casual fashion as it they have to produce not teachers but clerks. It is thereafter, the present writ petition was filed on 22.12.2006, which came up for hearing on 23.12.2006 when the following order was passed:

Notice of motion for 11.01.2007. In the meanwhile, operation of the order dated 20th December, 2006 (Annexure P/10) shall remain stayed and the petitioners shall be provisionally permitted to commence and conclude the admission procedure for the vacant seats at their own risk and responsibility. The petitioners shall clearly disclose to the students who are admitted that the admission is subject to the final decision of this petition. A copy of this order be given dasti under the signatures of the Court Secretary of this Court.

13. Separate replies have been filed on behalf of the State Government and on behalf of Kurukshetra University and MD University. MD University averred in the written statement that the State Admission and Fee Committee did not adopt uniform standard as, on one hand, the Committee allowed admissions to 16 colleges as late as 28.11.2006 but, on the other hand, admission to petitioner colleges has been refused on the plea of advanced stage of academic session. It was also averred that there was no disregard of the norms, standards and prudence on the part of the University in granting affiliation to the petitioner colleges. It was also averred that the order passed by the Committee, Annexure P-10, is without jurisdiction and in complete violation of the law laid down by the Hon'ble Supreme Court in State of Maharashtra v. Sant Dhyaneshwar Shikshan Shastra Mahavidyalaya and Ors. 2006(3) RSJ 604. In the written statement filed on behalf of Kurukshetra University, it was pointed out that the order of the State Admission and Fee Committee deals with two distinct and separate aspects/issues; firstly, recognition/ approval/ affiliation of the petitioner colleges; and, secondly, admission to B.Ed course in the petitioner colleges. It is pointed out that the said University concerned with admission to the petitioner institutes only. Reference is made to the order of the Committee, Annexure P-10, which is to the effect that even minimum requirement of 180 teaching days as per the UGC norms is not possible to adhere to. It is pointed out that the Association of Self Financing Colleges failed to hold Common Entrance Test. Resultantly, admissions to B.Ed course in the Self Financing Colleges were considerably delayed. The university made admission to the B.Ed course in the Self Financing Colleges as per directions of the Committee/State Government. It is further pointed out that if admissions had been made at the very initial stage to the Self Financing Colleges on the basis of Common Entrance Test conducted by the respondent University, the present situation would have not arisen.

14. The State Government in its reply culled down the infirmities pointed out by

the State Admission and Fee Committee and averred that it cannot be said that order dated 20.12.2006 passed by the Committee is vitiated on any ground. The State Government appended reply dated 10.01.2007 to the communication sent by the State Government to the University. The State Government has also averred that the affiliation granted in favour of the petitioners is wholly illegal and that the petitioners cannot claim any benefit thereof. It is also pointed out that the petitioners have not pleaded that the petitioners have complied with the condition of appointment of qualified staff by following due selection procedure before the commencement of the course and that the petitioners have not supplied the list of such staff to the NCTE. It is also averred that the petitioners are not fully equipped to make admissions for the academic session 2006-07. It was also pleaded that the process of grant of recognition to the colleges by the NCTE is a continuous process and this process goes on all the year around and, therefore, it cannot be said that the recognition granted by NCTE allow the university or any such petitioner institute to admit the students for that academic year without keeping in view that they will not be able to complete the required number of 200 teaching/ teacher training days. It has been further pointed out that the academic session was advanced so much by that time that it was impossible for any educational college to hold admissions and complete the required number of 200 teaching/ teacher training days as per the norms laid down by the NCTE during the academic sessions 2006-07.

15. The learned Counsel for the petitioners has vehemently argued that MD University has issued a circular of treating the winter vacations and the holidays as teaching days. Such circular, Annexure-4 reads as under:

Maharshi Dayanand University Rohtak

No. CB-II/06/14437-499 Dated: 12.12.06 To

All the Principals/ Directors of Self Finance Colleges of Education (Affiliated from the session 2006-07) M.D. University, Rohtak.

Sub: Cancellation of Winter Vacation and holding of extra Classes.

Sir/ Madam,

I am directed to inform you that winter vacation from 25.12.2006 to 1.1.2007 shall be treated as working/ teaching days in above mentioned Colleges of Education and all the above colleges are further requested to hold extra classes on Sunday/Holidays and on working days so as to complete the requirements of teaching days prescribed by the NCTE for B.Ed regular course. This order has been passed by the University authorities in the interest of the students who have been admitted in the above said colleges because the admission process has taken enough time.

This may kindly be treated as IMPORTANT.

Yours faithfully, Sd/- Asstt. Registrar (Colleges) For D.C.D.C.

16. Reference is also made to the communication addressed by the university to the Special Secretary, Higher Education, dated 10.01.2007 wherein the university has defended the grant of affiliation by the university to the petitioner colleges and at the same time drawn a distinction between admission and affiliation. Learned Counsel for the State admitted that the question of affiliation of petitioner institutes by MD University in terms of the directions of the State Admission and Fee Committee is still pending consideration with the higher authorities of the State Government. Therefore, at this stage, no occasion arises for me to examine the question of affiliation of petitioner institutes as the matter of affiliation pending before the State Authorities.

17. Learned Counsel for the petitioners has vehemently argued that consequent to the grant of recognition by NCTE, the university has granted affiliation on 7.12.2006. The university has granted three months time to appoint staff but the petitioners institutes have appointed the staff soon after affiliation was granted and, therefore, the petitioner institutes are entitled to admit students for the academic session 2006-07 itself. It is also pointed out that the State Government has permitted 16 Self Financing Unaided Affiliated Colleges to admit students as on 28.11.2006 with last date of admission upto 24.12.2006, then the petitioners cannot be prohibited from admitting the students on or before the same date. It is contended that denial of admission of students to the petitioner institutes, in fact, would be discriminatory. It is further pointed out that the petitioner institutes have admitted students on 24.12.2006 i.e., the last date in terms of communication Annexure P-5 whereby the State has permitted the students to be admitted within 12 days of the aforesaid letter. It is contended that if students in 16 colleges who have been permitted to be admitted on or before 24.12.2006 then the students admitted by the petitioner institutes can very well complete the course by attending the minimum number of classes in terms of 2005 Regulations framed by the NCTE. Therefore, students of the petitioner institutes are entitled to be permitted to appear in the examination to be conducted by the university commencing from 13.07.2007. It is further pointed out that the communication regarding appointment of teaching and non teaching staff was sent to the university by petitioner Nos. 2, 3 and 4 on 19.01.2007 whereas petitioner No. 1 has sent such communication on 10.01.2007. Thus, the students admitted by the petitioners have complied the requisite pre-condition of attending of classes as fixed by NCTE.

18. Dr. Balram Gupta has vehemently argued that though recognition was granted by the NCTE for the academic session 2006-07 but that recognition by itself does not permit the petitioner institutes to admit the students for the academic year 2006-07. Such recognition communicated vide Annexure P-1 was subject to the fulfillment of certain conditions and the petitioner institutes could admit students only after issuance of unconditional grant of recognition in terms of 2005 Regulations framed by the NCTE. Reference is made to 2005 Regulations No. 7.11, 7.12 and 8.12, Annexure R-1/4. The relevant clauses from the 2005 Regulations read as under:

7. Processing of Applications:

1 to 10 xx xx xx xx xx

11. The institution concerned shall be informed of the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session.

12. The institution concerned, after appointing the requisite faculty/staff, shall put the information on its official website and also formally inform the Regional Committee concerned. The Regional Committee concerned shall then issue a formal unconditional recognition letter. 13 & 14 xx xx xx xx

8. Conditions for grant of recognition:

1 to 9 xx xx xx xx xx

10. An institution shall make admission only after it obtains unconditional letter of recognition from the Regional Committee concerned, and affiliation from the examining body.

11 to 14 xx xx xx xx xx

19. On the strength of above said Regulations, it has been argued that the communication Annexure P-1 is in terms of Regulation 7.11 as the petitioners have been informed of the decision of NCTE for grant of recognition subject to the appointment of qualified faculty but such faculty members have to be appointed before the commencement of the academic session. After the appointment of the faculty, requisite information has to be sent to the Regional Committee of the NCTE and ,therefore, a formal unconditional recognition order is to be issued. In terms of Clause 8.10 of 2005 Regulations, the admission can be made only after the petitioner obtains unconditional letter of recognition from the Regional Committee of affiliation from the examining body.

20. Learned Counsel for the respondent has further referred to inspection report of petitioner No. 1 as Annexure R-1/2. The inspection report conducted by the university reads as under:

2. As per documents attached, the college Management claimed for the identification of seven lecturers but at the time of inspection only two lecturers were present. As per the qualifications laid down by university, no one is eligible to be appointed as lecturer. Moreover, so far the college has not appointed the Principal.

21. In respect of teaching faculty of petitioner No. 2, Inspection Committee reported as under:

?All the teaching and non teaching staff are qualified and offered appointments with their consent for joining the service. (All lists are attached with required proformas duly signed by the Committee constituted for inspection).

22. The inspection report in respect of petitioner No. 3 reads as under:

8. The college has identified one Principal and 7 lecturers but the resume of the identified teachers has not been submitted. However, they have enclosed herewith the offer letters of seven teachers, one Principal and requisite number of non-teaching staff. In view of the above observations, it is submitted that the college be asked to appoint teaching staff as per the latest guidelines of the University.

23. The inspection report in respect of petitioner No. 4 reads as under:

6. The college has identified one Principal and seven lecturers for teaching B.Ed. But they have not joined yet. However, the college needs to appoint the faculty through a duly constituted Selection Committee as per latest NCTE/MDU norms Non-teaching staff has also been identified but not joined.

24. On the basis of aforesaid inspection reports, it was contended by Dr. Gupta that the university has granted affiliation subject to appointment of teaching and other staff through properly constituted Committee but the information allegedly given by the petitioners does not show that the appointments have been made by associating any of the representatives of the university. The association of representative of the university in the process of selection of the teaching staff does not in any way violate the law laid down by the Hon'ble Supreme Court in T.M.A. Pai Foundation and Others Vs. State of Karnataka and Others, . In terms of T.M.A. Pai's case (supra) itself, the petitioner is to adopt a rational procedure for selection of teaching staff. It is pointed out that there is nothing on the record, either of the writ petitioners or of the university, with respect to the procedure adopted by the university in selection of the teaching staff, which can be said to be rational. Therefore, the petitioners have not complied with the conditions imposed by the university as well as by the NCTE. It is contended that in any case the students admitted by the petitioners can not complete 180 teaching days in a year which may make them eligible in terms of the norms fixed by the NCTE though, as per university regulations, the petitioner institutes are required to complete 200 teaching days. Learned Counsel for the petitioners submits that from the date of engagement of teaching faculty, the students have completed 180 teaching days by attending extra classes on Sundays and by foregoing all the holidays. It is so provided by the university in its circular dated 12.12.2006.

25. The Curriculum Transaction & Requirement of Teaching Staff is provided in Appendix -7 Clause 4 of 2005 Regulations. The relevant Regulations reads as under:

4. Curriculum Transaction and Requirement of Teaching Staff. (a) There shall be at least 150 teaching days in a year exclusive of period of admission, examination, etc. Besides, every teacher trainee shall be required to undergo internship-inteaching (including practice teaching and skill development) for at least 30 days in nearby secondary/ senior secondary schools.

26. Learned Counsel for the petitioners argued that the requirement of unconditional letter of recognition has not been insisted upon in respect of 16 other institutes in respect of which admissions were permitted to be made vide communication dated 28.12.2006 and, therefore, such condition cannot be insisted upon in respect of the petitioner institutes.

27. I have heard learned Counsel for the parties at some length. As observed earlier, I am not examining the validity of affiliation by the MD University as the action on the basis of the recommendation of the State Admission and Fee Committee is under consideration of the State Government/Chancellor of the University.

28. It is categorical stand of Shri Rajiv Atma Ram, learned Counsel for the petitioner institutes, that two processes of admission to the professional colleges are available. One through the agency of the State Government and the second in the case of group of institutes imparting same or similar education by conducting Common Entrance Test. In fact that is the correct proposition in view of the judgment in *P.A. Inamdar v. State of Maharashtra* 2005(5) S.L.R. 409 wherein it has been found that there is nothing wrong in an entrance test being held for one group of institutions imparting same or similar education. Such institutions situated in one State or in more than one State may join together and hold a common entrance test or the State may itself or through an agency arrange for holding of such test. Therefore, admission could be made by the private self financed institutes through the means of Common Entrance Test alone. In fact, the first claim of the petitioner institutes is to direct the respondents to either allocate students for admission in the petitioner colleges for the academic session 2006-07 or in the alternative permit the petitioner institutes to admit students at their own level. Normally, final examination by the affiliating university are conducted in the month of April every year. But in order to accommodate the students admitted in pursuance of the State Government directive dated 28.11.2006, the examination have been now scheduled to be held from 13.07.2007 so as to permit the students to complete teaching days as contemplated under the Regulations. Since the petitioner institutes were almost towards the end of December, 2006 and had yet to appoint the staff, the State Admission and Fee Committee was perfectly justified in declining the claim of the petitioners for admission to the current academic session. The affiliation of an institute and the admission are admittedly two separate and distinct things. Therefore, even if the petitioner institutes have been affiliated/recognized by the NCTE, that does not necessarily command that the admissions are bound to be made for that academic session itself. It is not a case of single institute. Seven institutes are in writ petition before this Court. The admissions have been made by the petitioner institutes individually out of the candidates, most of whom had appeared in the Common Entrance Test examination. But the question is whether the admissions are required to be made on merit, as determined in the Common Entrance Test, by way centralised admission or the action of the petitioner institutes in admitting the students is fair, reasonable and in order to maintain

merit. The candidates having appeared in the Common Entrance Test is not an indicative of the fact that such candidates are on merit. The interim order passed by this Court on 23.12.2006 permitted the petitioner institutes to commence and conclude the admission process for the vacant seats at their own risk and responsibility. That interim order does not absolve the petitioner institutes to comply with the mandate of the Honble Supreme Court in P.A. Inamdar's case (supra) i.e., admission on merit on the basis of a Common Entrance Test conducted by the State Government or by a group of institutes joining hands together. Since admissions have not been done in the manner authorised by law i.e., P.A. Inamdar's case (supra), the admissions made by the petitioner institutes are wholly illegal.

29. The State Government has permitted 16 private self financed unaided institutes to admit students vide communication dated 28.11.2006, Annexure P-4. In pursuance of such communication, admissions were required to be finalized on or before 15.12.2006. Admittedly, none of the students have been admitted in the petitioner institutes before the said date. In fact, the students were admitted on 26.12.2006 and in some cases on 29.12.2006. The communication Annexure P-5 is restricted to vacant scheduled castes category seats in self financed private B.Ed colleges. Vide the aforesaid letter, the colleges were not permitted to admit students against the general seats. Admission against few vacant seats meant for scheduled caste category might have a social objective to achieve but admission of 85 students in each of the four petitioner institutes at such a late stage when they cannot complete the minimum requisite standard of education of teaching days is nothing but farcical. To state that teaching days will be covered by cutting down vacations, holidays and Sundays is nothing but to complete the requirement of 2005 Regulations in paper alone. It is impossible for any student to work continuously and to attend 150 teaching days uninterruptedly. In any case, 30 days in nearby secondary or senior secondary school cannot be conceived to be available for the students of the petitioner institutes on Sundays and holidays. It is impossible for any reasonable person to comprehend that a student will have uninterrupted 180 teaching days. Persons in non-teaching faculty are also entitled to weekly rest. The students require some time to assimilate what has been taught to them and to prepare for their instructional activity required to be carried out in terms of 2005 Regulations. The university regulations provide 200 days for appearing in the examination even if the said regulations are not even alleged to be complied with. The university has no right to relax the teaching days requirement fixed by the NCTE. The provision of teaching days is nothing but a fraud devised by the concerned authorities/persons. No reasonable person can believe such stand of the petitioner institutes that the students can complete 180 teaching days before appearing for the examination.

30. Learned Counsel for the petitioners could not refer to any averment in the writ petition or in the replication that 16 other institutes were permitted to admit students without unconditional letter of recognition. Even if it is so, it will not be

mean that illegality can be perpetuated. There cannot be any discrimination in the illegality. The Regulations reproduced above categorically contemplate that admissions can be made only after unconditional letter of recognition is issued. Such unconditional letter of recognition could be issued only after the petitioners inform the engagement of faculty members to NCTE. Though the petitioners have made an averment in the replication that communication of appointment of staff has been sent to NCTE vide Annexure P-12 but the document produced as Annexure P-12 does not reflect sending of such communication to NCTE except in the case of petitioner No. 1. It was NCTE, which was to satisfy the qualifications of teaching staff in terms of Appendix VII of 2005 Regulations. Therefore, in the absence of unconditional recognition of petitioner institutes, admissions are not permissible.

31. In view thereof, I am of the opinion that the admission of the students admitted by the petitioner institutes is illegal and in contravention of 2005 Regulations framed and that such students cannot complete the requirement of the Regulations of attending minimum number of teaching days and, therefore, the respondent university cannot be forced to permit the students admitted by the petitioner institutes for final examination. It may be noticed that this Court has permitted the admission of the students with clear stipulation to the students that their admission is provisional and subject to the final decision of the writ petition.

32. In view of the above, I do not find any merit in the present writ petitions and the same are dismissed.