
(2012) 07 MP CK 0071

In the Madhya Pradesh High Court

Case No : Writ Petition No. 7668 of 2011

Sparsh Education and Welfare Society, Gwalior and Another	APPELLANT
Vs	
National Council for Teachers Education, Bhopal and Another	RESPONDENT

Date of Decision : 26-07-2012

Acts Referred:

Constitution of India, 1950 — Article 226

National Council for Teacher Education Act, 1993 — Section 15

Citation : AIR 2013 MP 10 : (2012) ILR (MP) 2412 : (2012) 3 MPLJ 590

Hon'ble Judges : Brij Kishore Dube, J;A.K. Shrivastava, J

Bench : Division Bench

Advocate : D.K. Agrawal, for the Appellant; Tapan Trivedi, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Shrivastava, J.—By this petition under Article 226 of the Constitution of India, the petitioners are seeking following reliefs :-

(i) The order dated 6-7-2011 (vide Annexure P/1) and the order dated 21-2-2011 (vide Annexure P/12) may kindly be quashed and the Respondents may kindly be directed to immediately grant recognition/issue formal letter of recognition to the petitioners for the academic session 2011-2012 for D.Ed. Courses and/or;

(ii) the respondents may kindly be directed to immediately grant recognition/issue formal letter of recognition to the petitioners for the academic session 2011-2012 for D.Ed. Course and/or;

(iii) any other relief in favour of the petitioners may also be granted, if the facts and circumstances of the case permit in the interest of justice;

(iv) the cost of this petition be allowed in favour of the petitioners.

The contention of learned counsel for the petitioners is that vide impugned order dated 13-8-2009 (Annexure P/2) passed by the respondent No. 2, the Secretary,

National Council for Teachers Education, permission was not granted to start the D.Ed. Course. This order has been affirmed in appeal by the Appellate Authority, National Council for Teachers Education (respondent No. 1).

2. By inviting our attention to section 15 of the National Council for Teachers Education Act, 1993 (in short, the NCTE Act) as well as Regulation 8(3) of Regulations 2009 framed under the said Act, it has been contended by learned counsel for the petitioners that by incorrect interpreting section 15 of the Act and particularly clause 3 of Reg. 8 of the Regulations 2009 it has been held by the respondents that petitioners are not entitled to start D.Ed. courses with effect from 2009-2010. Learned counsel submits that if clause 8(3) of the Regulations 2009 is applied in *stricto sensu*, it would reveal that since the petitioners' Institutions are recognized to carry out B.Ed, course, therefore, since additional course of D.Ed., is to be started, clause (3) of the Regulation 8 is not at all applicable. Further it has been prayed by learned counsel that even if there was some deficiency, it was imperative on the part of the respondents to call upon the petitioners to remove the discrepancies. Learned counsel submits that since no such opportunity was given by the respondents, therefore, both the impugned orders are to be set aside on this additional ground also.

3. Combating the aforesaid submissions, it has been put forth by Shri Trivedi, learned counsel appearing for the respondents that indeed the petitioners have incorrectly interpreted the aforesaid two provisions. Learned counsel by reading clause 8(3) of the Regulations submitted that "respective course" should be read in context to the Institution for whom recognition has been made and therefore the existing recognized course should have been completed for three academic sessions and, therefore, unless and until the academic session of B.Ed, course is not completed of three years, the application to start new D.Ed. course is premature. To buttress his submissions, learned counsel has invited our attention to an important document dated 21/29th October, 2008 (annexure P/9) and submitted that indeed this is a recognition order of the petitioners' Institution which recognized them to start the course of B.Ed, course from academic session 2009-2010 and thus when the application was submitted to start the D.Ed, course, the same was premature.

4. Having heard learned counsel for the parties we are of the considered view that this petition deserves to be dismissed and grievance of the petitioners is premature.

5. On bare perusal of the recognition order dated 21/29th October, 2008 (annexure P/9) it would become luminously clear like a noon day that the recognition to carry out B.Ed. course was given to the petitioners from the academic session 2009-2010 and after having completed three years academic session from 2009-2010 then only an application to start any new course of D.Ed, can be said to be matured and the petitioners can be authorized to start a new course of D.Ed. If section 15 of the NCTE Act is kept in juxtaposition to Regulations of 2009 and by paying heed to Regulation 8(3), it would reveal that

interpretation of "respective courses" envisaged in this clause would mean the recognition which has been given to a recognized course. For ready reference, we would like to quote clause 8(3) of the Regulations which reads thus :-

An institution can apply for one basic unit only of an additional course or for an additional unit of the existing recognized course after completion of three academic sessions of the respective course, for which the institution shall submit application before the cut off date prescribed for submission of applications in the year succeeding the completion of three academic sessions. Maximum intake capacity of an institution taking into consideration of all courses, along with additional intake, in any case, shall not exceed 300.

6. According to us, learned counsel for the respondents was right in his submission that order of recognition to start B.Ed. course with effect from the session 2009-2010 was never challenged by the petitioners anywhere and thus it has become final and, therefore the application of the petitioners" Institutions to start new course of D.Ed, could be given only after the completion of three academic sessions of B.Ed. course i.e. after completion of sessions 2009-2010, 2010-2011 and 2011-2012. Since the application was submitted much earlier to it, it was premature and, therefore according to us, the respondent No. 2 has rightly rejected the application and learned Appellate Authority (respondent No. 1) did not commit any error in affirming the said order. We do not find any merit in this petition, the same is hereby dismissed. However, after attaining the maturity to start new course of D.Ed., the petitioners shall be free to file fresh application and if such an application is filed, it be decided in accordance with law by paying heed to clause 8(3) of the Regulations and necessary orders in accordance with law may be passed. No costs.