
(1993) 08 KAR CK 0009
In the Karnataka High Court
Case No : W.A. No's. 1944 and 1945 of 1983

Srinivas Desai

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 24-08-1993

Acts Referred:

Constitution of India, 1950 — Article 14
Grant-in-Aid Code Rules — Rule 7, 8, 9

Citation : (1993) ILR (Kar) 2523 : (1993) 3 KarLJ 393

Hon'ble Judges : S.B. Majmudar, C.J.; S. Venkataraman, J

Bench : Division Bench

Advocate : Ravi B. Naik, for the Appellant; S.R. Nayak, Government Advocate, for the Respondent

Judgement

S.B. Majmudar, C.J.—We have heard the learned Advocates for the parties. We find that the points raised in these Appeals are entirely different from the points - raised in W.A.No. 1510 of 1993. Therefore, we disconnected W.A.No.1510/93 from this batch, and adjourned the said Writ Appeal for ten days. So far as these Writ Appeals are concerned, we are of the view that there is no case made out for interference.

2. The appellants in these Appeals wanted to start a new primary Teachers Training Institutes in the State. Therefore, they made applications for getting recognition. They submitted that they would not claim any grant from the State Government and they will run the institutions on their own. The State authorities rejected this request on the ground that there was already a policy decision taken by the State not to permit starting of new training institutions as that would hurt number of unemployed trained personnel holding the Teacher Training Certificates, and therefore, during the currency of the Eighth Five Year Plan, no new Training institutions should be recognised, The learned single Judge, before whom these two Writ Petitions were argued after hearing the parties took the view following several Decisions of the Supreme Court, that there is no

fundamental right of any one to claim that he would like to teach students and run such training courses. The Judgment of the Constitution Bench of nine Judges of the Supreme Court in UNNIKRIISHNAN AND ORS. v. STATE OF ANDHRA PRADESH, W.P(C) No. 607 of 1992 etc. was pressed into service. In para-69 of the Report, it has been held by the Supreme Court that the right to establish an educational institution does not carry with it the right to recognition or the right to affiliation. Following the earlier Decision in The Ahmedabad St. Xavier's College Society and Another Vs. State of Gujarat and Another, it has been held uniformly by all the nine learned Judges that there is no fundamental right to affiliation.

3. The argument of the learned Counsel for the appellant is that recognition can be refused only on the grounds which are laid down by the Grant-in-aid Code for Primary Teachers Training Institutions promulgated by the State of Karnataka itself. He invited our attention to Rules 7, 8 and 9 of Chapter III thereof, which read as under:

"7. Procedure for starting and recognition: (i) Applications for starting a teachers' Training Institution shall be made in Form No. 1 to the Director of Public Instruction through the Joint Director of Public Instruction of the Division before December of the year previous to that in which the institution is proposed to be started.

(ii) Such application shall be disposed off by the Joint Director of Public Instruction and the Director together within 3 months from the date of receipt of the application and a communication shall be sent to the management intimating whether the permission to start the institution has been granted or otherwise. In the event of refusal of permission to start the institution, reasons for refusal shall be communicated to the management.

(iii) In no case shall an institution be started without the previous permission of the Department. Recognition and aid shall not be granted to an institution, which has been started without previous permission.

8. General conditions for starting of new Institutions: While disposing off the applications for grant of the permission to start an institution, the following factors shall be kept in view:

(a) That the institution is open to all communities without any distinction of Caste, Creed, Race or Religion.

(b) That there is need for an institution in a locality and without involving any unhealthy competition with an existing institution of the same category in the neighbourhood if any.

(c) That the management should provide a suitable building either of its own or rented with class rooms having minimum dimensions of 20"x25" a Drawing Hall, a Science Laboratory and Assembly Hall, Library and Reading Room, Craft room, Office room for Principal/Superintendent and staff room and sanitary block, etc.

In special cases the teachers' educational institutions may meet by shifts in buildings meant for High Schools, or other institutions provided the work of the institution is not dislocated or made to suffer to the satisfaction of the Department.

(d) The minimum strength for starting a Primary Teachers' Educational Institution is 40 in each class or section but this number should in no case exceed 50 per class or section. The minimum average attendance required for purposes of grant shall not be less than 35 per section or class.

9. General conditions for recognition: Educational Institutions may be admitted for purposes of recognition by the Department provided they satisfy the Department with regard to:

1. Need for the institution.
2. Well-ventilated premises.
3. Equipment
4. Syllabus and text books.
5. Number of teachers of the Institution.
6. Financial resource of the Institution.
7. Conforming to the rules set forth in this Code.
8. Presenting pupils for the examination conducted by the Department.

Note: Recognition of an institution does not automatically confer any right on the institution to claim grant-in-aid".

On a conjoint reading of these Rules, it is submitted that the recognition can be refused only on any of these grounds and not on irrelevant ground like a general policy decision. It is difficult to agree with this contention. The reasons are obvious. Firstly, the Grant-in-Aid Code Rules are in the nature of executive instructions which are promulgated for the purpose of regulating the recognition of the Teacher Training Institution for the purpose of grant. But, even that apart, the second aspect of the matter is that as there is no fundamental right to run such institutions, no party can insist that it must be permitted to run such an educational institution without obtaining any grant under the Grant-in-Aid Code Rules. When there is a policy decision taken by the State on a uniform basis, the question would be whether such policy decision would stand the test of Article 14 of the Constitution of India. As the State is bound to comply with the requirement of Article 14, that grievance of the appellant has to be examined. When the State looking to the needs of such institutions in the State, takes a decision not to permit new institutions for some time, during the currency of the Eighth Five Year Plan, it cannot be said that the State is acting arbitrarily or in an irrational manner. Even that apart, Rule 9 of the Grant-in-Aid Code for Primary Teachers Training Institutions, on which reliance was placed by the learned

Counsel for the appellant, itself says that one of the conditions for recognition is to satisfy the Department by the Institution with regard to need for the institution. If, according to the State, there is no need for such new institutions presumably because there are sufficient number of unemployed persons holding Teachers Training Certificates, it cannot be said that the State by putting such an embargo, has acted in an arbitrary manner. In fact, this policy decision itself says that there is no need for these institutions in the State for some time. Under these circumstances, it cannot be held that the decision of the State in rejecting permission to the present appellant to start a new training institution in the State, is hit by the provisions of Article 14 of the Constitution of India, or that it is an irrational decision; nor can it be said to be contrary to the scope and ambit of the Grant-in-Aid Code.

4. Learned Counsel for the appellant lastly submitted that the students who were admitted by the appellant-institution, pending consideration of the application for recognition, are already given a sympathetic treatment by the State authorities and these students are being admitted through other recognised institutions, so that they may be permitted to appear for the examination. He submitted that in view of this sympathetic attitude of the State authorities, the direction issued by the learned single Judge in the impugned order at paragraph 23, may result in the State authorities withdrawing this concession or sympathetic treatment. It is true that in para-23 of the impugned order, it has been stated that the students who have been admitted by the petitioner-Society are not eligible to sit for any of the ensuing examination to be conducted for the respective academic year for which approval or recognition was sought by the appellant-Society, in our view, these observations will only cover the case where the appellant-Society itself wants to offer its students for the ensuing examination, and it would obviously not come in the way of any other recognised institution which offers them for examination and whatever sympathetic treatment they extend, will not in any way be affected by the observations made at para-23 of the impugned Order.

5. For the foregoing reasons, we do not see any ground to interfere with the impugned order of the learned Single Judge. Therefore, subject to the aforesaid clarification, these Writ Appeals are dismissed.