

(1997) 08 MAD CK 0039

In the Madras High Court

Case No : Writ Appeal No. 929 of 1997 and C.M.P. No. 10413 of 1997

St. Stephens Teacher Training Institute

APPELLANT

Vs

The Director of Government Examinations and Another

RESPONDENT

Date of Decision : 11-08-1997

Acts Referred:

Constitution of India, 1950 — Article 226

National Council for Teacher Education Act, 1993 — Section 14, 16

Citation : (1997) 2 CTC 700 : (1997) 3 LW 31 : (1997) 3 LW 1 : (1998) 1 MLJ 66

Hon'ble Judges : M.S. Liberhan, C.J.; D. Raju, J

Bench : Division Bench

Advocate : R. Ghandhi, for N. Paul Vasantha Kumar, for the Appellant; D. Murugesan, A.G.P. and S. Udayakumar, Addl. Central Government Standing Counsel, for the Respondent

Judgement

M.S. Liberhan, C.J.—Learned counsel for both sides agree that at this stage the writ appeal and the civil miscellaneous petition be disposed

of by a common judgment on merits.

2. In order to dispose of the question raised i.e., whether in view of Section 14 of the National Council for Teacher Education Act 1993, herein

after called the "Act", a deemed recognition would not confer a right on the petitioner to continue with the institution and make it incumbent for the

respondents to permit those students to take examination. It does not debar the respondents holding the Examination with respect to above

referred institution.

3. Concedingly the petitioner-institution was given a temporary recognition before the Act came into force. The said temporary recognition

continued when the Act came into force. On the premises of the temporary

recognition, the petitioner admitted the students to the course, imparted training. The petitioner in terms of the Act applied for recognition within the stipulated period of six months. The Regional Committee has still not disposed of their application i.e., an application is still pending.

4. In view of the facts stated, in order to appreciate the contention raised, it would be expedient to notice the provisions of Section 2 Sub-section

(1) of Section 14 and Section 16 which respectively runs as under:

14. Recognition of institutions offering course of training in teacher education:

(1) Every institution offering or intending to offer a course or training

in teacher education on or after the appointed day may, for grant of recognition under this Act, make an application to the Regional Committee

concerned in such form and in such manner as may be determined by regulations.

Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue

such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the

application by the Regional committee.

(2) The fee to be paid along with the application under Sub-section (1) shall be such as may be prescribed.

16. Affiliating body to grant affiliation after recognition or permission by the council. Notwithstanding anything contained in any other law for the

time being in force, no examining body shall, on or after the appointed day,-

(a) grant affiliation, whether provisional or otherwise, to any institution; or

(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognised institution unless the institution has

obtained recognition from the Regional Committee concerned, u/s 14 or permission for, a course or training u/s 15

5. The learned counsel for the respondents vehemently argued that the word "provide" by Section 16 the word "recognised" means factually in

reality recognition unless and until final recognition given by the Regional Committee, the first respondent is debarred from holding an examination

or grant affiliation, whether provisionally or otherwise, for a course or training conducted by the temporarily recognised institution i.e., petitioner.

6. On a reading of Section 14, quintessential for recognition of an institution offering course or training in teacher education are:-

(i) every institution offering or intending to offer a course or training after the appointed day would apply for recognition under the Act. (2) The

application would be made to the Regional Committee in the prescribed form and in the prescribed manner determined by the regulations. (3)

During the interim period, institutions recognised and offering course before the appointed day would be entitled to continue, provided the

application is made within six months of the Act coming into force of the act, for recognition. (4) The recognition shall be deemed to continue for a

period of six months or till the disposal of the application by the Regional committee whichever is earlier.

7. Concedingly the application was made within the stipulated period and has not been decided. It is categorically discernible from reading of

Section 14, that it provided for a deemed recognition i.e., in case of the institution which were already recognised before the coming into force of

the Act, it would continue as such for six months, during which one is required to apply for recognition till the disposal of the application by the

Regional Committee if applied with the period provided by the Act. Thus it provides a statutorily deemed recognition of the institution during the

pendency of the application before the Regional Committee. It is the recognised principle of interpretation of statutes that provisions of legislation

are to be read in consonance with each other so that they may be operative in their respective field and will not render any statutory provision as

obsolete. Deemed recognition has to be given its logical meaning. Consequently in our view the only interpretation which is comprehensible is, that

for the purposes of Section 16 the deemed recognition provided by Section 14 shall have to be taken as recognised institution till it is either refused

or any other order passed by the Regional Committee. In case interpretatively held that during the pendency of application, it would be deemed to

be "refused" it would run contrary to the express provisions of Section 14, protection provided for six months or till the date of the decision of the

application by the Regional Committee by the proviso to Section 14 would be rendered as obsolete. The students having already studied in a

recognised school would be let high and dry, and this time spent in studies would go waste which cannot be said to be either the object of the Act

or could be the intention of legislation. In ordinary course legislature does not denude a person of what one has already acquired, which is not the object of the act. The institution as well as recognition is meant for the students. It cannot be said that the institution may go on gathering benefits like aid etc., and the students for whose benefit such benefits are conferred by the state on the institution would not be there, to reap its fruits. It is uncomprehensible. In view of the observations made above the respondents are directed to permit the students to take the examination and would continue treating the petitioner institution as recognised till this application for recognition is finally disposed of by the Regional Committee.

8. In view of the facts and circumstances of the case brought to our notice the Regional Committee is also expected to act within a reasonable period. Almost one year and 7 months have passed by without any decision having been taken by the Regional committee which runs contrary to the spirit of the section which envisaged the disposal of the application for recognition ordinarily within six months. In view of this, the Regional committee is directed to decide the application for the recognition of the petitioner within three months from today by passing a speaking order. In view of the order passed, if the petitioners have not been permitted to take examination on account of no fault of theirs, the interests of justice demands in view of facts and circumstances noticed above that the respondents be directed hold supplemental examination for the petitioner. Thus the respondents are directed to hold the examination in accordance with the Rules within three months from today. The writ appeal is disposed of accordingly.

It is made clear that the respondent will be at liberty to check the credentials and the eligibility of the students alleged to be taking training in those colleges. Consequently C.M.P. 10403 of 1997 is also disposed of.