

(2015) 11 KAR CK 0191

In the Karnataka High Court

Case No : W.P. Nos. 20219-20319 of 2015 and 22206-22306 of 2014 [EDN-EX]

St. Stephens Teachers College and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 09-11-2015

Acts Referred:

Karnataka State Universities Act, 2000 — Section 59(11), 63(11)

Citation : (2015) 11 KAR CK 0191

Hon'ble Judges : Ashok B. Hinchigeri, J.

Bench : Single Bench

Advocate : D. Pavanesh, Advocate for M.S. Bhagwat, Advocate, for the Appellant; E.S. Indires, HCGP, for the Respondent

Final Decision : Disposed Off

Judgement

Ashok B. Hinchigeri, J.—Petitioner Nos. 2 to 101 in both the batches of writ petitions are admitted to the B.Ed Course at the first petitioner College for the academic years 2013-2014 and 2014-2015. They are seeking the writ of mandamus to the second respondent Bangalore University to grant affiliation to the first petitioner College for the B.Ed. Course for the said academic years.

2. Sri Pavanesh. D, the learned counsel appearing for Sri M.S. Bhagwat for the petitioners submits that it is not in dispute that the first petitioner has the recognition of National Council for Teacher Education (NCTE). He submits that the first petitioner College was started in the year 2005-2006 after obtaining the affiliation from the Bangalore University. In the academic year 2010-2011, there were no students admitted to the first petitioner College. In the next academic year (2011-2012), the first petitioner sought to restart the B.Ed Course. It therefore sought the renewal of affiliation. Complaining of the inaction in the matter, the first petitioner filed W.P. Nos. 14961-14994/2012, which, by its order, dated 18.10.2012 came to be disposed of with a direction to the Bangalore University to renew the affiliation for the academic year 2011-2012 without any further delay. He submits that despite the Court order, the affiliation was not

granted by the Bangalore University. He submits that in the succeeding academic year also, that is, 2012-2013, the first petitioner's application for the grant of affiliation has remained unconsidered. The first petitioner College and the students admitted for the academic year 2012-2013 filed W.P. Nos. 21211-21311/2013, which came to be disposed of by this Court, by its order, dated 6.6.2013 directing the Government that a decision in the matter of the grant of affiliation for the academic year 2012-2013 be taken in accordance with law within three weeks.

3. It is the grievance of Sri Pavanesh that no orders are passed on the first petitioner's request for affiliation. He submits that for the academic year 2013-2014 also, pending the issuance of affiliation order, the first petitioner admitted 100 students (petitioner Nos. 2 to 101 in W.P. Nos. 22206-22306/2014) to the B.Ed Course. The first petitioner did the same thing for the next academic year, that is, 2014-2015 by admitting petitioner Nos. 2 to 101 in W.P. Nos. 20219-20319/2015.

4. The learned counsel submits that the Government has already recommended the grant of affiliation to the first petitioner College for both the academic years, as is evident from the letters, dated 12.3.2014 (Annexure-K in W.P. Nos. 22206-22306/2014) and 19.3.2015 (Annexure-K2 in W.P. Nos. 20219-20319/2015).

5. Sri Pavanesh submits that the petitioning students in W.P. Nos. 22206-22306/2014 appeared for the first semester of B.Ed. examination pursuant to the interim order, dated 3.6.2014. He further submits that the petitioner Nos. 2 to 101 in W.P. Nos. 20219-20319/2015 appeared for the first semester of B.Ed. examination pursuant to the interim order, dated 26.5.2015. He submits that the results of the petitioner Nos. 2 to 101 in W.P. Nos. 22206-22306/2014 are declared and that the statement of marks are also issued to them. He further submits that the University permitted the petitioners to appear for the second semester examination on its own and that the results are also announced and that the statement of marks of the second semester examination are also issued.

6. The learned counsel on being asked as to how it could have admitted the students without the University's affiliation order, he submits that the first petitioner undertakes not to repeat the same practice.

7. Sri M. Keshava Reddy, the learned counsel appearing for the respondent Bangalore University in W.P. Nos. 20219-20319/2015 submits that the first petitioner has not even made any application either for the renewal or for the grant of fresh affiliation. He submits that in any case, the question of renewing the affiliation does not arise, as the first petitioner College did not have the affiliation from the academic year 2010-2011.

8. Sri N.K. Ramesh, the learned counsel appearing for the respondent Bangalore University in W.P. Nos. 22206-22306/2014 submits that the petitioning students

have appeared for the examination by virtue of the interim order.

9. On being asked as to why the University has announced the results and issued the statement of marks, he has no cogent explanation, but he would only submit that whatever is done is only of provisional nature.

10. Sri E.S. Indires, the learned Government Pleader appearing for the first respondent State in both the batches of writ petitions submits that the letters, dated 12.3.2014 (Annexure-K in W.P. Nos. 22206-22306/2014) and 19.3.2015 (Annexure-K2 in W.P. Nos. 20219-20319/2015) cannot be construed as the recommendations of the Government under Section 59(11) of the Karnataka State Universities Act, 2000 ("the said Act" for short). He submits that the exercise of power by the State Government would arise only after holding the enquiry on the recommendations of the Local Inquiry Committee, the Academic Council and the Syndicate, which did not appear to have taken place in this case.

11. The submissions of the learned counsel have received my thoughtful consideration. The interim order granted on 3.6.2014 was only for permitting the petitioning students to appear for the ensuing examination of the first semester as notified by the notification, dated 14.3.2014 (Annexure-N in W.P. Nos. 22206-22306/2014). There is no direction to announce the results, much less to issue the statement of marks. Besides, there is no further direction to the University to permit the petitioning students to appear for the second semester examination. The University has not made any application for vacating the interim order nor it has filed any objections to the petitions. The University has acted on its own in announcing the results of the petitioners, issuing the statement of marks and also in permitting them to appear for the second semester examination. The students have already passed out of the first petitioner College one year ago. Now it is not feasible, if not possible, to put the clock back.

12. Considering the said subsequent developments, I do not think anything more is required to be done in W.P. Nos. 22206-22306/2014. The said writ petitions are disposed of recording the subsequent developments.

13. I am now left with examining the petitioners' case for the issuance of a direction to the University to grant affiliation for the academic year 2014-2015.

14. Admittedly, the first petitioner has not made any application for the renewal of affiliation or for the grant of fresh affiliation for the academic 2014-2015 in the prescribed form. In the absence of prescribed application form, the respondent University cannot be directed to grant the affiliation. The prayer in W.P. Nos. 20219-20319/2015 is not at all accedable. But the question is whether any relief can be given to the petitioner Nos. 2 to 101, who were admitted to the B.Ed. Course at the first petitioner College for the academic year 2014-2015. They have also appeared for the first semester examination in June 2015. The results of the said examination are not announced. I.A. No. 1/15 is filed in these petitions for a direction to the University to announce the results. They also want

to appear for the second semester examination of B.Ed. Course, which is scheduled to take place in December 2015.

15. Writ Petition Nos. 20219-20319/2015 are disposed of with the following directions:--

"i) The respondent University shall examine whether the petitioner Nos. 2 to 101 meet the eligibility criteria for being admitted to B.Ed. Course. If they are not meeting the eligibility criteria, their admission proposals are to be rejected.

ii) The respondent University shall examine whether they meet the minimum prescribed attendance required to appear for the examination of those students, whose admissions are approved.

iii) Such of the students who are found to be eligible to be admitted to the Course and who have the requisite attendance alone would be entitled to have the results of the first semester examination of B.Ed. Course declared.

iv) Such of the students whose admissions are approved shall be transferred by the respondent University to any recognised and affiliated college. For the limited purpose of transferring the students from the first petitioner College, the University shall treat the first petitioner College as a disaffiliated College and exercise the power conferred by Section 63(11) of the said Act.

v) I impose the deterrent costs of Rs. 2,00,000/-, that is, Rs. 1,000/- per petitioner ($200 \times 1000 = 2,00,000/-$), on the first petitioner College. The costs shall be paid by the first petitioner College to the respondent University in ten days" time. The respondent University has to take such measures as are necessary to ensure that the first petitioner does not recover the amounts towards the costs from the petitioning students, namely, petitioner Nos. 2 to 101 in both the batches of writ petitions (W.P. Nos. 20219-319/2015 and 22206-22306/2014).

vi) In view of the disposal of the main matter, I.A. No. 1/15 in W.P. Nos. 20219-20319/2015 is dismissed as having become unnecessary.

vii) The first petitioner College is directed not to admit any students to the B.Ed. Course for the succeeding academic years without the affiliation of the University. It shall file an affidavit with this Court undertaking to abide by this direction within ten days from today, after furnishing a copy of the affidavit to Sriyuths M. Keshava Reddy and N.K. Ramesh, the learned counsel appearing for the respondent Bangalore University."

For ascertaining the compliance with the directions given hereinabove, the Office is directed to list these disposed of petitions on 23.11.2015.