

(2017) 01 AP CK 0024

In the Andhra Pradesh High Court

Case No : Writ Appeal Nos. 1047, and 2016

State of Telangana,

APPELLANT

Vs

KRK Reddy Educational Society

RESPONDENT

Date of Decision : 06-01-2017

Acts Referred:

Andhra Pradesh Education Act, 1982 — Section 20

Citation : (2017) 2 ALT 272

Hon'ble Judges : Ramesh Ranganathan, ACJ. and Sri A. Shankar Narayana, J.

Bench : Division Bench

Advocate : Additional Advocate General (TG), for the Appellant; M/s. S. Sai Ram, Ch. Jagannatha Rao SC for Osmania Uni), A. Abhishek Reddy, Smt. G Jhansi, Krishna Murthy Vidulu, A. Venkateshwara Rao, S. Girimoji Rao, K. Ramakanth Reddy, Nasib Afshan, P. Pandu Ranga Reddy, Counsel, for the Respondent

Final Decision : Disposed Off

Judgement

Sri A. Shankar Narayana, J.—The State of Telangana, by its Principal Secretary, Higher Education, Telangana State Council of Higher Education and the Director of School Education, who are respondents in the writ petitions are the appellants in the present appeals.

2. KRK Reddy Educational Society, KRK Reddy College of Education, Kamala Smaraka Vidya Samithi and K. Narayana Memorial College of Education are petitioners in W.P. No.27238 of 2016 and Iqballunisa Memorial Trust, Alexnder B.Ed. College and Mohammed Abdul Samad are petitioners in W.P. No.24488 of 2016 and similarly either the societies or the colleges are the petitioners in other writ petitions. (a) The Osmania University by its Registrar and the Convenor Admissions (Ed-CET 2016), College of Education, Osmania University Campus are respondents in writ petitions.

3. W.A. Nos.1047, 1434, 1435, 1438, 1441, 1443, 1444 and 1446 are directed against the common order dated 16.09.2016 rendered by the learned Single

Judge in W.P. Nos.26870, 27413, 27309, 26870, 26906, 27406, 27226 and 27401 of 2016, and W.A. No.1292 of 2016 is directed against the order dated 13.10.2016 in W.P. No.24488 of 2016 covered by the common order dated 16.09.2016 in W.P. No.26870 of 2016 and batch.

4. For the sake of convenience, hereinafter, the appellants herein are referred to as "State" and the respondents as "societies/colleges".

5. Questioning the order passed by a learned Single Judge of this Court granting mandamus declaring the action of the State in not including the societies/colleges into the process of counselling for allotment of students in B.Ed. course for the academic year 2016-17 for want of grant of permission by the State under Section 20 of the Telangana Education Act, 1982 (for short "Act, 1982") as adapted by the State and the Universities concerned and the consequential direction to grant affiliation as arbitrary, illegal, contrary to the provisions of The National Council for Teacher Education Act, 1993 (for short "NCTE Act") and the National Council for Teacher Education (Recognition Norms and Procedure) Regulations 2014 (for short "Regulations 2014"), and granting consequential direction to include the societies/colleges into the process of counselling for B.Ed. course for the academic year by duly granting affiliation to the societies/colleges in view of the recognition granted by The National Council for Technical Education (for short "NCTE"), the present writ appeals are preferred.

6. In all the writ petitions, identical reliefs are sought for.

7. The learned Additional Advocate General and the learned counsel for the societies/colleges have referred to the fact-situation occurring in W.A. No.1047 of 2016 which is directed against that portion of the common order dated 16.09.2016 in W.P. No.26870 of 2016 and batch; therefore, we incline to refer to the fact-situation occurring in W.A. No.1047 of 2016.

8. The learned Single Judge referred to the contentions of the societies/colleges, resistance offered by the State and to resolve the controversy, formulated the point for consideration thus:

"Whether, having regard to the provisions of the NCTE Act, 1993, it is open to the State Government of Telangana to take a stand that there is no need to grant permission to new B.Ed. colleges such as the petitioner colleges in view of Section 20 of the Telangana Education Act, 1982?"

9. The learned Single Judge referred to the law declared by the Hon^{ble} Supreme Court in State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (2006) 9 SCC 1, that the field of Teacher Education System in the country is fully and completely occupied by the NCTE Act; that it is covered by Entry 66 of List - I of Schedule VII of the Constitution of India; that it is not open to the State Legislature to encroach upon the said field; that the parliament could have alone exercised the power by making appropriate law and it is not open to any State to refuse any permission relying on a State Act or on "policy

consideration" and that neither the State nor a University can, on the basis of local conditions or State Policy, refuse permission or overrule the decision of the NCTE. The learned Single Judge extracted what has been observed in paragraph Nos.63 and 74.

10. The learned Single Judge then referred to the ruling in *Self-Financing Rural Engineering College Managements Association v. All India Council for Technical Education* 2005 (5) ALT 547 by the Hon'ble Supreme Court, that the representatives of the State have to be included in the decision making process under The All India Council for Technical Education Act, 1987 (for short "AICTE Act") as well and the final decision rests with The All India Council for Technical Education (for short "AICTE"); that it is the prerogative of AICTE to approve or not to approve establishment of a new college but it is bound to consider the view of the State; that once the AICTE/NCTE has decided to permit new colleges, the State cannot question it and decline to consider the applications on the ground that it is of the view that there is no necessity for the other new colleges or on the ground that the faculty employed by the colleges are not qualified.

11. The learned Single Judge also referred to the decision in *Rungta Engineering College, Bhilai v. Chhattisgarh Swamy Vivekananda Technical University* (2015) 11 SCC 291, wherein the Hon'ble Supreme Court held that the field of "determination of standards in institutions for higher education or research and scientific and technical institutions" is exclusive to Parliament and any law made by the Parliament referable to the said field is paramount; that after coming into operation of the Central Government, the provisions of any other State law overlapping on the area covered by the Central Act will be deemed to have become unenforceable and the State Legislature cannot stipulate norms of higher standards even in those areas which are covered by the AICTE; that the State could not have a policy outside the AICTE Act and indeed if it had a policy, it should have placed the same before the AICTE and that too before the latter granted permission.

12. The learned Single Judge then placed reliance on yet another decision of the Hon'ble Supreme Court in *Bharatia Education Society v. State of H.P.* (2011) 4 SCC 527 and the expression that the NCTE is required to satisfy itself about the adequate financial resources, accommodation, library, qualified staff and laboratory for proper functioning of an institution for a course or training in Teacher Education; when recognition is granted by the NCTE, it is implied that the NCTE had satisfied itself on those aspects and consequently, the examining body may not refuse affiliation on the ground that the institution does not have adequate financial resources, accommodation, library, qualified staff or laboratory required for proper functioning of the institution.

13. The learned Single Judge referring to the object of establishment of NCTE being, to achieve planned and coordinated development of Teacher Education System through out the country, the regulation and proper maintenance of norms and standards of Teacher Education System and for matters connected

therewith, opined that once the NCTE had granted recognition, it is deemed and implied that it had satisfied itself that the institution has adequate financial resources, accommodation, library, qualified staff and the laboratory required for proper functioning of the institution for course or training in Teacher Education.

14. In answering the contentions advanced by the State, the learned Single Judge observed that it is not open to the State now to refuse permission to B.Ed. courses set up by the respective societies/colleges on the ground that there are no adequate qualified teachers to impart Teacher Education in these colleges and to refuse permission to the societies/colleges on the ground that opening of new college will not be in the interest of students, once the NCTE had granted recognition to such B.Ed. Colleges; that it was open to the State to place the said consideration before the NCTE granted recognition to the societies/colleges, but it is not open for the State to raise such a plea after the said recognition granted by the NCTE, and agreeing with the stand taken by the societies/colleges that the respective Universities situated under the A.P. Universities Act 1991, as adapted by the State of Telangana, are not obligated under the said legislation to await the Government Order for undertaking their statutory duty of granting affiliation to the colleges, which are granted recognition by the NCTE, and such deference by the respective Universities by the State is contrary to the provisions of the NCTE Act and the Regulations framed thereunder and amounts to abdication of statutory power vested in them without sanction of law, allowed the writ petitions granting the reliefs requested by them.

15. Grounds raised in all these appeals are almost identical and suffice it to refer to the grounds agitated in W.A. No.1047 of 2016 for disposal of all these appeals.

16. The State would contend that Section 20(1) of the Act, 1982 stipulates that the competent authority, shall, from time to time, conduct a survey to identify the education needs of the locality under its jurisdiction and notify in the prescribed manner through the local news papers calling for applications from the educational agencies desirous of establishing educational institutions; Section 2(18) of the Act, 1982 includes institutions offering or intending to offer a course or training in Teacher Education also; there is no provision in the NCTE Act enabling the Central Government to make any assessment about the need for providing course or training in Teacher Education to the pupil in the locality; Section 14 of the Act, 1982 enables the NCTE to grant recognition for Teacher Education, if it is satisfied that such institution has adequate financial resources, accommodation, laboratory, qualified staff, library and fulfils such other conditions required for proper functioning of the institution for all courses or training in Teacher Education as may be prescribed by the regulations from time to time under the NCTE Act; regulations did not touch upon the aspect relating to educational needs in providing a course or training in Teacher Education in a locality, and therefore, it cannot be said that the State's jurisdiction to grant permission for establishing educational institutions including the institution offering or intending to offer a course or training in Teacher Education is affected

in any way in so far as it relates to making of its assessment for providing such educational institution facilities for the people in the locality.

17. The State would contend that the learned Single Judge overlooked the fact that Section 20 of the AP Act does not in any way encroach upon the powers of the authorities under the Central Act as Section 20 of the Act, 1982 says that the competent authority shall, from time to time conduct a survey to identify the educational needs of the locality under its jurisdiction notified through the local newspaper calling for applications from the educational agencies and Section 20(3)(a)(i) of the Act, 1982 provides that before permission is granted, the authority concerned must be satisfied that there is need for providing educational facilities to the people in the locality which, the State authorities alone can decide about the educational facilities and needs of the locality, and, if there are more colleges in a particular area, the State would not be justified in granting permission to one more college in that locality and Entry 25 of the Concurrent List gives power to the State Legislature to make laws regarding education including technical education.

18. The State would submit that the learned Single Judge is not correct in holding that the State cannot question the decision of the NCTE on the ground that the faculty employed by the colleges are not adequately qualified teachers to impart Teacher Education.

19. Referring to the ruling of the Hon'ble Supreme Court in *State of Rajasthan v. LBS B.Ed. College* 5 C.A. No.9193 of 2016 (arising out of SLP (C) No.22637 of 2015), would contend that even after recognition is granted by the NCTE, the State has power to withhold granting permission, when it finds that an unacceptable mistake has been committed by the NCTE, as the NCTE approved the faculty which is not eligible as per their own norms, since they do not have experience as prescribed in the NCTE Regulations, 2014 and since a qualified faculty is the most crucial requirement to run the colleges properly, non-compliance thereof is detrimental to the welfare of the students community, and the learned Single Judge, somehow, overlooked the intention of the societies/ colleges, to start the college of education for monetary gains and not for the welfare of the students community, whereas the State is eager to protect the students community from such commercial institutions, and, therefore, to hold that the order of the learned Single Judge is unsustainable in law and liable to be interdicted and sought to set it aside.

20. We have heard the arguments advanced by the learned Additional Advocate General appearing for the State (appellants - respondents), and Sri S. Sri Ram, Sri A. Abhishek Reddy, Sri P. Pandu Ranga Reddy, Sri K. Ramakanth Reddy, and Smt. G. Jhansi, learned counsel for the societies/colleges; Sri Ch. Jagannatha Rao and Ms. Naseeb Afshan, learned standing counsel for Osmania University; and perused the material on record.

21. The learned Additional Advocate General while reiterating the submissions

made before the learned Single judge, also would submit that in the present case, the societies/colleges, render ineligible for noncompliance of substantive condition imposed by the NCTE, as it failed to satisfy the requirement of having a faculty with adequately qualified teachers and, therefore, in approving the faculty, the NCTE committed an unacceptable mistake as declared by the Hon''ble Supreme Court in LBS B.Ed. College .This has been the principal submission made by the learned Additional Advocate General.

22. Per contra, Sri S. Sri Ram, learned counsel for the societies/colleges, would submit that the societies/colleges have satisfied the pre-requirement of qualified staff being appointed which satisfies the requisite Norm 5 of APPENDIX - 4 dealing with Norms and Standards for Bachelor of Education programme leading to the Bachelor of Education (B.Ed) Degree appended to the NCTE (recognition norms and procedure) Regulations, 2014.

23. We would like to advert to the present controversy sometime later after referring to certain relevant facts culled out from the material placed in W.P. No.27238 of 2016, from which W.A. No.1047 of 2016 arises.

24. NCTE has issued public notice on 30.05.2015, inviting applications for recognition of Teacher Training Programmes for the academic year 2016-17 mentioning certain other formalities to be complied with.

25. The Registrar, Osmania University, addressed a letter dated 30.06.2015, to the Secretary/Correspondent, stating that the Osmania University has no objection for starting a new B.Ed. College viz., K. Narayana Memorial College of Education subject to approval from the State and the NCTE and that a No-objection Certificate in the format prescribed by the NCTE was enclosed thereto.

26. On 20.07.2015, the Regional Director of the NCTE addressed a letter to the Secretary to the Government, Education Department, mentioning the subject thus:

"Recommendation of the State Government in respect of application received by SRC-NCTE for recognition of Teacher Education Course - Reg."

27. Through the said letter, NCTE requested the Secretary to Government, Education Department to furnish the recommendations of the State to the Regional Committee within the time stipulated.

28. The Director of School Education through his letter, dated 20.08.2015, issued proceedings requiring the Regional Joint Director of School Education, Warangal to examine the proposal in respect of K.R.K. Reddy College of Education in detail and furnish specific recommendations.

29. The NCTE through the Southern Regional Committee granted recognition to KRK Reddy College of Education, Ranga Reddy District for conducting B.Ed. course/programme with two years duration with an annual intake of 50 students, subject to fulfilment of conditions mentioned therein. Certain other relevant

details in arriving at such satisfaction, touching the fulfilment of requirements under the provisions of the NCTE Act including the norms and standards for the Teacher Education programme are mentioned therein.

30. A Corrigendum was issued dated 26.05.2016 to the order mentioned in the above dated 03.03.2016 as to formal recognition of KRK Reddy College of Education.

31. The Correspondent of the said KRK Reddy Educational Society addressed a letter to the Principal Secretary, Department of Education on 07.05.2016, requesting to issue Government Order for new B.Ed. College viz., KRK Reddy College of Education for its establishment/ commencement. Then, the Director of School Education addressed to the Regional Joint Director of School Education requesting to examine the proposal and furnish report in respect of KRK Reddy College of Education dated 04.06.2016. A report was submitted by the Regional Joint Director on 02.07.2016, to the Director of School Education, as asked. The Correspondent, KRK Reddy Educational Society addressed a letter dated 29.07.2016, to the Registrar (Academic), Osmania University, stating that they have submitted an application to the Principal Secretary, Ministry of School Education seeking Government Orders permitting the Osmania University to grant fresh affiliation and even after completing inspection and all other due procedure, the application was still pending with the Principal Secretary, School Education and even the first phase of Ed.CET counselling for 2016-17 was over and the second phase is also going to be conducted shortly. This appears to be the stage at which the societies/colleges have approached this Court for the relief they sought.

32. Thus, it is clear that the NCTE through its Southern Regional Committee has given recognition to these societies/colleges for starting /commencing B.Ed. course for the academic year 2016-17 and despite completion of other formalities, it appears that the matter has been pending with the State in granting permission.

33. The controversy in this batch of appeals, thus, relates to whether the State and the University have power to withhold requisite permission and grant of affiliation?

34. The learned Additional Advocate General places reliance in LBS B.Ed. College to fortify his submission that the State has got every power to withhold the permission being granted even after, the NCTE grants recognition to an institution, on the main ground that there was an unacceptable mistake committed by the NCTE in approving the faculty without adequately qualified teachers as per its own norms as prescribed by the NCTE Regulations 2014. Answering the said submission, the learned counsel for the societies/colleges would contend, firstly, that the NCTE, having satisfied with the faculty, granted recognition; second, the Hon"ble Supreme Court in LBS B.Ed. College has expressed that the State has a limited say and that final authority rests with the

NCTE. The learned counsel also would place reliance on the rulings in Self-Financing Rural Engineering College Managements Association, Maa Vaishno Devi Mahila Mahavidyalaya v. State of Uttar Pradesh and others (2013) 2 SCC 617 and Rungta Engineering College.

35. The learned Single Judge since referred to the rulings in Self-Financing Rural Engineering College Management Association, Rungta Engineering College, we are of the view that it is unnecessary to refer to the principles laid down therein once again.

36. Turning to other rulings, in Maa Vaishno Devi Mahila Maha Vidyalaya, the society concerned opened the said institution to conduct courses to education of B.A. and B. Com., in the year 2007, which courses are also similar to the course sought to be started by the societies/colleges in the present cases.

37. Submitting that the requirements which have to be examined and the conditions that have to be imposed by the NCTE are infringed under the garb of State law, the learned counsel draws our attention to paragraph Nos.77 and 79. It is imperative to extract the said paragraphs:

"77. The fields which are sought to be covered under the provisions of Section 37 of the Universities Act and the Statutes of various universities are clearly common to the aspects which are squarely covered by the specific language under the Act. That being so, all State laws in regard to affiliation insofar as they are covered by the Act must give way to the operation of the provisions of the Act. To put it simply, the requirements which have been examined and the conditions which have been imposed by NCTE shall prevail and cannot be altered, re-examined or infringed under the garb of the State Law. The affiliating/examining body and the State Government must abide by the proficiency and command of NCTE's directions. To give an example, existence of building, library, qualified staff, financial stability of the institution, accommodation, etc. are the subjects which are specifically covered under Section 14(3)(b) of the Act. Thus, they would not be open to re-examination by the State and the University. If the recognition itself was conditional and those conditions have not been satisfied, in such circumstances, within the ambit and scope of Sections 46 and 16 of the Act, the affiliating body may not give affiliation and inform NCTE forthwith of the shortcomings and noncompliance with the conditions. In such situation, both the Central and the State body should act in tandem and, with due coordination, come to a final conclusion as to the steps which are required to be taken in regard to both recognition and affiliation. But certainly, the State Government and the University cannot act in derogation to the NCTE.

78. ? ? ? ? ? ? ?

79. It is on record and the Regulations framed under the Act clearly show that upon receiving an application for recommendation, NCTE shall send a copy of the application with its letter inviting recommendations/ comments of the State Government on all aspects within a period of 30 days. To such, application, the

State is expected to respond with its complete comments within a period of 60 days. In other words, the opinion of the State on all matters that may concern it in any of the specified fields are called for. This is the stage where the State and its Department should play a vital role. They must take all precautions to offer proper comments supported by due reasoning. Once these comments are sent and the State Government gives its opinion which is considered by the NCTE and examined in conjunction with the report of the experts, it may grant or refuse recognition. Once it grants recognition, then such grant attains supremacy vis-a-vis the State Government as well as the affiliating body. Normally, these questions cannot be reagitated at the time of grant of affiliation. Once the University conducts inspection in terms of its Statutes or Act, without offending the provisions of the Act and conditions of recognition, then the opinion of the State Government at the second stage is a mere formality unless there was a drastic and unacceptable mistake or the entire process was vitiated by fraud or there was patently eminent danger to life of the students working in the school because of non-compliance of a substantive condition imposed by either of the bodies. In the normal circumstances, the role of the State is a very formal one and the State is not expected to obstruct the commencement of admission process and academic courses once recognition is granted and affiliation is found to be acceptable."

38. Thus, it is clear that unless there was a drastic and unacceptable mistake or the entire process was vitiated by fraud or there was patently eminent danger to the life of the students working in the school because of non-compliance with a substantive condition imposed by either of the bodies, the role of the State at the second stage is a mere formality.

39. The ruling in Rungta Engineering College, has been referred to by the learned Single Judge. We would just like to add the expression of the Hon"ble Supreme Court as to the only course of action available for the State, when it opines that the college has not, in fact, fulfilled any one of the conditions required under the norms specified by the regulations, is to bring the shortcomings noticed by the State to the notice of the central body, and seek appropriate action against the society/college contained in paragraph No.32, thus:

"32. An examination of all the objections mentioned in the said communication would reveal that each one of those objections squarely fall within the sweep of one or the other areas which only the AICTE has the exclusive jurisdiction to deal with. None of them are demonstrated before us to be matters falling within the area legally falling within the domain of the respondents. AICTE, on inspection of the first petitioner College reported that the first petitioner College fulfils all the conditions prescribed by the norms and standards laid down by AICTE. The respondents did not make any specific assertion that such a report of AICTE is factually incorrect. Assuming for the sake of argument that, in the opinion of the respondents, the petitioner college has not in fact fulfilled any one of the conditions required under the norms specified by the AICTE, the only course of

action available for the respondents is to bring the shortcomings noticed by them to the notice of the AICTE and seek appropriate action against the petitioner college."

40. In LBS B.Ed. College relied on by both sides, the Hon"ble Supreme Court expressed the clear legal position emphasising that role of the State is a limited one as the State's say is not binding on the NCTE and that the NCTE is required to take the same into consideration as the State has a vital role to offer proper comments supported by due reasoning. We intend to refer to what has been declared by the Hon"ble Supreme Court in paragraph Nos.14 and 15 :

"14. As we find from the aforesaid authorities as well as the Regulations framed by the NCTE, the State has a say, may be a limited one. We are inclined to use the word "limited" because the State's say is not binding on the NCTE. However, the NCTE is required to take the same into consideration, for the State has a vital role to offer proper comments supported by due reasoning. It needs no special emphasis to say that final authority rests with the NCTE. It is the clear legal position.

15. In course of hearing, we have been apprised that the NCTE has granted recognition to some of the institutions. As the recognition has already been granted, the controversy with regard to the said institutions shall stand closed. Needless to say, in future, whenever an application is received under the Regulations for grant of recognition, the NCTE shall be guided by its own Regulations and the judgments of this Court and the State shall remain bound by the principles set out herein above. Needless to say, the NCTE shall take into consideration the recommendations and views of the State despite the fact that it has the final say."

41. Now adverting to the ground agitated by the State referred to in the above relating to "faculty", it is not the stance of the State that it has brought the same to the notice of the NCTE. No correspondence therefor is forthcoming as no material is placed to substantiate it. Merely agitating the ground of "unacceptable mistake" attributing it to the NCTE in approving the faculty, in our view, is wholly misconceived. The State has to demonstrate that the NCTE committed not just an "unacceptable mistake" but a "drastic and unacceptable mistake" in approving the faculty. In course of hearing, the learned Additional Advocate General made an attempt to demonstrate the same by referring to KRK Reddy College of Education. He would submit that so far as Principal/HOD is concerned, the institution would satisfy the standards, but concerning the "perspectives in education or foundation courses" and "curricular and pedagogic courses," the institution has not satisfied that the faculty consists of adequately qualified teachers to impart teacher education. It is according to him that the Note appended to Clause "C" requires three (3) years of teaching experience in a secondary school for two (2) faculty positions with a P.G. degree in Sociology/ Psychology/Philosophy with 55% marks, and B.Ed./BE1Ed with 55% marks in case of Clauses "B" and "C" put together and that the said norm is not complied

with.

42. Per contra, the submission of the learned counsel for the societies/colleges is that even in regard to faculty positions, the standards provided in Clauses "B" and "C", are being satisfied. It is his submission that since the intake is 50 students constituting one basic unit, as per Note (i) to Norm 5.1, the requirement of eight (8) full time faculty positions is satisfied. It is also his submission that the Principal/HoD also can act as a faculty member on teaching side and not only on account of the said position, the services of the principal being utilised as principal and teaching faculty, but also in view of the note appended to Clause - C accounting for relaxation, the standards prescribed by Norm - 5 have been satisfied. He has also drawn our attention to the relevant details of faculty members with their qualifications and experience which according to him satisfies the standards prescribed in the norms.

43. For proper appreciation of submissions made by either side, we feel it apt to extract Norm - 5 of the Norms contained in Appendix - 4 to the National Council for Teacher - Education (Recognition Norms and Procedure) Regulations, 2014, reading thus:

"Staff

5.1 Academic Faculty

For an intake of two basic units of 50 students each, that is total students strength of 200, there shall 16 full-time faculty members.

The distribution of faculty across different curricular areas shall be as under:

1. Principal/Hod

One

2. Perspectives in Education

Four

3. Pedagogy subjects Eight (Maths, Science, Social Science, Language)

Eight

4. Health and Physical Education

One

5. Fine Arts

One

6. Arts (Music/Dance/Theatre)

One

Note: (i) The faculty positions listed under different subject categories may teach

course(s) in the Teacher Education Programme across curricular areas specified, and can cater to both foundation and pedagogy course(s). If the students' strength for two years is one hundred (with one basic unit) only, the number of faculty shall be reduced to 8.

(ii) Faculty can be utilised for teaching in flexible manner so as to optimize academic expertise available.

5.2 Qualifications

The faculty shall possess the following qualifications:

A. Principal/HoD

(i) Postgraduate degree in Arts/Science/Social Sciences/Humanities/Commerce with minimum 55% marks; and

(ii) M.Ed. with minimum 55% marks; and

(iii) Ph.D. in Education or in any pedagogic subject offered in the institution; and

(iv) Eight years of teaching experience in a secondary Teacher Education Institution.

Desirable: Diploma/Degree in Educational Administration or Educational Leadership.

B. Perspectives in Education or Foundation Courses

(i) Postgraduate degree in Social Sciences with minimum 55% marks; and

(ii) M.Ed. degree from a recognised university with minimum 55% marks,

OR

(i) Postgraduate (MA) degree in Education with minimum 55% marks; and

(ii) B.Ed./B.El.Ed. degree with minimum 55% marks;

C. Curriculum and Pedagogic Courses

(i) Postgraduate degree in Sciences/ Mathematics/Social Sciences/Languages with minimum 55% marks, and

(ii) M.Ed. degree with minimum 55% marks. Desirable : PhD degree in Education with subject specialisations. [Note: In case of B and C put together, for two faculty positions, a postgraduate degree in Sociology/Psychology/Philosophy with 55% marks, and B.Ed./BE1Ed with 55% marks and three years of teaching experience in a secondary school shall be considered].

D. Specialised Courses Physical Education (i) Master of Physical Education (M.P.Ed.) with minimum 55% marks. (Training/qualification in yoga education shall be desirable)

Visual Arts

(i) Post graduate degree in Fine Arts (MFA) with minimum 55% marks.

Performing Arts

(i) Post graduate degree in Music/Dance/Theatre Arts with minimum 55% marks.

5.3 Administrative and Professional Staff

(a) Librarian (B.Lib with 55% marks)

One

(b) Lab Assistant (BCA with 55% marks)

One

(c) Office-cum-Account Assistant

One

(d) Office Assistant-cum-Computer Operator

One

(e) Store-Keeper

One

(f) Technical Assistant

One

(g) Lab Attendants/Helpers/Support Staff

Two

Qualifications

As prescribed by State Government/UT Administration concerned.

Note: In a composite institution, the Principal and academic, administrative and technical staff can be shared. There shall be no Principal, and others may be termed as HoDs.

5.4 Terms and Conditions of Service

The terms and conditions of service of teaching and non-teaching staff including selection procedure, pay scales, age of superannuation and other benefits shall be as per the policy of the State Government/Affiliating body."

44. As an example, we have gone through the list of members of faculty shown in Annexure - 3 relating to K.R.K. Reddy College of Education. The first candidate therein satisfies the requirement of the Principal/Hod. The rest of the candidates up to Serial No.7 possess M.Ed. professional qualification. They do possess

postgraduate degree in different branches with more than 55% of marks satisfying the general qualification test. The Note to Norm - 5.3 would provide that in a composite institution, the Principal and academic, administrative and technical staff can be shared. Therefore, the member shown at Serial No.1 who satisfies the standards prescribed for the faculty position of Principal, can also be utilised to teaching courses under Clauses "B" and "C" of Norm - 5.2. Thus, we find no deficiencies in complying with the standards prescribed in Norm - 5. Therefore, the unacceptable mistake, which the State now complains is not a sustainable ground for the reason, admittedly, the State has not complained the same when it sent recommendations to the NCTE for granting recognition. Having recommended for grant of recognition, the State cannot now complain that the NCTE has committed an unacceptable mistake. In our view, no proper foundation is laid in the grounds of appeal to support the same.

45. From the discussion made herein above, we are of the considered opinion that the present writ appeals are devoid of merit, summing up the reasons as hereunder:

(i) The proposals put-forth by the societies/colleges were examined by the Universities concerned and the State and having satisfied that the standards provided in Norms were satisfied, submitted recommendations and the NCTE accorded recognition considering the recommendations of the State and the Universities concerned.

(ii) Since the NCTE has granted recognition, it is not open to re-examination by the State and the University unless there was drastic and unacceptable mistake or the entire process was vitiated by fraud or there was patently eminent danger to the life of the students in the school because of non-compliance of a substantive condition imposed by either of the bodies (Maa Vaisho Devi Mahila Mahavidyalaya).

(iii) In the present appeals, it is not the case of the State that the recognition was conditional and the said condition has not been satisfied.

(iv) Even if the State intends to express any grievance as to non-compliance of any one of the conditions required under the Norms, the State ought to have brought the same to the notice of the NCTE and ought to have sought appropriate action against the society/college, which the State has not resorted to.

46. Concerning other grounds raised in these appeals, referred to in paragraph Nos.16, 17 and 19 herein above, we also find no merit as we are in complete agreement with the findings recorded by the learned Single Judge as they are based on the legal principles laid down by the Hon"ble Supreme Court in Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya, Self-Financing Rural Engineering College Managements Association, Rungta Engineering College 3 and Bharatia Education Society.

47. We, therefore, hold that the State and University are not justified in withholding permission and grant of affiliation, respectively, re-agitating that the societies/colleges failed to satisfy the standards prescribed in the Norms.

48. To entitle indulgence of this Court in an intra court appeal, it is absolutely indispensable to show that the orders under challenge are patently illegal and unsustainable. In our considered view, the State has failed to show that the orders under challenge suffer from any legal infirmity.

49. For the aforesaid reasons, the present appeals are dismissed. No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.