

(1995) 08 PAT CK 0015

In the Patna High Court

Case No : C.W.J.C. Nos. 2209 and 2210 of 1995

Syed Mohammad Wasif Akhtar and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 25-08-1995

Acts Referred:

Citation : (1995) 08 PAT CK 0015

Final Decision : Dismissed

Judgement

Nagendra Rai, J.—Both the aforesaid writ applications have been filed by the Petitioners claiming themselves to be the students of S.M. Zaheer Alam Training College, Bahera, and, as such, they have been heard together and are being disposed of by this common judgment.

2. In C.W.J.C. No. 2209/95 the Petitioners claim to have been the students of B.Ed. Course in the Session 1987-88, 1988-89, 1989-90, 1990-91, 1991-92, 1992-93 and 1993-94 and they have filed this application for a direction to the Respondent-L.N. Mithila University, Darbhanga, to hold examination and allow them to appear in the examination of B.Ed.

3. In C.W.J.C. No. 2210/95 the Petitioners claim that they were the students of B.Ed. Course for the session 1984-85, 1985-86 and 1986-87 in the aforesaid College and have prayed for a direction to the Respondent L.N. Mithila University to publish the result of B.Ed. Examination for the aforesaid session conducted by the University in pursuance of the interim order dated 16-8-88 passed in C.W.J.C. No. 4232/88.

4. The facts necessary for the disposal of the applications are that in the year 1984 Rauf Muslim Jamia Society established a minority institution; namely, S.M. Zaheer Alam Training College, Bahera, in the district of Darbhanga (Respondent No. 6). Respondent No. 6 moved before the State Government for granting recognition under the provisions of Bihar Non Government Physical Training College and Non Government Primary Teachers Education (Control and

Regulation) Act, 1982 (hereinafter referred to as the Act) read with relevant Rules. When no decision was taken by the State Government, Officer bearers of the College filed a writ application before this Court, being C.W.J.C. No. 4232/88, for recognition/affiliation of the College under the Act. During the pendency of the said writ application, on 16-8-88 an interim order was passed by this Court permitting the students of the College to appear in the examination with a condition that the result shall not be published until further orders in the case. The said writ application was finally disposed of on 24-4-94 (vide Annexure-2) and this Court directed the State Government to consider the case of the College (Respondent No. 6) in the light of the Full Bench decision in the case of Rahmania Primary Teachers Training College and Ors. v. The State of Bihar, reported in 1991 (1) PLJR 595. Thereafter the State Government considered the matter in accordance with the provisions of the Act and the Rules and by order dated 29-9-94 (Annexure-3 in C.W.J.C. No. 2210/95) granted permanent recognition to the College (Respondent No. 6) for imparting education in B.Ed. teachers training. Thereafter, the University asked the College to supply the relevant documents regarding number of students, building etc. as the records were not available in the University. Accordingly the documents were supplied by the College authorities. The College requested the University to publish result for the sessions 1984-85, 1985-86 and 1986-87 and hold examination of the students for the session 1987-88 to 1993-94. The University supplied the forms etc. and thereafter, the College deposited the examination fees of Rs. 5,000/-. However, the University did not accept the forms and fees of the students of the College in question and announced the date of B.Ed. and Dip-in-Tech. 1994 examination. The College moved the civil court and obtained an in junction and the matter is pending in appeal. It is not stated by either party as to what happened to the said appeal.

5. From the counter affidavit filed on behalf of the State in C.W.J. C. No. 2209/95, it appears that the College was granted affiliation on 29-9-94 and it is operative from the academic session, i.e. 1994-95 and it is not retrospective in operation meaning thereby it will not relate back to the earlier teaching sessions. A letter No. 153 dated 2.1.1995 purported to be issued from the Department of Primary Education and Mass Education, Bihar, was sent to the Vice Chancellor of L.N. Mithila University mentioning therein that the recognition will be effective from 1984-85. However, it was found that the said letter was a forged one and was created for the benefit of the College and the State Government after verifying the said fact already lodged a first information report at Sachivalaya police station with regard to the said forged letter. It is further stated that as the affiliation has been granted with effect from 29.9.94, the students of earlier sessions cannot be allowed to appear in the examination, as the College has not been granted affiliation for he said sessions.

6. The stand of the University is that the College has been granted affiliation from the session 1994-95 and as such the recognition will not be effective from previous sessions. The University sought clarification from the State Government

and as no clarification has been received, the University cannot permit the students of the College prior to 1994-95 session to appear in the examination.

7. It is further stated that no doubt the examinations have been held for the sessions 1984-85, 1985-86 and 1986-87 in pursuance of the direction given by this Court in C.W.J.C. No. 4232/88, but it was clearly stated in the order that the result of the Petitioner shall not be published until further orders in the case. The said writ application was finally disposed of on 24-3-1994, but no order was passed to publish the result and, as such, the University is not in a position to publish the result of the students who have appeared for three sessions.

8. There is no dispute between the parties that the recognition has been granted by the State Government on 20.9.94. According to the learned Counsel for the Petitioners the recognition has been granted from retrospective date hence the students admitted in different sessions before 1994-95 should be treated as validity admitted and be allowed to appear in the examination. It was further submitted that so far as the students of three sessions, i.e., 1984-85, 1985-86 and 1986-87, are concerned, they have appeared in the examination in terms of the interim order of this Court and their results should be published.

9. It is stated on behalf of the State and the University that recognition to Respondent No. 6 College was granted in the year 1994 and as such the students of only 1994-95 session will be allowed to appear in the examination, as they will be treated to be legally admitted students of recognised training college. The students who are alleged to have admitted earlier to grant of recognition cannot be treated as students of a recognised Institution and as such they cannot be allowed to appear in the examination and their results cannot be published.

10. From the pleadings and the submission of the parties now two questions emerge for consideration. Firstly, whether the result of the students who have appeared in the examination in pursuance of the order passed by this Court in C.W.J.C. No. 4232/88 should be published or not and, secondly, whether the students of sessions 1987-88 to 1993-94 shall be allowed to appear in the examination to be conducted by the University.

11. The large number of institutions claiming itself to be teachers training colleges, physical training colleges, primary teachers education colleges etc. were opened by private persons and committees in the State, most of them have no infrastructure to impart training in true sense. As a matter of fact, they were started for commercial purposes with the sole object to earn money. The State Government having noticed the fact, enacted the Bihar Non Government Physical Training Colleges and Non Government Primary Teachers Education Colleges (Control and Regulation) Act, 1982. In exercise of power u/s 5 of the Act, the Rules were framed. Section 2 of the Act runs as follows:

(1) No person or institution or committee shall-

(a) without the previous permission of the State Government which the State

Government may accord on such terms and conditions as it may deem fit and where previous permission has been accorded subject to such terms and conditions as may be determined by the State Government without fulfilling those terms and conditions, organise, maintain, manage or promote any school or college for undertaking, conducting, providing for or imparting physical training or physical education or teachers' training or teacher's education by way of training.

(b) admit or offer to admit to a courses of studies leading to the examination for the award of a degree, diploma or certificate in branches of "teachers" training or in allied branches of "teachers" training of any University or Body, incorporated by any law of the Central or the State Government.

(c) provide for instruction, lecture, tutorial or practical training in education whether or not, it may lead to any examination or the award of a degree, diploma or certificate.

(2) The decision of the State Government, as to whether the terms and conditions laid down by the State Government have been completely fulfilled or not shall be final and binding.

The Rules framed by notification dated 25-11-1987 contain elaborate provisions regarding the requirements to be fulfilled by the training Institutions as well as the procedure to be followed by the State Government before grant of recognition. It contains the provisions of constitution of Inspection Committee which will submit reports after the inspection of the Colleges for considering the question of recognition. The provisions of the Act also provide that no institution shall be opened without the prior permission of the State Government that will be a penal offence. The rule further provides that the admission of the students prior to recognition or permission of the State Government is illegal and the students admitted prior to recognition shall not be permitted to appear in the examination.

12. In spite of these specific provisions, unfortunately, by interim order this Court permitted the students of unrecognised institution to appear in the examinations. The apex Court has deprecated such practice being followed by the High Court. In this regard reference may be made to two cases of the Supreme Court. In the case of *Managing Committee of Bhagwan Budh Primary Teachers Training College and Another Vs. State of Bihar and Others*, it was held as follows:

It is not possible to grant any such permission as prayed for because the granting of such permission would be clearly violating the provisions of the Education Act (See The judgment in SLP No. 12014 of 1987 decided on November, 25, 1987 and the *A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another*, What is, however, unfortunate is that application made by various educational institutions to the Government for recognition are not promptly disposed of. In fact, we are of the view that the concerned Department of the Government for recognition of educational

institutions are decided promptly and where such an application is without merit, the Government should promptly reject the same and take steps to see to it that the rejection is brought to the attention of the students of the institution concerned so that they may not waste further time and money by undergoing training in that institution. The failure of the Government to take such action would only reflect callous indifference to the interest of the young students to whom the Government certainly owes certain responsibilities. We also feel that the State Government should issue advertisements through newspapers and other possible channels, if any, to ensure that students do not get misled by such unrecognised institutions into wasting their precious time and money in undergoing training which will be of no avail to them. We find that there appears to be a large number of students in the State who are misled by such institutions. In fact the State should consider taking such steps criminal or civil, as are open to it in law to stop such Institutions and those who run them from misleading students deceiving them.

13. Again in the case of State of Maharashtra Vs. Vikas Sahebrao Roundale and others, the apex Court has held as follows:

...Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education. The directions to the Appellants to disobey the law is subversive of the rule of law, a breeding ground for corruption and feeding source for indiscipline. The High Court, therefore, committed manifest error in law, in exercising its prerogative power conferred under Article 226 of the Constitution, directing the Appellants to permit the students to appear for the examination etc.

14. Thus, the law is well settled that no permission to the students of unrecognised Institution should be given to appear in the examination. As no permission could be granted, there is no question of publication of their result if some students of unrecognised institution have appeared in the examination in pursuance of interim order of this Court.

15. The object of establishment of training Institutions is to train-up the teachers so that they can impart excellent education to the pupil. In that view of the matter, the Institution imparting training should be well-equipped and should fulfil the requirement as mentioned in the Act, so that the teachers coming out after training should serve the cause of education.

16. The apex Court in the case of Nageshwaramma v. State of A.P. AIR 1966 SC 1188 held as follows:

...The Teachers Training Institutes are meant to teach children of impressionable age and we cannot let loose on the innocent and unwary children, teachers who have not received proper and adequate training. True they will be required to pass the examination but that may not be enough. Training for a certain minimum period in a properly organised and equipped Training Institute is probably essential before a teacher may be duly launched.

17. In this case the Government after having considered the inspection report and other relevant material found that the Institution fulfils the requisite criteria for grant of recognition only in the year 1994. It is specifically stated by the State Government in the counter affidavit that the order of recognition is effective from the date of issuance of the order and not from a retrospective date. For grant of recognition the State Government has to be satisfied that at the material time as the Institution was fully equipped and fulfilled the conditions regarding building, teaching staffs and other requirements, as mentioned in the Rules, and the students have undergone training according to the syllabus and courses of studies. The State Government having noticed that the Institution did not fulfil the requisite criteria prior to 1994, granted recognition from 1994. The said decision of the State Government appears to be fair and reasonable and there is no material on the record brought on behalf of the Petitioners to show that the Institution prior to 1994 fulfilled the criteria as mentioned in the Rules and the students were admitted and had undergone training according to the syllabus and courses of studies. In that view of the matter, the order granting recognition cannot be interpreted to relate back from 1984. This Court cannot issue any direction to the State Government to grant recognition from back date for the simple reason that recognition has to be given by the State Government on fulfilment of certain conditions as provided under the Act and the Rules. It is not the case of the Petitioners that there is a non-application of mind on behalf of the authorities considering the question of grant of recognition. Thus, I have no difficulty in coming to the conclusion that the recognition will be effective from the date of the issuance of the order and not from retrospective date, as asserted on behalf of the Petitioners.

18. In view of the aforesaid finding, it is clear that any student even if admitted in the college prior to 1994-1995 session will be treated to be the student of an unrecognised Institution and any order by this Court to allow them to appear at the examination will amount to a direction to the University to violate the provisions of the aforesaid Act and the Rules, which, in my view, cannot be justifiable in exercise of power under Article 226 of the Constitution of India. Accordingly, C.W.J.C. No. 2209/95 filed by the students for permitting them to appear at the examination is without any merit.

19. So far as C.W.J.C. No. 2210/95 is concerned, the students have appeared at the B.Ed. examination, in pursuance of the interim order passed by this Court in C.W.J.C. No. 4232/88 but their results had not been published. This Court while finally disposing of the said writ application directed the State to consider the question of recognition but no direction was given to publish the result. In that view of the matter, no direction can be given in this writ application for publishing their results. Admittedly, when they had appeared at the examination the institution was unrecognised one and, as such, they were the students of an unrecognised Institution. Any direction to publish their results would mean to allow the students of an unrecognised Institution to appear at the examination, which is not permissible in law.

20. Accordingly, both the writ applications are dismissed.