

(2013) 06 KAR CK 0039

In the Karnataka High Court

Case No : Writ Petition No"s. 21146-47 of 2013 (EDN-RES) and Writ Petition No"s. 21654-751 of 2013

Vijayanagara Collage of Education

APPELLANT

Vs

The Coordinator Task Force on Teachers Education Bangalore
University and Others

RESPONDENT

Date of Decision : 05-06-2013

Acts Referred:

National Council for Teachers Education Act, 1993 — Section 13(3), 17

Citation : (2013) 06 KAR CK 0039

Hon'ble Judges : Ashok B. Hinchigeri, J

Bench : Single Bench

Advocate : T.S. Venkatesh, for the Appellant; T.P. Rajendra Kumar Sungay, Advocate for R1 to R3, Sri. Vinayaka B., Advocate for M/s. Haranahalli and Patil Associates for R4-R5 and Sri. Dilip Kumar, Advocate for R-6 to R-105, for the Respondent

Judgement

Ashok B. Hinchigeri, J.—The petitioner has called into question the Bangalore University's order, dated 28.2.2013 (Annexure-A) insofar as it pertains to the petitioner College. The said order is based on the University's Task Force's recommendation that the affiliation of the College cannot be renewed for the academic year 2012-13. The said order states that the University is not responsible, if the petitioner College makes the admissions. Sri T.S. Venkatesh, the learned counsel for the petitioner submits that the petitioner College started the B.Ed. Course in 2004 with the recognition of the National Council for Teacher Education ("NCTE" for short). He submits that the College was shifted to the new premises on 28.11.2007. The petitioner sought the approval of the NCTE for the change of place for running the College. The NCTE conducted the inspection on 26.10.2010. He submits that the NCTE passed the order, dated 6.5.2011 (Annexure-D) withdrawing the recognition with effect from 2011-12 academic year. This was challenged by the petitioner by filing appeal before the Appellate Authority but without any rate of success. The Appellate Authority, by its order,

dated 4.11.2011 (Annexure-E) dismissed the appeal. The said orders were challenged by the petitioner by filing W.P. Nos. 7602/2012 and 8296/2012. This Court, by its interim order, dated 27.4.2012 granted stay for the operation of the said orders. The writ petitions were disposed of on 6.12.2012 quashing the order of the de-recognition passed by the NCTE and the Appellate Authority's order upholding it. This Court directed the reconsideration of the petitioner's representation and material documents, NCTE was also directed to hold the inspection, if need be. The NCTE conducted the inspection only on 24.5.2013, though it ought to have been conducted within 15 days from the date of the receipt of the order, dated 6.12.2012. Further, the respondent authorities were directed to get the inspection report and take further action within four weeks from the date of the inspection.

2. This Court, by its order, dated 30.5.2013 directed the NCTE to file the affidavit as to why the directions given by this Court in its final order, dated 6.12.2012 in W.P. Nos. 7602/2012 and 8296/2012 were not complied with. In compliance with the directions, NCTE has filed the affidavit through its Regional Director Sri P. Sriraman. The affidavit states that the draft agenda regarding the petitioner's case was placed before the Southern Regional Committee in its 237th meeting. But the same could not be considered inadvertently and as there were too many matters on the agenda.

3. At the other end of the spectrum, the Bangalore University had issued the impugned order based on the recommendations of its Task Force against the renewal of the affiliation for the academic year 2012-13.

4. Sri Venkatesh submits that the impugned order issued by the Bangalore University does not refer to any letter or order of de-recognition by the NCTE. The Bangalore University has not made any adverse remarks against the petitioner in any of its proceedings. He submits that as the petitioner has not violated any provisions of National Council for Teacher Education Act, 1993 Act ("NCTE Act" for short), Section 17 of the NCTE Act could not have been pressed into service. He submits that the order of recognition is a non-est in the eyes of law, because the order withdrawing the recognition and the order passed by the Appellate Authority confirming the original authority's order are quashed by this Court in W.P. Nos. 7602/2012 and 8296/2012.

5. He submits that as the order of the de-recognition is quashed and as the NCTE is seized of reconsidering the recognition issue in compliance with this Court's order, the petitioner College cannot be found fault with for admitting the students for the academic year 2012-13. He submits that the NCTE's views on the inspection-report are not communicated to the petitioner College and that therefore there is no compliance with the requirements contained in Section 13(3) of the NCTE Act. The said provisions read as follows:

13. Inspection

(1)...

(2)...

(3) The Council shall communicate to the said institution, its views in regard to the results of any such inspection and may, after ascertaining the opinion of that institution, recommend to that institution the action to be taken as a result of such inspection.

6. Sri Dilip Kumar, the learned counsel appearing for the respondent Nos. 6 to 105 submits that some of the said respondent-students are allotted by the Government to the petitioner College in the Government quota. He submits that as on the material date of the admission of the said respondents to the petitioner's College, there was no order withdrawing the recognition. Therefore, their admissions cannot be invalidated.

7. Sri R. Vinayak, the learned counsel for the respondent No. 4 submits that the petitioner College could not have admitted the students for the academic year 2012-13 in the wake of the NCTE's order, dated 06.05.2011 withdrawing the recognition. He submits that during the interregnum between 06.05.2011 and 27.04.2012, the date of granting the interim order of stay by this Court in W.P. Nos. 7602/2012 and 8296/2012, the admissions for the academic year 2012-13 are made. He submits that the petitioner College does not have the requisite infrastructure level. He submits that the NCTE, on considering the inspection-report, has decided to withdraw the recognition of the petitioner institution in the 246th meeting of Southern Regional Committee of NCTE held on 02.06.2013 to 04.06.2013.

8. Sri Rajendra Kumar Sungay, the learned counsel for the respondent Bangalore University has filed an elaborate statement of objections. He submits that there is no recognition order issued by the NCTE for the academic year 2012-13. Therefore, the petitioner is not entitled to the affiliation for the said academic year. These are also the recommendations of the Task Force of Bangalore University. In the wake of the NCTE's order, dated 06.05.2011 and the recommendations of the Task Force, the petitioner ought not to have made admissions.

9. The submissions of the learned advocates have received my thoughtful consideration.

10. The only question that falls for my consideration is whether there was any legal impediment for the petitioner institution to admit the students to the B.Ed. Course for the academic year 2012-13.

11. As referred supra, the order dated, 06.05.2011 (Annexure-D) withdrawing the recognition and its confirmation by the Appellate Authority by its order, dated 04.11.2011 (Annexure-E) were stayed by this Court by its interim order, dated 23.04.2012 in W.P. Nos. 7062 and 8296/2012. This Court by its order, dated 06.12.2012 quashed the said orders. Further this Court directed the reconsideration of the petitioner's representations and the material documents.

In view of the quashing of the said orders by this Court, there is no order withdrawing the recognition till the reconsideration of the petitioner's case and passing of the orders thereon.

12. The NCTE has not caused the inspection of the petitioner's College expeditiously. Despite the court specifying the time-frame of 15 days for holding the inspection from the date of the receipt of the order, dated 06.12.2012, the NCTE conducted the inspection only on 24.05.2013. Thereafter also the NCTE did not take a final decision in the matter expeditiously. Only one or two days ago (2nd to 4th June 2013) the decision is taken to withdraw the recognition. The withdrawal of the recognition cannot act retrospectively. It can come into effect only prospectively.

13. The admissions of the students (respondent Nos. 6 to 105) are stated to have been made place between September and November 2012 i.e., after the granting of the interim order of stay for the de-recognition orders. Therefore, during the material period during which the admissions came to be made, there was no de-recognition order. By the posterior decision of de-recognition, the anterior admissions cannot be invalidated.

14. There is yet another aspect of the matter which cannot be lost sight of. All the students (respondent Nos. 6 to 105) are not admitted by the petitioner in the management quota. Some of them are allotted by the Government to the petitioner College in the Government quota. It is to be presumed that the Government has also proceeded to allot the students on the premise and with the understanding that there is no derecognition for the academic year 2012-13.

15. As far as the Bangalore University's impugned order is concerned, the order is issued on 28.02.2013, long after the commencement of the academic year 2012-13. It is also not the case of the Bangalore University that its Local Inquiry Committee ("LIC" for short) has found the infrastructure to be deficient. The recommendations of the Bangalore University Task Force is only based on the ongoing proceedings in the NCTE. As the de-recognition itself has not crystallized itself till 04.06.2013, the Bangalore University would not be justified in denying the affiliation to the petitioner institution.

16. At this juncture, on the Court's enquiry with the petitioner's learned advocate on there being no basis for making the admissions to B.Ed. Course for the academic year 2013-14, the learned counsel submits that the petitioner will not make admissions until the NCTE's order of de-recognition is challenged in appropriate proceedings and stayed/set-aside/quashed by the competent authority. He also submits that the copy of the order of de-recognition itself is not yet made available to the petitioner institution.

17. In the result, I allow these petitions with the following order:

(i) The third respondent shall approve of the admissions of the respondent Nos. 6 to 105 to B.Ed. Course for the academic year 2012-13 subject to the respondent-

students meeting the eligibility criteria in all other respects.

(ii) The Bangalore University is directed to consider the petitioner's case for the renewal of affiliation for the ensuing years in accordance with law.

(iii) Liberty is reserved to the petitioner institution to challenge the NCTE's latest order of withdrawing the recognition, in appropriate proceedings.

(iv) The petitioner institution shall not admit any student for the B.Ed. Course for the academic year 2013-14 without obtaining the order of stay/setting aside/quashing of the NCTE's orders de-recognizing the petitioner institution. Alternatively, it is open to the petitioner to make admissions for the academic year 2013-14, provided the petitioner institution removes all the deficiencies and complies with the requirements of the NCTE and on its reporting the compliance, the NCTE passes the order of recognition.

These petitions are accordingly disposed of. No order as to costs.