
(2004) 11 MAD CK 0092

In the Madras High Court

Case No : Writ Petition No's. 26603, 26604, 26626, 26627, 26628, 26629, 26630, 26633, 26637, 26643, 26648, 26649, 26650, 26669, 26719, 26720, 26824, 26825, 26828, 26830, 26831, 26883, 26982, 27013, 27014, 27023, 27155, 27156, 27179, 27186, 27224, 27225, 27227, 272

Vivekananda Teacher Training Institute for Women run by
Angammal Educational Trust

APPELLANT

Vs

The Regional Director, National Council for Teacher Education,
The Secretary to Government of Tamil Nadu and The Director,
Director of Teacher Education Research and Training

RESPONDENT

Date of Decision : 09-11-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 11 MAD CK 0092

Hon'ble Judges : D. Murugesan, J

Bench : Single Bench

Advocate : P. Jayaraman for B. Rabu Manohar, in W.P. Nos. 26630, 26643, 26633, 26648, 26649, 26650, 26669, 26719, 26720, 26883, 27666, 27691 to 27693, 27155, 27156, 27224, 27225, 27379, 29671, 29418 and 29422, M. Suresh Kumar, in W.P. Nos. 26824, 26825, 27727 and 26637/04, K.M. Vijayan for La Law in W.P. Nos. 26626, 26627, 26628 and 26629/04, V.K. Muthusamy for M.M. Sundresh, in W.P. Nos. 26830, 26831 27186/04, R. Suresh Kumar, in W.P. Nos. 27236, 27237, 28543, 27013 and 27014/04, T. Meikandan, in W.P. No. 27227/04, R. Krishnamoorthy for V. Ayyadurai, in W.P. Nos. 26603 and 26604/04, M. Venkatachalapathy for M. Sriram, in W.P. No. 26828/04, N. Damodaran, in W.P. No. 27023/04, K. Soundarrajan, in W.P. No. 27179/04, R. Rajasekaran, in W.P. No. 27333/04, N. Paul Vasanthakumar, in W.P. Nos. 27581, 26982/04, M. Md. Ibrahim Ali, in W.P. No. 27388/04, AR.L. Sundaresan, in W.P. No. 27334/04, P. Jothimani, in W.P. No. 27937/04, P.V. Rangarajan, in W.P. No. 29845/04, Javid Khan, W.P. No. 29667/04, A. Chandrasekaran, in W.P. No. 30343/04 and P. Chandrasekaran, in W.P. Nos. 30721, 30722, 30931 and 30932/04, R. Muthukumaraswamy, A.A.G assisted by V. Karthikeyan, Addl. Government Pleader, for the Appellant; S. Udayakumar Addl. Central Government and Standing Counsel, for the Respondent

Judgement

D. Murugesan, J.—As the issues raised are common in all these writ petitions, they are taken up together for disposal by this order.

2. The petitioners are Teacher Training Institutes, obtained recognition to start Diploma in Teacher Education Course of two years duration from the academic session 2004-05 from the Southern Regional Committee of National Council for Teacher Education (hereinafter referred to as "the NCTE"). They have prayed for a direction to the Director of Teacher Education Research and Training (hereinafter referred to as "the DTERT") to include them in the list of institutes for allotment of candidates to the Diploma in Teacher Education Course under the single window system for the current academic year on the basis of the recognition accorded to the institutes by NCTE.

3. As the grounds raised are more or less similar, the averments in the affidavit filed in support of W.P. No. 26630 of 2004 are alone referred to in this order. The petitioner institute was accorded recognition by the NCTE on 9.9.2004. The said order granting recognition reads as under:-

"In terms of Section 14(1) of the NCTE Act, 1993 Vivekanandha Teacher Training Institute for Women, Elayampalayam, Tiruchengodu Taluk, Namakkal District 637 205 Tamil Nadu had submitted an application to the Southern Regional Committee of NCTE for grant of recognition for Elementary Course of two years duration from the academic session 2004-05 for an intake of 50.

2. On scrutiny of the application submitted by the institution, the documents attached therewith and the input received from the visiting team, the Committee has noted the following:

(a) The institution has acquired the land for setting up the teacher education institution.

(b) The institution will ensure that the permanent building is constructed within a period of 3 years on the acquired land.

(c) The institution has created an Endowment fund of Rs. 5.00 lakhs and an Reserve fund of Rs. 5.00 lakhs.

(d) The institution has selected the principal and five teachers for the said course and the staff list is not approved by the DTERT, Chennai.

3. No therefore, in exercise of the powers vested u/s 14(1) of the NCTE Act, 1993, the Southern Regional Committee hereby grants recognition to Vivekanandha T T I for Women, Elayampalayam, Tiruchengodu Taluk, Namakkal Dt.637 205, Tamilnadu to offer Elementary course of two years duration from the academic session 2004-05 with an annual intake of 50 students, subject to fulfillment of the following:

(a) The institution will ensure that 6 exclusive faculty members duly approved by the State Board are in position for an intake of 50 students before commencement of the course and a report to this effect shall be sent to the

Southern Regional Committee immediately and in any case not later than one month from the date of commencement of the course. The faculty list is to be approved by the Director, DTER, Chennai.

(b) The institution shall comply with the various other norms and standards prescribed in the NCTE Regulations.

(c) The institution shall, within one month of the receipt of recognition order, convert the endowment fund account into a joint account to be operated along with an official of the Regional Committee.

4. Further, the recognition is subject to fulfillment of all such other requirements as may be prescribed by other regulatory bodies like the State Government etc.

5. The institution shall submit to the Regional Committee a Performance Appraisal Report at the end of each academic year along with a copy of the approval of the affiliating university to the appointment of faculty members, and the statement of annual accounts duly audited by a Chartered Accountant.

6. If the institution contravenes any of the above conditions or any of the provisions of the NCTE Act, Rules, Regulations and Orders made or issued thereunder, the Southern Regional Committee may withdraw the recognition under the Provisions of Section 17(1) of the NCTE Act, 1993.

7. Recognition is subject to the outcome of petition(s) for Special Leave to Appeal (civil) No. 13271/2004."

4. Based on the above order of recognition, the petitioner institute addressed the Secretary to Government, School Education Department with a request to include the training institute for allotment of Government quota seats under single window system of admission for the academic year 2004-05. A copy of the said letter was communicated to the Director of Teacher Education Research and Training, Chennai, as well to the Principal, District Institute of Education and Training, Namakkal. As the said request was not considered, the petitioner has approached this Court by way of the present writ petition. Similarly, other institutes which have also been granted recognition, of course, after 1st September, 2004 by the NCTE, have also approached this Court for similar directions. It is common ground that all the institutes have also made requests for inclusion of the institutes for admission of students for the seats under Government quota through single window system and their requests were not acceded so far.

5. Mr. R.Krishnamoorthy, learned Senior Counsel, leading the arguments, would submit that having obtained recognition from the academic session 2004-05 with a specific intake of students, the petitioner institutes are entitled for allotment of students through single window system of admissions for Government seats. In the event the respondents fail to include the petitioner institutes under single window system of counselling and allot the students, the institutes shall have to lose one academic session. He would further submit that the pre-condition

imposed in paragraph 3(a) of the order entitles the institutes to commence the course and report the approval of faculty members only after the commencement of the course and in any case not later than one month thereafter. Approval from DTERT is not a pre-condition for forwarding candidates through single window system of admissions. The respondents therefore ought to have included the institutes for single window system of admissions and allotted the students.

6. Mr. P.Jayaraman, learned Senior Counsel, in addition to the above submissions, would submit that the respondent State Government have included the list of institutes which were granted NOC by the State Government for admission under single window system even when the faculty lists were not approved as contained in paragraph 3(a) of the order granting recognition. By drawing the attention to the reply affidavit of the petitioner dated 29.10.2004, he would cite that at least the following five institutes were included in the single window system of admissions and the students were allotted even when the faculty lists were not approved viz., Jayendrar Teacher Training Institute, Enathur, Kancheepuram District, Pallavan Teacher Training Institute, Villapakkam, Vellore District, Chezhan Teacher Training Institute, Tiruvannamalai, Mahalakshmi Teacher Training Institute, Vilapakkam, Vellore District and Anwar Raja Teacher Training Institute, Ramnad District. The learned Senior Counsel would also submit that at least one institute by name Sengunthar Teacher Training Institute, Tirumangalam, Salem District had advertised for the post of lecturers in the English daily of The Hindu dated 24.10.2004, only after the said institute was allotted students through single window system of counselling. The learned Senior Counsel, therefore, submitted that the petitioner institutes are alone differently treated and discriminated, only because they were granted recognition by the NCTE after the orders of this Court after their request for NOC was rejected by the State Government.

7. I have also heard Mr. V.K.Muthusamy, Mr. K.M.Vijayan, M.Venkatachalapathy, learned Senior Counsel, Mr. M.Suresh Kumar, Mr. T.Meikandan, Mr. N.Damodaran, Mr. K.Soundararajan, Mr. R.Rajasekaran, Mr. N.Paul Vasanthakumar, Mr. M.Md.Ibrahim Ali, Mr. R.Suresh Kumar, Mr. AR.L.Sundaresan, Mr. P.Jyothimani, Mr. P.V.Rangarajan, Mr. Javid Khan, Mr. P.Chandrasekaran and Mr. A.Chandrasekar, learned counsel for the petitioners. The submissions are almost on the same line.

8. The petitioners in W.P. Nos. 30931 and 30932 of 2004 have questioned the very condition imposed in paragraph 3(a) of the order granting recognition. Mr. P.Chandrasekaran, learned counsel for the petitioners submitted that as per Section 14(3) of the National Council for Teacher Education Act, 1993 (hereinafter referred to as "the Act"), after the receipt of application, the Regional Committee grants recognition only after it is satisfied that the institution has appointed qualified staff. Such satisfaction shall be only by the Regional Committee of the Council. In the absence of any provision to delegate the said power, the condition in paragraph 3(a) is bad for want of power.

9. Mr. R.Muthukumaraswamy, learned Additional Advocate General, in response to the above submissions, would submit that there cannot be any dispute as to the power of the NCTE to grant recognition u/s 14 of the Act as well to prescribe the qualifications for the staff members. Factually, the qualifications have been prescribed only by the NCTE and the recognition has also been granted by NCTE. By the condition 3(a), it cannot be contended that the substantial power for prescribing the qualification has been delegated to the DTERT. By the said condition, the NCTE has only directed the institute to get the approval of the DTERT with reference to the fulfillment of the qualifications and eligibility norms, which are only procedural. The direction cannot be in any way considered as delegation of power of the NCTE, but should be only considered as an entrustment of the verification work for ensuring that the qualified teachers are alone appointed. He would also submit that by the said condition, it cannot be contended that the institutes are entitled to commence the course even without any faculty members are appointed. Without there being any faculty members with the qualifications prescribed by the NCTE are appointed, courses cannot be commenced and consequently the petitioners are not entitled to seek for allotment of students under single window system of admission on the ground that they are entitled to commence the course even when the list of faculty members are not approved.

10. Mr. S.Udayakumar, learned Additional Central Government Standing Counsel representing the National Council for Teacher Education has submitted that the recognition was granted subject to the condition that the faculty list shall be approved by the DTERT and so long as the list is not approved, the institutes cannot claim as a matter of right either to commence the course or for allotment of students under the single window system of admission solely on the basis of the recognition. He has further submitted by placing reliance on the counter affidavit that in the absence of mechanism to verify the authenticity of the particulars furnished in the list of teachers submitted by the applicant institution, the Council in its meeting held on 20.5.2002 resolved that the list of teachers submitted by the applicant institution should have been approved by the concerned university in the case of degree level teacher education programmes and by the SCERT/Directorate of Elementary Education or the concerned Directorate in the case of Diploma level teacher education programmes. In pursuance to the said resolution only, the impugned condition was imposed.

11. In view of the above rival submissions, the following points arise for consideration:-

- (i) Whether the NCTE was well within its power in directing the institutes to get approval from the DTERT?
- (ii) In the event point No. 1 is answered in favour of NCTE, whether prior approval is necessary from DTERT in terms of condition No. (a) of paragraph 3 of the order granting recognition?

(iii) Whether the inclusion of some of the institutes in the single window system of admission prior to the approval of the DTERT and refusal to extend the same benefit to the petitioner institutes, who are also similarly placed, would amount to discrimination?

12. So far as the first point is concerned, u/s 3 of the Act, the Central Government, by notification in the Official Gazette, shall establish a Council to be known as the National Council for Teacher Education. Section 12 relates to the functions of the Council. Sub-section (d) of Section 12 relates to the power of the Council to lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions. In terms of Section 20, the Council shall have the power to establish four Regional Committees. The Southern Regional Committee is one such Regional Committee established under the said section. By virtue of Section 32(2)(d)(i) of the Act, the Council is empowered to make Regulations regarding the norms, guidelines and standards in respect of minimum qualifications for a person to be employed as a teacher. Pursuant to the said power, The NCTE (Form of Application for Recognition, the time limit of submission of Application, determination of norms and standards for Recognition of Teacher Education Programmes and permission to start new course or training) Regulations, 2002 (hereinafter referred to as "the Regulations") were framed. Appendix-5 of the Regulations relates to the norms and standards for elementary teacher education programme. Clause 5 of Appendix-5 relates to the qualifications of teaching staff and the same reads as under:-

"(a) Principal/Head--

(i) Academic and professional qualification will be as prescribed for the post of Lecturer.

(ii) At least five years" experience of teaching in elementary teacher education institutions.

(b) Lecturer--

Good academic record with M.Ed./M.A.(Education) with 55% marks, preferably with specialisation in elementary education; or

Good Academic record with Master"s Degree with 55% marks in the relevant school subject and Bachelor of Elementary Education (B.El.Ed.) or B.Ed. Preferably with specialisation in elementary education, and with five years" teaching experience in recognised elementary schools.

(c) A relaxation of 5% may be provided, from 55% to 50% of the marks, at the Master"s level for SC/ST category.

(d) Qualifications for other academic staff for teaching physical education, art, work experience, information technology literacy, etc. shall be as prescribed by the concerned State Government."

13. It is not in dispute that after the Act has come into force with effect from 1.7.95, and by virtue of the provisions of Section 12, the Council is alone empowered to lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in recognised institutions. Such qualifications are prescribed by the Council for the teachers employed in elementary teacher education programme under clause 5 of Appendix-5.

14. An institute seeking recognition to offer a course or training in teacher education shall make an application u/s 14(1) of the Act together with the prescribed fee to the Regional Committee. In terms of sub-section (3) of Section 14, the Regional Committee, on receipt of the application, shall satisfy, among other things, as to the appointment of qualified staff before grant of recognition. In case the recognition is granted, under sub-section (6) of Section 14 the examining body shall grant affiliation to the institution. Appointment of faculty members with requisite qualification as prescribed under clause 5 of Appendix-5 is one of the pre-conditions for grant of recognition. None of the institutes have questioned the power of the Council to insist the appointment of qualified faculty members. The petitioners have only questioned the power of NCTE to delegate its power to the DTER for approval of faculty list.

15. In this context, the attention of the Court is also drawn to Regulation 9 of the Regulations, which reads as under:-

"Conditions of recognition.--The Regional Committee, before passing an order for grant of recognition/permission u/s 14 or section 15 of the Act, shall satisfy itself, on the basis of scrutiny and verification of facts as contained in the application for recognition/grant of permission and/or inspection of the institution, where considered necessary or any other manner deemed fit, that the institution fulfils the Norms and Standards laid down for the relevant teacher education course as given in the Appendices 3 to 14 of these Regulations."

16. As per sub-section (3) of Section 14, the Regional Committee should satisfy itself, among other things, as to whether the institute has qualified staff. From paragraph 2(d) of the order, it is clear that the Regional Committee was aware of the fact that the institute has selected the Principal and five teachers. It was equally aware that the staff list was not approved by the DTER. The satisfaction referable to sub-section (3) of Section 14 as to the qualified staff is in respect of the details as to the appointments furnished by the institutes at the time of application as well the input received from the visiting team. On a prima facie satisfaction as to the details, the recognition is accorded. The question as to whether the appointees have the required qualification is a further matter for verification as to those details furnished by the institutes together with the application forms. The petitioners would be right in contending that the NCTE cannot delegate its power only in the event the very power of fixing the qualification is left to the DTER. By virtue of clause 5 of Appendix-5, the academic and professional qualifications as well the experience for the faculty members have been prescribed by the Council in exercise of its power u/s 12(d)

of the Act. What has been directed in condition No. (a) of paragraph 3 is only an approval from the DTERT as to whether the faculty members, who were appointed, possess the required academic and professional qualification as well the required experience. Such a direction cannot be in any way considered as delegation of power to fix the qualification as such. Utmost it can be considered only as a direction for verification of the details as to the qualifications of the faculty members appointed by the institutes.

17. In this context, useful reference can be made to the judgment of the Supreme Court in " St. Johns Teachers Training Institute Vs. Regional Director, National Council for Teacher Education and Another, ". In that case, the Supreme Court was considering Regulation 5(e)(f) of the NCTE Regulations, requiring an application for recognition to accompany a No Objection Certificate from the State Government. On a challenge, Their Lordships have held that such a requirement was only to facilitate the Council in getting the required information and the regulation does not suffer from excessive delegation. The relevant paragraph of the judgment reads as under:-

"Sub-section (3) of Section 14 casts a duty upon the Regional Committee to be satisfied with regard to large number of matters before passing an order granting recognition to an institution which has moved an application for the said purpose. The factors mentioned in sub-section (3) are that the institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education as may be laid down in the Regulations. There are only four Regional Committees in the whole country, and, therefore, each Regional Committee has to deal with applications for grant of recognition from several States. It is, therefore, obvious that it will not only be difficult but most impossible for the Regional Committee to itself obtain complete particulars and details of financial resources, accommodation, library, qualified staff, laboratory and other conditions of the institution which has moved an application for grant of recognition. The institution may be located in the interior of the district in a far away State. The Regional Committee cannot perform such herculean task and it has to necessarily depend upon some other agency or body for obtaining necessary information. It is for this reason that the assistance of the State Government or Union Territory in which that institution is located is taken by the Regional Committee and this is achieved by making a provision in Regulation 5(e) and (f) that the application made by institution for grant of recognition has to be accompanied with a NOC from the concerned State or Union Territory. The impugned Regulation in fact facilitates the job of the Regional Committees in discharging their responsibilities."

18. A regulation requiring No Objection Certificate from the State Government was held to be not an excessive delegation, when proper guidelines are made for the same. The case on hand stands on a better pedestal namely, that the condition imposed on the institute to get the approval of DTERT as to the

qualification of the faculty members is on the basis of Regulation 5 of Appendix-5. No discretion or right vested in the DTERT while considering the qualifications of the faculty members either to accept or to reject except the compliance of academic and professional qualification and experience as prescribed under the Regulations. There are only four Regional Committees. The Regional Committees are entrusted with the power of considering the application for recognition for the institutions at pre-primary, primary, secondary and senior secondary stages in the schools including non-formal education, part-time education, adult education and correspondence education. Appendix-3 relates to the norms and standards for pre-school education programmes. Appendix-4 relates to the norms and standards for nursery teacher education programmes. Appendix-5 relates to the norms and standards for elementary teacher education programmes. Appendix-6 relates to the norms and standards for Bachelor of Elementary Education. Different educational qualifications and experience have been prescribed for different courses. From the counter affidavit of the Regional Director, Southern Region, NCTE, it is seen that in the absence of mechanism to verify the qualifications, the DTERT has been directed to verify the same and approve it. As already indicated, the qualification of the staff has been prescribed under the Regulations by the Council in exercise of power u/s 32 of the Act. No institute can have any grievance as to the educational and experience requirements prescribed under the Regulations. Though it is argued that the Regional Committee has no power to delegate its power to the DTERT, I am not inclined to accept the said contention for the reason that the substantial power for prescribing the educational qualification, eligibility norms and experience have not been delegated to the DTERT. In terms of sub-section (d) of Section 2, "examining body" means a University, agency or authority to which an institution is affiliated for conducting examinations in teacher education qualifications. In terms of sub-section (m) of Section 2, "teacher education qualification" means a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance with the provisions of the Act. Academic and professional qualification spoken in clause 5 of Appendix-5 of the Regulations are to be ensured only with reference to the degree, diploma or certificate in teacher education awarded by a University or examining body. By imposing the impugned condition, the Regional Committee has only directed the DTERT to approve the faculty list on the basis of the educational and professional qualification awarded by the University or the examining body. It is a matter of procedure for verification and the condition does not invest any power on the DTERT either to prescribe the academic or professional qualification or to impose any additional conditions than one prescribed under clause 5 of Appendix-5. In this context, the specific case of the Regional Director as contained in paragraph 5 of the counter affidavit needs a reference and the same reads as under:-

"I submit that the 1st respondent has incorporated the said condition with a view to maintain the standard of the Teacher Education. I am advised to state that "in the norms and standards notified by the NCTE, Professional and academic

qualification required of the core teaching staff has been prescribed for various teacher education programmes. Apart from the professional and academic qualification prescribed by NCTE for teacher education programmes leading to a University degree like B.Ed., M.Ed., B.P.Ed., and M.P.Ed., the faculty members are required to have such other qualifications as may be prescribed by other regulatory bodies like the University Grants Commission (UGC) etc., Since it is beyond the purview of NCTE to enforce requirements of other statutory bodies, the concerned affiliating University may ensure enforcement of such requirements as may be prescribed by it and/or other statutory bodies such as UGC etc., through mechanisms such as notification of the posts by the institutions in newspapers having state wide circulation and association of a nominee of the University in the Selection Committee etc. The matter was further considered by the Council at its meeting held on 20.5.2002. It was felt that the Council has no mechanism to verify the authenticity of the list of teachers submitted by the applicant institution. The Council resolved that the list of teachers submitted by the applicant institution should have been approved by the concerned university in the case of degree level teacher education programmes and by the SCERT/Directorate of Elementary Education or the concerned Directorate in the case of Diploma level teacher education programmes. Accordingly, it is requested that necessary approval to the list of teachers submitted by the applicant institution may be accorded by the concerned University in the case of degree level courses and by the concerned Directorate in the case of diploma level programmes; needless to say, in the absence of such an approval, it may not be possible to consider grant of recognition to the institution."

For all the above reasons, the direction to the institutes to get the approval of DTERT cannot be considered as delegation of power or a direction contravening any of the provisions of the Act, as it is only procedural. In the circumstances, the challenge to the condition on the ground of want of jurisdiction and that the condition would amount to delegation of power cannot be sustained.

19. So far as the second point is concerned, rest of the institutes have contended that the requirement for approval of the faculty list by the DTERT is not a pre-condition for commencing the course and consequently there cannot be any restriction to allot the students under the single window system of counselling in view of the plain reading of condition No. (a) of paragraph 3 of the order granting recognition. According to them, by the said condition, the institutes should only ensure that 6 exclusive faculty members duly approved by the State Board are in position for an intake of 50 students before commencement of the course. The commencement of the course shall be only after the students are allotted. Hence the allotment of students and the approval have nothing to do with the commencement of the course. Their further contention is that after the appointments are made, a report to that effect shall be sent to the Regional Committee immediately and in any case not later than one month from the date of commencement of the course. In view of the above, the clause does not

impose any pre-condition of prior approval from the DTERT. This argument is also unacceptable, as from the order granting recognition, it is seen that the visiting team found that, though the faculty members were appointed, the list was not approved by DTERT. Insofar as the contention that the approval of the faculty list cannot be a pre-condition for including the petitioner institutes for allotment of students under single window system, it must be seen that no course can be commenced without there being students. Admission of students is a pre-condition for commencement of course. In this context, the appointment of faculty members is also a pre-condition and without faculty members, no course can be commenced. From a reading of condition No. (a) of paragraph 3, it is clear that before the commencement of the course, the institute will ensure that 6 exclusive faculty members duly approved by the State Board are in position for an intake of 50 students. The report of such compliance shall also be sent to the Southern Regional Committee immediately and in any case not later than one month from the date of commencement of the course. The words duly approved by the State Board shall be read together with the words "the faculty list is to be approved by the Director of Teacher Education Research and Training." If so read, the approval must be held to be a pre-condition before the commencement of the course. Hence, the contention of the petitioners that the approval by the Director is not a pre-condition for commencement of the course cannot be accepted.

20. As regards the last point as to the discrimination, when the regulation is specific as to the approval of the list of faculty members, can the benefit be extended to the institutes for allotting students under single window system even without there being approval of the faculty members. The answer is the judgment of the Supreme Court in "Chandigarh Administration and another Vs. Jagjit Singh and another," and the relevant paragraph reads as under:-

"We are of the opinion that the basis or the principle, if it can be called one, on which the writ petition has been allowed by the High Court is unsustainable in law and indefensible in principle. Since we have come across many such instances, we think it necessary to deal with such pleas at a little length. Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extra-ordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent-authority has passed one illegal unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again and

again."

The plea of discrimination has been made on the ground that some of the institutes who have been granted No Objection Certificate by the State Government are included in the single window system of admissions even when there is no approval of faculty list by the DTERT as conditioned in paragraph 3(a) of the order granting recognition and only such of those institutes like the petitioners were refused No Objection Certificate, but were granted recognition by the NCTE after the orders of this Court. The power of the Council to prescribe the qualification is not in dispute. Equally the qualifications for the faculty members prescribed under clause 5 of Appendix-5 also cannot be disputed. As this Court has found that the NCTE is empowered to direct the institutes to get prior approval from the DTERT, merely because the respondents have included some of the institutes for single window system of admissions without reference to the compliance of the conditions, more particularly, condition No. (a) of paragraph 3 of the order granting recognition, rest of the institutes cannot, as a matter of right, seek for a similar direction on the ground that they should also be treated on par with those institutes who have been included in the single window system of admissions. Acceptance of such submission would amount to ratifying the act of the respondents, which is otherwise not in conformity with the provisions of the Act, Regulations and the directions contained in the order granting recognition. There cannot be any question of arbitrariness or discrimination by placing a benefit given to some of the institutes, which they are not otherwise entitled. Hence, the contention on discrimination must also fail.

21. In view of the above findings, the next question to be considered is as to what relief the petitioners are entitled to. When the miscellaneous petitions for similar directions were heard, by an order dated 21.9.2004, this Court had directed as follows:-

"In view of the said fact, it would be in the interest of both the institutions as well as the students to direct the Director of DTERT to consider the request as to the compliance of clause 3(a) and pass orders on or before 28.9.2004. While such consideration is made, the fact that the petitioners have obtained permission without reference to the "No Objection Certificate" cannot be a ground for rejecting the request. The Director also should take note of the fact that even before the permission is granted, the National Council for Teacher Education (NCTE) has to satisfy with the faculty members. On such satisfaction, a list of approved colleges should be published on the following day. The learned Additional Advocate General submitted that in case any institution is included in the list to be published by the Director as ordered by this Court, counselling will be held.

In view of the above, post these matters for further orders on 29.9.2004. In the meantime, the Director shall comply with the direction and report the same to this Court by way of counter."

Pursuant to the said direction, the learned Additional Advocate General filed the details of the request made by the individual institutes who have approached this Court and the approval by the DTERT in respect of some of the institutes. According to the learned Additional Advocate General, there were 66 institutes recognised by the NCTE after 1st September, 2004. Only 56 institutes have filed the writ petitions. Out of 56 institutes, the faculty list in respect of 22 institutes were approved. The 5 institutes who have not filed writ petitions also applied, out of which, the faculty list in respect of 2 institutes viz., Sahaya Matha TTI, Kalayarkoil and Dr.Sivanthi Aathithanar TTI, Tiruchendur were also approved.

22. The grievance of some of the petitioners is that though they have complied with the condition imposed in paragraph 3(a) of the order granting recognition by furnishing the details of the qualifications and experience of faculty members, their request has not been considered so far by the Director of Teacher Education Research and Training for approval. I am not inclined to go into individual details of the case and suffice to direct the Director of Teacher Education Research and Training, Chennai to consider all the requests made by the recognised institutes for approval of the list of faculty members and approve them, if the faculty members appointed possess the required academic and professional qualification as well the experience in terms of Regulation 5 of Appendix-5. As the learned Additional Advocate General has fairly submitted while the interim order dated 21.9.2004 was passed that the institutions whose faculty lists were approved shall be included in the list for admission of candidates through single window system and counselling will be conducted, there will be a direction to the Director of Teacher Education Research and Training, Chennai to conduct counselling not only for $22 + 2 = 24$ institutes, whose faculty lists were already approved, but also the institutes where the faculty members with required academic and professional qualification and experience in compliance of clause 5 of Appendix-5 were made and approved by him so far. All pending applications shall also be considered and orders passed on or before 19.11.2004. The Director of Teacher Education Research and Training is directed to conduct fresh counselling commencing from 22.11.2004 for allotment of candidates through single window system for Government quota seats to all those institutes where the list of faculty members are approved by the DTERT.

23. With the above direction, all the writ petitions are disposed of. No costs. Consequently, all the connected W.P.M.Ps. are closed.