IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Writ Appeal Nos.462, 11, 12, 13, 14, 19, 25, 166, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 and 228 of 2015

Writ Appeal No. 462 of 2015

Between:

Jeermiah College of Education,
Burugupadi Village and Post,
Korukonda Taluk, Rajahmundry. ... Appellant

And

The State of Andhra Pradesh, Represented by its Principal Secretary,
Primary Education Department, Hyderabad and others. ....Respondents

DATE OF JUDGMENT PRONOUNCED: 23.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

1. Whether reporters of local newspapers may be allowed to see the judgments? : Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the judgment? Yes/No

P.C.:

Heard Mr. S. Satyam Reddy, learned Senior Counsel for Smt. K.V. Rajasree; Mr. D. Prakash Reddy, learned Senior Counsel for Mr. K. Gani Reddy and Mr. O. Manohar Reddy, learned counsel for Mr. Y. Nagi Reddy, learned Advocates on record for the appellants, and the learned Advocate General for the State of Andhra Pradesh and Mr. K. Ramakanth Reddy, learned Standing Counsel for National Council for Teacher Education, for the respondents.

This batch of writ appeals is directed against the common order dated 15.12.2014 passed by learned Single Judge dismissing several writ petitions filed by institutions and students, for similar relief. The relief to grant approval/affiliation to the colleges run by the appellants for the academic year 2013-2014, sought in the writ petitions, is based on the recognition granted by the National Council for Teacher Education (for short "the N.C.T.E.").

Leading arguments were advanced by Mr. D. Prakash Reddy, learned Senior Counsel, on behalf of the appellants. At the outset, having perused the material on record with the assistance of learned counsel appearing for both sides, we make it clear that we are not inclined to admit the appeals and we are dismissing them summarily, at this stage.

In this batch of writ appeals, we are concerned with the academic year 2013-2014. Admittedly, none of the institutions, for the academic year 2013-14, had obtained recognition/approval as contemplated by Section 14 of the National Council for Teacher Education Act, 1993 (for short "the Act"). Though all institutions claim that they had applied for recognition under Section 14 of the Act, till the commencement of academic year 2013-2014, the institutions were not recognized by the N.C.T.E. Further, admittedly, none of the institutions before Court were named in the list of colleges for common admission process for the academic year 2013-14 nor the students who participated in the common admission process were allotted to these colleges. All these institutions, on their own accord some time, in October, 2013, conducted their own admission process and admitted students in the colleges run by them and approached this Court only at the stage of final examinations for the academic year 2013-2014. The writ petitions were filed sometime in November, 2014. That apart, the institutions were not accorded either approval by the State Government or affiliation by the University for academic year 2013-2014. In view of these admitted facts and after considering several judgments of the Supreme Court, learned Single Judge, in our opinion, rightly, dismissed all the writ petitions.

This Court, it appears, while admitting the writ appeals on 13.3.2015, had passed the following order:

"Because of peculiar facts and considering the urgency of the matter, as we notice the date of examination has been fixed in this matter on Monday next, and having noted the earlier order of the Division Bench on identical fact, we pass the following order.

It would be open for the candidates to take examination at their own risk.

Similarly, the examination which would be held by the institution concerned will be at their risk and should be subject to final orders which might be passed by this Court. We make it clear that our order should not be construed to be legalizing the examination held and examination being taken and no right and equity can be created. If it is found ultimately that there has been no affiliation, then obviously the examination which is being held and taken will be cancelled automatically.

We clarify that this order shall not be treated to be precedent and binding before any other appropriate Court."

Thereafter, on 12.6.2015, this Court directed not to declare results of the students until further orders.

In this backdrop, learned Senior Counsel appearing for the appellants submitted that the students cannot be made to suffer for the delay in granting recognition by the N.C.T.E. It was submitted that in the year 2011, all institutions had applied for recognition under the provisions of the Act. However, the N.C.T.E. did not take prompt action to conduct inspection, as provided for under Section 13 of the Act, and granted recognition as contemplated by Section 14 thereof. He submitted that though the academic year was supposed to start in August, 2013, in fact, for the academic year 2013-2014, it started sometime in November, 2013 and in the meanwhile, recognition was accorded by the N.C.T.E. for the academic year 2014-2015. He submitted that the recognition accorded for 2014-15 to meet the ends of justice and interests of innocent students, should be treated for the year 2013-2014. He submitted that the institutions are having staff and infrastructure, as per the norms, to impart training and, therefore, refusal to allow the students to write examination for the years 2013-14 and 2014-15 is illegal.

On behalf of one of the institutions, Mr. O. Manohar Reddy, learned counsel invited our attention to Section 13 of the Act and submitted that the institutions cannot be made to suffer for the delay in conducting inspection and according recognition to the institutions. It was also submitted that the delay in starting the course cannot be attributed either to the institutions or to the students, and therefore, the recognition accorded by N.C.T.E. for the academic year 2014-2015, may be treated as recognition for the academic year 2013-2014 in the interest of students already admitted by the institutions.

Similar arguments were advanced before learned Single Judge on behalf of the institutions and the students. In our opinion, the learned Single Judge has

dealt with all the submissions in proper perspective in the light of the law laid down by the Supreme Court in various judgments. We would like to make reference to three judgments of the Supreme Court, on which, reliance is placed for rejecting all the contentions advanced on behalf of the appellants.

In **Adarsh Shiksha Mahavidyalaya and Others vs. Subhash Rahandgale and Others** [1], the Supreme Court, in the concluding paragraph, made certain observations. For our purpose, the following observations made in sub-paragraphs (xii) and (xviii) of paragraph-87, are relevant, which read thus:

"(xii) No institution shall admit any student to a teacher training course or programme unless it has obtained recognition under Section 14 or permission under Section 15, as the case may be.

(xviii) In future, the High Courts shall not entertain prayer for interim relief by unrecognized institutions and the institutions which have not been granted affiliation by the examining body and/or the students admitted by such institutions for permission to appear in the examination or for declaration of the result of examination. This would also apply to the recognized institutions if they admit students otherwise than in accordance with the procedure contained in Appendix-1 of the Regulations."

(emphasis supplied)

Similarly, in **Maa Vaishno Devi Mahila Mahavidyalaya vs. State of Uttar Pradesh & others** [2], the Supreme Court in paragraphs 87.3 and 87.4, made the following observations, which are relevant for our purpose:

87.3 The recognition and affiliation granted as per the above Schedule shall be applicable for the current academic year. For example, recognition granted upto 3.3.2013 and affiliation granted upto 10.5.2013 shall be effective for the academic year 2013-2014, i.e., the courses starting from 1-4-2013. For the academic year 2013-14, no recognition shall be issued after 3-3-2013 and no affiliation shall be granted after 10-5-2013, Any affiliation or recognition granted after the above cut off dates shall only be valid for the academic year 2014-2015.

87.4 We make it clear that no Authority/person/Council /Committee shall be entitled to vary the Schedule for any reason whatsoever. Any non-compliance shall amount to violating the orders of the Court.

Our attention was also invited to the judgment of the Supreme Court in **N.M. Nageshwaramma & others vs State Of Andhra Pradesh and another** [3], wherein, almost, similar submissions were advanced. The Supreme Court

dealt with those submissions in the following manner:

"One of the writ petitions before us (Writ Petition no 12697 of 1985) was filed by a student claiming to have undergone training in one of the privately managed institutes. It was argued that the students of the institute in which she had undergone training were permitted in previous years to appear at the Government examination and as in previous years she may be allowed to appear at the examination this year. A similar request was made by Shri Garg that the students who have undergone training for the one year course in these private institutions may be allowed to appear at the examination notwithstanding the fact that permission might not be accorded to them. We are unable to accede to these requests. These institutions were established and the students were admitted into these institutes despite a series of press notes issued by the Government. If by a fiat of the court we direct the Government to permit them to appear at the examination we will practically be encouraging and condoning the establishment of unauthorised institutions. It is not appropriate that the jurisdiction of the court either under Article 32 of the Constitution or Article 226 should be frittered away for such a purpose. 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. We have no hesitation in dismissing the writ petitions with costs."
(emphasis supplied)

Apart from the fact that the order of the learned Single Judge cannot be faulted on any ground whatsoever, complete reply to the arguments advanced by learned counsel for the parties, finds place in the aforementioned three judgments of the Supreme Court. In the circumstances, all the writ appeals are dismissed.

We observe that if the students who are admitted for the academic year 2013-14 without approval, approach the concerned institutions for refund of fees/incidental charges paid by them for admission etc., the management of the institutions shall refund the entire fees/incidental charges, collected by them from the students with interest at 6% per annum within three months from the date request for refund is made. Consequently, pending miscellaneous applications shall also stand closed. No costs.

DILIP B. BHOSALE, ACJ
S.V. BHATT, J

23rd July, 2015

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

WRIT PETITION Nos.25947, 25950, 26644 and 26646 of 2015

Between:
Rajiv Kumar Agarwal and others.

....Petitioners

and

The State of Andhra Pradesh,
Represented by its Principal Secretary,
School Education Department,
Secretariat, Hyderabad,
And others.

....Respondents

DATE OF JUDGMENT PRONOUNCED: 21.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? **Yes**/No

2. Whether the copies of judgment may be Marked to Law Reporters/Journals? Yes/**No**

3. Whether His Lordship wishes to see the fair copy of the Judgment? Yes/**No**

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.25947, 25950, 26644 and 26646 of 2015

COMMON ORDER:

All these Writ Petitions are being disposed of at the admission stage in view of the urgency in the matter, after hearing the learned Senior Counsel for the petitioners, learned Government Pleader for School Education and the learned Standing Counsel for the Acharya

Nagarjuna University.

It is the admitted case that the petitioners-students, who are seeking relief in these four Writ Petitions, were admitted in the respective colleges of education during the academic year 2014-2015 beyond the permitted intake. The colleges were granted approval by the National Council for Teacher Education (NCTE) and affiliation by the Nagarjuna University permitting them to admit 100 students in respect of each institution. The petitioners were admitted beyond that capacity for the reasons best known to them. Now, the present Writ Petitions are filed challenging the inaction of respondent Nos.2 and 3 in issuing hall tickets in favour of the petitioners for appearing for B.Ed., annual examination in spite of receiving the examination fee and affiliation fee from the institutions and seeking permission to appear for B.Ed., annual examination scheduled to be commenced with effect from 17.08.2015 and 25.08.2015.

Learned Senior Counsel appearing for the petitioners submits that, in identical circumstances, this Court passed an order in W.P.M.P.No.31948 of 2015 in W.P.No.24602 of 2015, dated 06.08.2015. He also relied on **Vishnu Traders v. State of Haryana**[1] and **State of Uttar Pradesh v. Hirendra Pal Singh**[2]. He submits that there should be consistency in approach by this Court. Learned Standing Counsel for the University as well as the learned Government Pleader, on the other hand, relied on an order of the Division Bench of this Court in W.P.No.462 of 2015 and batch dated 23.07.2015 and submit that the petitioners shall not be allowed to appear for the examination when their intake was not approved by the concerned authority, including the University. They also submit that the hall tickets were issued to the students, who were permitted to be admitted pursuant to the list of approval granted way back in September, 2014.

In view of the admitted facts in this case, this Court is not inclined

to go into the merits of the case and deal with them elaborately. The petitioners were admitted by the institutions beyond the permitted intake for the reasons best known to them, eventhough the list of approval in respect of the permitted intake was communicated in September, 2014, itself. The petitioners were not approved to be admitted by anyone including the University. The only ground that is advanced is that the students are innocent, they have prosecuted their studies and before the fag end of attending the examinations, the hall tickets are denied to them. Though another learned single Judge of this Court granted interim direction in another case and the learned Senior Counsel relied on the aforesaid decisions, this Court is not inclined to follow the same in the name of consistency. The law should prevail over consistency. The Supreme Court as well as the Division Bench of this Court in the above decisions categorically held that the jurisdiction of the Court under Article 226 of the Constitution of India should not be frittered away for such a purpose and directed the management to refund the fee/incidental charges collected by them from the students with interest at 6% per annum. However, the learned Senior Counsel distinguishes the said order stating that those cases arose out of absence of recognition/affiliation in respect of those institutions and in these cases, the institutions are being run with proper approval from NCTE and affiliation from concerned University, but only the intake exceeded the permissible strength fixed by the University.

I am unable to make a distinction merely because the facts can be distinguished on the ground of excess intake. Excess intake even in the face of a communication in September, 2014, by the concerned University is glaring irregularity committed by the institutions. This Court should not come to the aid of such students, who were admitted without verifying the antecedents or the regularity of such admission in the institutions. It is not known under what circumstances the petitioners, who are from outside the State, are lured to take admission beyond the permitted intake. This is a clear case of commercialisation

and this Court should not come to aid in such a situation.

In the circumstances, all these Writ Petitions are dismissed. It is left open to the concerned authority to take appropriate criminal action, if it is possible to take, in accordance with law against the institutions for admitting the students beyond their intake and putting the students' life in jeopardy. The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

21.08.2015

Note: Issue C.C today.
B/o.
vs

[1] 1995 Supp (1) SCC 461
[2] (2011) 5 SCC 305