

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.151 of 2020

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Vidya College of Professional Studies, Plot No. 410,411, Vill.- Rasulpur Varuna, P.O.- Chipura, Tehsil/Taluka- Sampatchak, Town/City- Patna, Dist.- Patna, Bihar - 804453 through its Secretary Dipu Kumar, male, aged about 36 years, S/o Vidyanand Rai, R/o Makhdumpur, Gate No. 87, Dinapur Cum Khagaul, Patna, P.O.- Digha, P.S.- Digha, Dist.- Patna, Bihar- 800011.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board, Sinha Library Road, Patna through its Secretary.
2. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna.
3. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna.
4. The National Council for Teacher Education, Hans Bhawan Wing-II, Bahadurshah Zafar Marg, New Delhi- 110002 through its Member Secretary.
5. The Regional Director, National Council for Teacher Education, Eastern Regional Committee, 15 Neelkanth Nagar, Nayapalli, Bhubneshwar- 751012.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr.Suman Kumar, Advocate
For the B.S.E.B.	:	Mr. Gyan Shankar, Advocate
For the N.C.T.E.	:	Mr. Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
C.A.V. JUDGMENT
Date: 17-08-2022

1. The present writ petition has been filed for directing the respondents to grant affiliation for additional 50 seats for the academic session 2017-19 pertaining to diploma in Elementary Education (herein after referred to as the 'D. El. Ed.')
- course as per the recognition/permission granted by National Council for Teacher Education w.e.f the academic session 2017-19 vide



Memo dated 02.05.2017.

2. The brief facts of the case, according to the petitioner is that the respondent National Council for Teacher Education, Eastern Regional Committee, Bhubaneswar (herein after referred to as the 'NCTE') vide order dated 03.03.2016 had granted recognition to the petitioner college for D. El. Ed.. course for the academic session 2016-17 with intake capacity of 50 students whereafter, vide order dated 02.05.2017, the NCTE granted recognition to the petitioner college for conducting the D. El. Ed. programme of two years duration with additional intake of 50 students thus taking the total intake capacity of the petitioner college to 100 students from the academic session 2017-18. It is the case of the petitioner that after grant of recognition for additional 50 seats for the academic session 2017-18 by the NCTE, the petitioner college vide Memo dated 09.05.2017 wrote to the Bihar School Examination Board (hereinafter referred to as the 'BSEB') for grant of affiliation for additional 50 seats, however, the BSEB failed to grant affiliation to conduct the D. El. Ed. course for the academic session 2016-18 as well as for the academic session 2017-19, nonetheless, affiliation was granted for academic session 2018-20. It is submitted that the petitioner had earlier moved this Court for



grant of affiliation by filing a writ petition bearing CWJC No. 10788 of 2019, which was disposed off by a coordinate Bench of this Court vide order dated 24.07.2019 with a direction to the BSEB to consider the claim of all the petitioners in light of the judgment dated 28.03.2019, rendered by the learned Division Bench of this Court in CWJC No. 19046 of 2018. The BSEB, upon consideration of the said judgment dated 28.03.2019, passed in CWJC No. 19046 of 2018 (Rajendra Kishore B.Ed. College and others vs. BSEB & others), passed an order dated 13.09.2019, whereby and whereunder, as far as the petitioner college is concerned, it has been granted affiliation for the academic session 2016-18 with annual intake of 50 students.

3. The Ld. Sr. Counsel for the petitioner has submitted that the petitioner college had again represented before the respondent BSEB vide representation dated 14.10.2019 for grant of affiliation for additional 50 seats for the academic session 2017-19 but to no avail. The Ld. Sr. Counsel for the petitioner has also placed reliance on the order dated 26.09.2019, passed by a Co-ordinate Bench of this Court in CWJC No. 19926 of 2019 (Dr. Trisuldhari Pandey Memorial College of Education vs. The State of and others).

4. The Ld. Counsel for the respondent BSEB has submitted that



the petitioner had challenged the order of recognition of the NCTE dated 03.03.2016, whereby and whereunder the petitioner was granted recognition to conduct the D. El. Ed. programme with annual intake of one basic unit (50) for academic session 2016-17, by filing a writ petition bearing WP(C) No. 9124 of 2016, before the Hon'ble Orissa High Court and after the order of the Hon'ble Orissa High Court, the NCTE issued a revised order dated 02.05.2017 granting recognition to the petitioner college for conducting D. El. Ed. programme with additional intake of 50 students (one basic unit) from the academic session 2017-18. It has been further submitted that the petitioner college was granted affiliation in a phased manner, as per the application filed by it before the BSEB, seeking affiliation corresponding to the recognition granted by NCTE. In fact after issuance of letter dated 03.03.2016 by the NCTE, the petitioner had applied before the BSEB on 18.01.2017, for grant of affiliation for conducting D. El. Ed. programme for 50 seats, whereupon, the petitioner college was granted affiliation, vide letter dated 20.11.2017, from the academic session 2018-20. It is further stated that the petitioner had filed various writ petitions, in which various orders were passed by the Hon'ble High Court, hence



considering the same, the respondent BSEB passed an order dated 13.09.2019, whereby and whereunder the academic session of affiliation of the petitioner was corrected from 2018-20 to 2016-18, i.e corresponding to the session of recognition, as granted by the NCTE.

5. The Ld. Counsel for the respondents has also stated that pursuant to the revised order of recognition issued by the NCTE dated 02.05.2017, the petitioner college had filed an application dated 01.06.2017, raising claim for grant of affiliation for the added intake capacity of 50 seats, whereafter, the petitioner college was granted affiliation by the BSEB for the additional intake of 50 seats from the academic session 2018-20, vide letter dated 13.06.2018. At this juncture, the learned counsel for the respondents has referred to a judgment rendered by the Hon'ble Apex Court in the case of **Maa Vaishno Devi Mahila Mahavidyalaya vs. The State of U.P. and others.**, reported in **(2013) 2 SCC 617**. It is further submitted that in the said case, an Interlocutory Application bearing I.A. No. 16 of 2017 was filed before the Hon'ble Apex Court and the Hon'ble Apex Court, by an order dated 02.03.2017, extended the last date of issuance of formal order of recognition for the academic session 2017-18 till 30.05.2017. Thus, apparently, the petitioner having



applied only on 01.06.2017 for grant of affiliation for additional 50 seats for the academic session 2017-18, i.e. after the stipulated date/cut off date as fixed by the Hon'ble Apex Court by the aforesaid order dated 02.03.2017 passed in I.A. No. 16 of 2017 in WP(C) No. 276 of 2012, it could not be granted affiliation for the additional 50 seats for the academic session 2017-18, hence the BSEB granted affiliation to the petitioner college for the added intake capacity of 50 seats from the academic session 2018-20, by a letter dated 13.06.2018. As regards, the contention of the petitioner that it had submitted application for grant of affiliation for the additional 50 seats for the academic session 2017-18, on 09.05.2017, the Ld. counsel for the respondent BSEB has submitted that from a bare perusal of the said letter dated 09.05.2017, it would be apparent that the petitioner had filed a simple letter, annexing only the letter of recognition issued by the NCTE for the additional 50 seats but had neither filed any application in the requisite format nor had annexed any supporting documents nor had paid the prescribed fees required to be submitted by the college seeking affiliation. Therefore, it is amply clear that only after issuance of letter by the NCTE dated 02.05.2017, the petitioner had circumspectly filed the said letter dated 09.05.2017 with a view to create its



claim for affiliation for the academic session 2017-19 for the additional 50 seats, though the petitioner was well aware that for the purposes of seeking affiliation, it is required to submit an application in the prescribed format along with the necessary documents, as per the procedure prescribed under clause 5(kha) of the Bihar School Examination Board (Teacher Education Issuance of no-objection certificate, affiliation norms and procedure) Regulation, 2016 (hereinafter referred to as the 'Regulations, 2016').

6. The Ld. Counsel for the respondents has categorically stated that the petitioner college had filed an application in the prescribed format along with the requisite fees, annexing all the relevant documents, which can be found at Annexure-A to the counter affidavit, only on 01.06.2017, which would further demonstrate that the demand draft pertaining to the requisite affiliation fees was obtained by the Secretary of the college from the Canara Bank only on 31.05.2017 i.e. after expiry of the extended cut off time fixed by the Hon'ble Apex Court as 30.05.2017.

7. The Ld. Counsel for the respondents has distinguished the Order relied upon by the Ld. Sr. Counsel for the petitioner, rendered in the case of Dr. Trisuldhari Pandey Memorial



College of Education (Supra), inasmuch as in the said case a Co-ordinate Bench of this Court, by an order dated 26.09.2019, after noticing that the requisite application for affiliation had been submitted by the said college on 10.05.2017, had allowed the said case relying upon the order dated 02.03.2017 passed by the Hon'ble Apex Court in an I.A. filed in the case of Maa Vaishno Mahila Mahavidyalaya (Supra), whereby the last date for issuance of formal order of recognition for the academic session 2017-18 had been extended till 30.05.2017, whereas in the present case the application in the prescribed format along with the requisite fees for grant of affiliation was submitted before the respondent BSEB only on 01.06.2017, i.e. after expiry of the cut off date on 30.05.2017.

8. I have heard the learned counsel for the parties and perused the materials on record from which certain facts are not in dispute inasmuch as the petitioner college was initially granted affiliation by the NCTE for running two years D. El. Ed. programme vide letter dated 03.03.2016 for the academic session 2016-17 with an annual intake capacity of 50 seats whereafter, the same was challenged by the petitioner before the Hon'ble Orissa High Court and when the matter was remanded back to the NCTE, the NCTE, vide letter dated 02.05.2017, had



granted recognition to the petitioner college for running the D. El. Ed. programme from the academic session 2017-18 with an annual intake capacity of 100 seats. In pursuance to the recognition granted to the petitioner by the NCTE, vide letter dated 03.03.2016, the petitioner had applied before the respondent BSEB on 18.01.2017 for grant of affiliation for 50 seats for running the D. El. Ed. programme and the respondent BSEB vide letter dated 20.11.2017 had granted affiliation to the petitioner for the academic session 2018-20 with annual intake capacity of 50 seats, however, the same was challenged by the petitioner, whereafter the respondent BSEB, in light of the order dated 28.03.2019 passed by the learned Division Bench of this Court in CWJC No. 19046 of 2018 as also the one dated 24.07.2019 passed in the case of the petitioner i.e. in CWJC No. 10788 of 2019, had reconsidered the matter and vide order dated 13.09.2019 had amended its order of affiliation dated 20.11.2017 and had granted affiliation to the petitioner college to run the D. El. Ed. programme for the academic session 2016-18. In the meantime, pursuant to issuance of order of recognition dated 02.5.2017 by the NCTE, granting recognition/permission to the petitioner college to run D. El. Ed. programme from the academic session 2017-18 with annual intake capacity



of 100 seats, the petitioner college had applied before the BSEB for grant of affiliation to run the D. El. Ed. programme for the additional 50 seats for the academic session 2017-18, in the prescribed format along with the requisite fees on 01.06.2017, however, the respondent BSEB has rightly not granted affiliation for the academic session 2017-18, inasmuch as the petitioner college had admittedly filed the said application after expiry of the extended cut off date fixed by the Hon'ble Apex Court as 30.05.2017, by an order dated 02.03.2017, passed in an Interlocutory Application filed in the case of Maa Vaishno Devi Mahavidyalaya (Supra), nonetheless, the respondent BSEB has been gracious enough to have considered the case of the petitioner for grant of affiliation for additional 50 seats for the academic session 2018-20, which has been granted vide letter dated 13.06.2018.

9. Having regard to the facts and circumstances of the case, this Court is of the view that the request of the petitioner for grant of affiliation to run the D. El. Ed. programme for 50 additional seats for the academic session 2017-19 has rightly been not acceded to by the BSEB inasmuch as it had belatedly filed the application in the prescribed format, complete in all respect, along with the prescribed fees only on 01.06.2017 i.e.



after expiry of the last date fixed by the Hon'ble Apex Court as 30.05.2017, for issuance of formal order of recognition for the academic session 2017-18. Thus grant of affiliation to the petitioner college to run the D. El. Ed. programme for 50 additional students for the academic session 2017-19 would have been in teeth of the aforesaid order dated 02.03.2017 passed by the Hon'ble Apex Court. Hence, no infirmity can be found in the action of the respondent BSEB in granting affiliation to the petitioner college to run the D. El. Ed. programme for additional 50 seats for the academic session 2018-20. In fact, the learned senior counsel for the petitioner is also not in a position to controvert this aspect of the matter.

10. Considering the aforesaid aspect of the matter and for the reasons mentioned herein above, I do not find any merit in the present writ petition, hence the present writ petition stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	16.09.2021
Uploading Date	17.08.2022
Transmission Date	

