

W.P(MD)No.21747 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED:12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.21747 of 2022
and WMP(MD)No.15915 of 2022

Arulmigu Kalasalingam College of Education
Rep. by the Secretary Dr.K.Sridharan

... Petitioner

Vs

1. The Appeal Committee,
National Council For Teacher Education,
Rep. by its Chairperson,
G-7, Sector 10, Dwarka, New Delhi 110 075.
2. The Regional Director,
Southern Regional Committee,
National Council For Teacher Education,
G-7, Sector 10, Dwarka, New Delhi 110 075..
3. The Tamil Nadu Teachers Education University,
Rep. by its Registrar,
Karapakkam, Chennai 600097.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the third respondent to grant continuation of affiliation from 2021-2022 to the petitioner's



W.P(MD)No.21747 of 2022

University and to permit the students of the petitioner's University to undergo School Internship Teaching Practice and to appear for the I and II Semester Examination, within the time period stipulated by this Court.

For Petitioner :Mr. E.Somasundaram
For R1, R2 :Mr.Su.Srinivasan
For R3 :Mr.F.Deepak

ORDER

The Writ Petition has been filed in the nature of mandamus, directing the third respondent/Tamil Nadu Teachers Education University to grant continuation of affiliation from 2021-2022 to the petitioner's University and to permit the students of the petitioner's University to undergo School Internship Teaching Practice and to appear for the I and II Semester Examination.

2.The writ petition had been filed on 12.09.2022. At that particular point of time, the relief sought for by the petitioner was to permit the students, who had been admitted in the petitioner's University to write their I and II semester examination. No interim order was granted. Time



W.P(MD)No.21747 of 2022

passed and now the fourth semester examination is scheduled to be conducted from 17.04.2023. Since the matter had been mentioned being urgent, listed on yesterday (ie., 11.04.2023) and again on today (ie., 12.04.2023).

3.Heard the learned counsel appearing for the petitioner, learned counsel appearing for the first and second respondents and the learned counsel appearing for the third respondent.

4.The petitioner had been visited with an order issued by the first respondent on 03.12.2019, which can be termed as a show-cause notice under Section 17 of the National Council for Teacher Education Act, 1993, as to why the recognition of the petitioner need not be withdrawn by the first and second respondents. There were several defects found in the college, necessitating the first respondent to issue the show-cause notice. For that show-cause notice, the writ petitioner had given a reply on 17.12.2019.

5.Thereafter, the petitioner had applied for continuation of Provisional Affiliation on 14.10.2020. Again, a show-cause notice was then issued by the first respondent again under Section 17 of the National Council



W.P(MD)No.21747 of 2022

for Teacher Education Act, 1993 on 27.02.2020. This was also replied by the petitioner on 17.03.2020.

6.The issue kept moving back and front between the petitioner and the first respondent. Finally an order has been passed and published in Gazette Part III Section 4 on 16.03.2021, which can be termed as a '*withdrawal*' order. However, the writ petition has not been filed by the petitioner, questioning that particular order.

7.Consequent to such withdrawal, the third respondent namely, the Tamil Nadu Teachers Education University, which governs the petitioner had withdrawn the affiliation of the college.

8.In and around April, May and June, 2021, admission to various courses were conducted even though the petitioner had no recognition, had no affiliation with the third respondent. The petitioner was a body in suspended animation.

9.Later, a notice had also been issued by the third respondent on



W.P(MD)No.21747 of 2022

28.07.2021, in which, they had pointed out that there was no approval, no recognition and no affiliation and therefore a caution was issued that the petitioner should not admit any student.

10.The course under issue is B.Ed., Course. They train students to become teachers. For a student, who aspires to become a teacher, to uphold moral ethics should be the first quality. While that being so, the petitioner has fallen foul with that ethics.

11.Even after the caution issued by the third respondent, the petitioner commenced admitting 100 students. After admitting 100 students, the petitioner has filed the writ petition placing sympathy upon the students and seeking permission for them to write first and second semesters, which was the relief sought for in the writ petition. During arguments permission was sought to write the third and fourth semesters also, since the course has four semesters. The students have not written any semester examination from the time of admission.

12.The petitioner had filed an appeal before the Appellate



W.P(MD)No.21747 of 2022

Authority against the withdrawal order. It is complained by the learned counsel for the petitioner that owing to Covid-19 pandemic, the petitioner was not able to appear before the Appellate Authority. However, by order, dated 02.09.2022, the recognition, which had been withdrawn, had been again granted to the petitioner herein. That order came into force from the academic year 2022-23 onwards. But the fact is that the petitioner had admitted the students, during the academic year 2021-22, even without approval or affiliation. The petitioner did not take any steps to transfer the students to another college. They had also collected fees from them.

13. My attention is drawn to the Rules and Regulations of the third respondent. Chapter 13 relates to Approval of Colleges. Clause No.40 is as follows:

(40) Affiliation not granted with retrospective effect

(i) Affiliation or approval shall in no case be granted with retrospective effect. Attendance at courses of instruction provided in colleges or in subjects before affiliation or approval is granted shall not qualify for the grant of certificates of attendance for purposes of University Examination and such attendance shall not entitle any candidate for exemption from the production of certificates of



attendance.

(ii) No college/management of college shall advertise new courses or invite, in any other manner, applications for admission to new courses or admit students to new courses before getting the order of grant of affiliation for the Degree Courses from the University. If any college/management of college does so, applications for affiliation for further courses shall not be entertained from such erring college(s) for a period of five years, and such college(s) shall be liable for penal action deemed fit as indicated in Statute 6 of this Chapter.

14.From a reading of the Clause, it is evident that affiliation cannot be granted with retrospective effect. The petitioner, as a Deemed University, cannot claim ignorance of this particular Clause. They cannot claim innocence of the particular Clause. They cannot seek indulgence of this Court.

15.It is also seen that similar provision has also been given by the first respondent, which is governed by the National Council for Teacher Education Act, 1993 and the corresponding Rule National Council for Teacher Education Rules, 1997.



WEB COPY

16. Section 17 relates to the Contravention of Provisions of the

Act & Consequences Thereof. Let me extract Section 17 in its entirety:

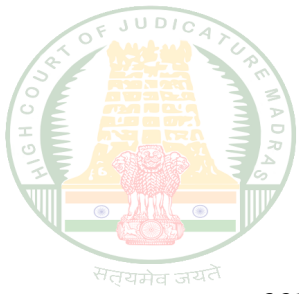
17. Contravention of provisions of the Act & consequences thereof-

(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of section 14 or permission under sub-section (3) of section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing:

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1). --



WEB COPY



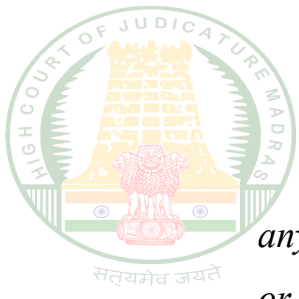
W.P(MD)No.21747 of 2022

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded Appeals simultaneously to the University or the examining body to which such institution was affiliated for canceling affiliation: and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (I), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section will with effect from the end of the academic session next following the date of communication of the said order

4.If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (I) or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government,



WEB COPY



W.P(MD)No.21747 of 2022

any State Government or University, or in any school, college or other educational hotly aided by the Central Government or any State Government.”

17. Section 17(4) of the National Council for Teacher Education Act, 1993 very specifically states that if any degree is granted by a College, which had admitted students during the period when the College suffered from withdrawal of recognition or affiliation, then such a degree or certificate cannot be treated as a valid qualification for the purpose of employment under the Central Government or State Government or under any University, or any School, or any College or any Educational Body either aided by the Central Government or by the State Government. The petitioner must be aware of all these rules. If they are not aware, they have no right to function as an University. They had still admitted 100 students in the year 2021.

18. The learned counsel for the petitioner projected the plight of the students. It is the petitioner who has to answer as they had admitted the students. This Court cannot come to the rescue of the petitioner. The Petitioner is probably of the opinion that by considering the condition of the students, this Court would pass a favourable order. But the petitioner cannot

10/16



W.P(MD)No.21747 of 2022

expect such an order from this Court and they should suffer the consequences,

since they had violated the rules and they had not followed the rules.

19. My attention is drawn to two earlier orders of this Court with respect to two other institutions.

20. ***WP(MD)No.3630 of 2022, by order dated 16.06.2022, St. Joseph's College of Education Vs. The Registrar, Tamil Nadu Teachers Education University*** was filed seeking permission to write the first semester examination and for a direction to grant approval to the students, who had been admitted. It had been stated in that particular case, there was a cancellation of affiliation by the respondent/ Tamil Nadu Teachers Education University and further that the cancellation was revoked on 22.10.2021 and an order granting recognition was passed on 29.11.2021. Thereafter, the petitioner had applied for fresh affiliation for the academic year 2021-22, which was pending. While that was pending, after withdrawing the cancellation of recognition, the petitioner therein had admitted the students. The learned Single Judge had passed an order stating that the students should not suffer.



W.P(MD)No.21747 of 2022

21. Here, in this case, admission was made, even the after withdrawal of recognition and affiliation. During the period of admission, the petitioner was under sufferable of an order of withdrawal of recognition. Even after that, the petitioner had admitted the students. The main aim of the petitioner was to collect money from gullible students. The bank account of the petitioner has been enriched by the fees paid by the students. Therefore, the petitioner is fighting for their own cause and certainly not for the cause of students. If they were interested, they would not have admitted the students in the first place.

22. My attention is drawn to another order, dated 11.01.2023 in ***WP(MD)No.25122 of 2022 in Good Shepherd College of Education, Rep. By its Secretary Vs The State of Tamil Nadu, Rep. by its Secretary to Government, Higher Education Department, Secretariat, Chennai and another.*** That writ petition was filed in the nature of a mandamus, seeking a direction to upload the details of the newly admitted students for online admission entry to B.Ed., Degree Programme for the academic year 2022-23. It is seen that even for the admission of the students, the petitioner therein sought permission. However, in the instant case, when the petitioner had



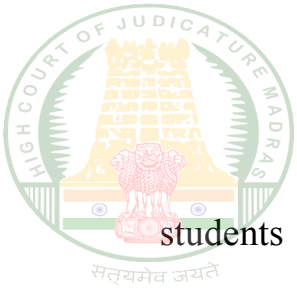
W.P(MD)No.21747 of 2022

suffered an order of withdrawal of recognition, the petitioner had not approached this Court seeking permission to admit the students. The petitioner had simply admitted the students and thereafter, had filed the present writ petition seeking permission for the students to write the semester examination.

23. Neither of these two judgments would apply to the facts of the present case. They are neither directly nor indirectly applicable to the relief sought for by the petitioner.

24. As repeatedly pointed out, the petitioner had admitted the students without recognition, without affiliation, without right and without authority. I really wonder as to how the petitioner had collected fees from the students with a clean conscience. The petitioner has to suffer the consequence of any order passed.

25. However, considering the welfare of the students, a request is placed on the respondents 1 to 3 to examine the possibility of transfer of the students to any other college, which is recognised and if rules permit, the



W.P(MD)No.21747 of 2022

students may also be scattered to several institutions and thereafter, permit them to write the semester examinations. If a certificate is obtained from the petitioner's College, which has no approval, no affiliation, the same cannot be used by the students for any purpose. It would only remain a paper and can never be put to any constructive use in the future at all. The students would never get employment in any School, College or University or anywhere.

26. Accordingly, this writ petition stands dismissed with costs of **Rs.5,00,000/- (Rupees Five Lakhs only)** payable to the **Madurai Bench of Madras High Court Legal Services Committee, Madurai**. The member Secretary of the said Committee is directed to contact the Chair Person, Virudhunagar District Legal Services Committee and reach out to the 100 students, who were admitted by the petitioner, examine the students and disburse the amount to those 100 students as per the apportionment fixed by the Member Secretary.

27. However, the students are also permitted to institute any litigation, apart from this petition, if they seek for damages or any other monetary compensation as against the petitioner. They should get a degree



W.P(MD)No.21747 of 2022

from an institution which is recognized. All the students may take the above steps if they are so advised and to alleviate their grievances if any.

Consequently, connected miscellaneous petition is closed.

12.04.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No
PNM

Note: Issue order copy on 13.04.2023

To

1. The Chairperson,
The Appeal Committee,
National Council For Teacher Education,
G-7, Sector 10, Dwarka, New Delhi 110 075.
2. The Regional Director,
Southern Regional Committee,
National Council For Teacher Education,
G-7, Sector 10, Dwarka, New Delhi 110 075..
3. The Registrar,
The Tamil Nadu Teachers Education University,
Karapakkam, Chennai 600097.

15/16



WEB COPY



W.P(MD)No.21747 of 2022

C.V.KARTHIKEYAN, J.

PNM

ORDER IN
W.P(MD).No.21747 of 2022
and WMP(MD)No.15915 of 2022

12.04.2023