

W.A.(MD)No.497 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.09.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A.(MD) No.497 of 2023
and C.M.P. (MD) No.5115 of 2023

Arulmigu Kalasalingam College of Education,
Rep. by the Secretary Dr.K.Sridharan,
S/o.T.Kalasalingam, Anand Nagar,
Krishnankovil – 626 126,
Virudhunagar District.

... Appellant/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 – 600 097.

.. Respondents 1 to 3/Respondents



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4.O.Rajamydeen
5.M.Shenbagamani Eswari
6.P.Manju
7.P.Muthulakshmi
8.R.Sakthiraji
9.P.Packiyalakshmi

... Respondents 4 to 9

(Respondents 4 to 9 are impleaded
vide Court Order Dated 29.08.2023
made in CMP (MD) No.9423 of
2023 in W.A.(MD) No.497 of 2023
By SSSRJ and DBCJ)

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent, to set aside the order passed by this Court in W.P.(MD)No.21747 of 2012, dated 12.04.2023.

For Appellant : Mr.S.Sivasubramanian
E.Somasundaram
For 3rd Respondent : Mr.V.R.Venkatesan
For Respondents 4 to 9 : Mr.S.Sukumar

* * *

J U D G M E N T

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This Writ Appeal is directed against the order of the learned Single Judge of this Court dated 12.04.2023, dismissing the Writ Petition in W.P.(MD) No.21747 of 2022, filed by the appellant.



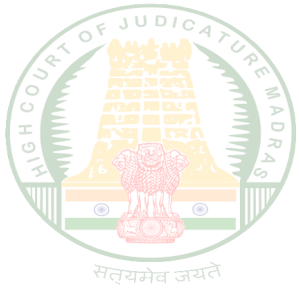
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2. Heard Mr.S.Sivasubramanian, learned counsel appearing for the appellant, Mr.F.Deepak, learned Standing Counsel for the third respondent and Mr.S.Sukumar, learned counsel for the respondents 4 to 9.

3. Brief facts that are necessary for disposal of this Writ Appeal are as follows:-

The appellant obtained recognition for conducting B.Ed., degree course of one year duration with an annual intake of 100 students in 2006. Thereafter, revised recognition was issued in 2015 for conducting B.Ed., degree programme for two years duration with an annual intake of 100 students (two basic units) from the academic session 2015-2016. Based on the inspection report received by respondents 1 and 2 dated 01.11.2016, a show cause notice was issued to the appellant under Section 17 of NCTE Act, 1993 on 03.12.2019. After receiving a reply and issuing a second show notice on 27.02.2020, the application for continuation of provisional affiliation for B.Ed., degree course for the academic year 2021-2022 was not processed and later by an order dated 16.03.2021, the recognition granted to the appellant was withdrawn by the second respondent.



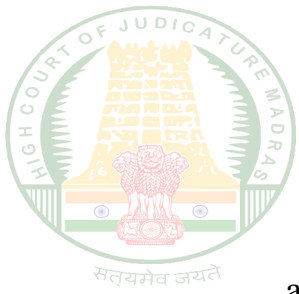
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4. It is now admitted before this Court that an appeal was preferred by the appellant on 30.09.2021. During the pendency of the appeal before the appellate authority, the appellant admitted students for the academic years 2021-22 and 2022-23. It is admitted that the appeal preferred by the appellant was disposed of by order dated 12.07.2022 and the matter was remitted to the National Counsel for Teacher Education for fresh consideration. Thereafter, the NCTE by proceedings dated 02.09.2022 passed an order continuing the recognition for B.Ed., programme with an annual intake of (2 basic units) of 50 students each subject to the fulfilment of certain conditions.

5. For the purpose of convenience, the operative portion of the order dated 02.09.2022 are extracted hereunder:-

“8. NOW THEREFORE, this order is issued permitting the institution i.e. Arulmigu Kalasalingam College of Education, Survey No. 518, Renappanaicker patti, Panchayat, Kunnur Village, Virudhunagar District, Tamilnadu-626190 run by Kalasalingam and Anandam Ammal Charities, Survey No. 518, Renappanaicker patti, Panchayat, Kunnur Village, Virudhunagar District, Tamilnadu-626190 for continuation of recognition for B.Ed. Programme for two-years duration with



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an annual intake of (2 basic units) of 50 students each subject to fulfilment of the following conditions:-

- I. The Endowment fund of Rs. 5 lakhs and Reserve fund of Rs. 7 lakhs kept in joint account with Regional Director of NCTE should be maintained perpetually. Raising loan against the FDRs or mortgaging them shall not be done.
 - II. The institution shall comply with the various other norms and standards prescribed in the NCTE Regulations, 2014 as amended from time to time.
 - III. The institution shall make admissions only after it obtains affiliation from the examining body in terms of clause 8(10) of the NCTE (Recognition Norms & Procedure) Regulations, 2014.
 - IV. The institution shall ensure that the required number of academic staff duly approved by affiliating body for conducting the course should always remain in position.
9. Further, the institution is required to fulfill all such other requirements as may be prescribed by other regulatory bodies like UGC, affiliating University /Body, the State Government etc. as applicable.
10. The institution shall submit to Regional Committee as Self - Appraisal Report at the end of each academic year along with the statement of annual accounts duly audited by a Chartered Accountant.

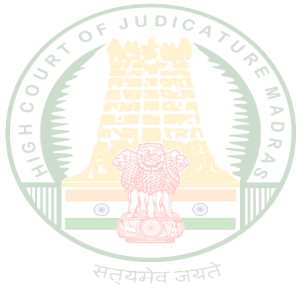


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11. The institution shall maintain its Website with hyperlink to the Council and the Southern Regional Committee, covering, inter - alia, the details of the institution, its locations, name of the programme(s) with intake; available of physical infrastructure, such as land, building, office, classrooms, and other facilities of amenities; instructional facilities, such as Laboratory and laboratory and library and the particulars of their teaching faculty and non-teaching staff with photographs, for information of all concerned. The information with regard to the following shall also be made available on the website namely:-

- a) Sanctioned programme(s) along with annual intake in the institution;
- b) Name of faculty and staff in full as mentioned in school certificate along with their qualifications, scale of pay and photograph;
- c) Name of faculty members who left or joined during the last, quarter;
- d) Name of Students admitted during the current session along with qualification, Percentage of marks in the qualifying examination and in the entrance test, if any, date of admission, etc ;
- e) Fee charged from students;
- f) Available infrastructural facilities;
- g) Facilities added during the last quarter;



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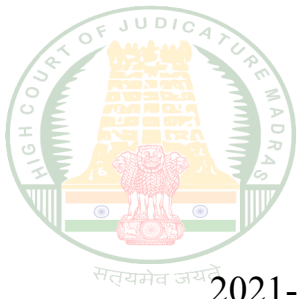


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- h) Number of books in the library, journals subscribed to and additions, if any, in the last quarter;
- i) The affidavit with enclosure submitted along with application;
- j) The institution shall be free to post additional relevant information if it so desires;
- k) Any false or incomplete information on website shall render the institution liable for withdrawal of recognition.”

6. Pursuant to the order of the NCTE it is also admitted that the University has granted affiliation. However, the issue to be addressed here is the fate of the students who were given admission in the institution for the academic years 2021-22.

7. The stand taken by the University was that the appellant institution admitted students without permission and without recognition. Since the students were admitted before the order of NCTE on 02.09.2022, the University has no occasion to know the proceedings that were pending. It is to be noted that University was not approached during the interregnum. Since the University did not give affiliation for



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2021-2022 and 2022-23, the students were not allowed to write the examinations. It is in the said circumstances, since the University has not recognised the students admitted during the interregnum, the appellant filed the Writ Petition for the issuance of a Writ of Mandamus, directing the University to grant continuation of affiliation for 2021-22 to the appellant College and permit the students of the appellant College to undergo School Internship Teaching Practice and to appear for the I & II Semester examinations within the time stipulated by this Court. This Writ Petition was dismissed by a learned Single Judge with a cost of Rs.5,00,000/-. Aggrieved by the same, the Writ Appeal is preferred by the Writ Petitioner.

8. Learned Single Judge did not agree with the case of the appellant on the ground that the appellant had suffered an order of withdrawal of recognition and had admitted students without seeking permission to admit the students.

9. On the admitted facts, it is seen that the National Counsel of Teacher Education by order dated 02.09.2022, permitted the institution



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for continuation of recognition for B.Ed. Programme for two years duration with an annual intake of 100 students (with two basic units of 50 students) subject to fulfilment certain conditions. It is not the case of the University that the appellant did not fulfil the conditions that were imposed in the order dated 02.09.2022. The facts remain that the students completed the regular classes. However, because of the fact that the University failed to recognise the students as validly admitted, the students were not allowed to write any examinations.

10. It is admitted before this Court that the earlier order withdrawing the recognition was on appeal. The appeal was allowed, therefore, the original order, withdrawing recognition is not in force. After remand, the NCTE has passed an order permitting the institution for continuation of recognition. The University has also now given affiliation. It is in that circumstances, this Court is unable to sustain the order of the learned Single Judge by holding that the students cannot write the examination.

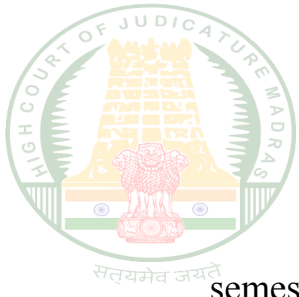


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11. Having regard to the facts admitted before this Court, after taking that view, this Court directed the appellant College to submit the list of students, who have been admitted during the academic year 2021-22 and completed their course in 2022-23. The University was directed to process the application of the students to write the examinations and to report. The University has now reported before this Court that after scrutiny of documents submitted by the College, all the 100 students who were admitted to the two year course for the academic year 2021-22 are eligible and no deficiency is noticed by the University. In the said circumstances, we take it that the students are eligible to write the examinations and should be permitted to write the examinations because there is no order withdrawing recognition for 2021-22.

12. Considering the facts that the students are not at fault and the withdrawal of recognition was later set aside and later on remand continuation of recognition was directed by the NCTE, this Court finds that the students cannot be put to injury. Therefore, the University is directed to conduct a Special Examination for the students who were admitted for the academic year 2021-22 in respect of all the four



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semesters. The appellant shall bear the entire costs of such examinations.

It is open to the University to decide the date and time of examinations and the other procedural aspects. Considering the plights of the students, the University is directed to conduct the examination as early as possible preferably within a period of three months from the date of receipt of a copy of this order and the result shall be declared thereafter within a period of two months.

13. Accordingly, this Writ Appeal is allowed and the impugned order of the learned Single Judge dated 12.04.2022 is set aside. There is no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
13.09.2023

NCC : Yes / No

Index : Yes / No

sj

To

1. The Appeal Committee,
National Council for Teacher Education,
Rep. by its Chairperson,
G-7, Sector 10, Dwarka,
New Delhi – 110 075.



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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

sj

2.The Regional Director,
Southern Regional Committee,
National Council for Teacher Education,
G-7, Sector 10, Dwarka,
New Delhi – 110 075.

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