

Lucy Hansda and ors. with Vs. State of Bihar and ors.

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Court : Jharkhand

Decided On : Jan-05-2001

Reported in : 2001(49)BLJR747

Judge : S.J. Mukhopadhaya, J.

Acts : National Council for Teachers Education Act, 1993 - Sections 14, 14(1), 14(6) and 16; Bihar State Universities Act, 1976 - Sections 4(19); Bihar Non-Government Physical Training College and Non-Government Teachers Training College and Non-Government Primary Teachers Training (Control and Regulation) Act, 1982 - Sections 5; [All India Council for Technical Education Act, 1987](#)

Appeal No. : Civil Writ Jurisdiction Case Nos. 1142 and 1295 of 2000

Appellant : Lucy Hansda and ors. with ;lucy Jayanti Tirkey and ors.

Respondent : State of Bihar and ors.

Advocate for Def. : R.K. Merathia, G.P. II,; M. Patra and; R.A. Choubey,

Advocate for Pet/Ap. : Tapen Sen and; Tapas Kabiraj, Adv.; Anoop Kumar Mehta

Disposition : Writ petition allowed

Judgement :

S.J. Mukhopadhaya, J.

1. Both the cases relate to holding examination of B.Ed. Degree course, the Colleges having recognised by the National Council for Teachers Education ('Council', for short). Common point being involved. they were heard together and are being disposed of by this common judgment.

2. The petitioners Lucy Hansda and others in CWJC No. 1142 of 2000 are students of B.Ed. Degree course in Ursuline Women's Teachers Training College, Lohardaga. They have completed their courses of study in the Sessions 1996-97, 97-98; and 98-99, but the respondent-Ranchi University having failed to announce the date of examination/having not held the examination, the present writ petitions have been preferred.

3. Similar prayer has been made by Lucy Jayanti Tirkey and others, the B.Ed. students of 'Loyola College of Education, Jamshedpur'. They have also completed their courses of study in the Sessions 1996-97; 97-98; 98-99; and 99-2000. It is the Ranchi University which is alleged to have not held examination in their case.

4. The case of petitioners Lucy Hansda and others is that the Ursuline Women's Teachers Training College, Lohardaga was established prior to 1971. It was granted temporary affiliation by the Ranchi University, vide letter No. 3/6003, dated 11th May, 1971, as extended by subsequent letter No. 3/7049 dated 18th September, 1981.

5. The State of Bihar also approved the affiliation of the College along with other college, namely, B.Ed. College, Jamshedpur, vide Memo No. 1438, dated 6th September, 1981, followed by recognition granted by the State of Bihar under Section 5 of the Bihar Act 29/1982 (Bihar Non-Government Physical Training College and Non-Government Teachers Training College and Non-Government Primary Teachers Training (Control & Regulation) Act, 1982 vide letter No. 475, dated 3rd October, 1994.

6. So far as other College, namely, the Loyola College of Education, Jamshedpur is concerned, according to the petitioners of the said case, the College was established prior to 1976 and was granted temporary affiliation by Ranchi University, vide letter No. P/3394-95, dated 5th April, 1976, which was extended

by subsequent letter No. 3/7049-51, dated 18th September, 1981.

7. Admittedly, the students were admitted in both the Colleges for imparting teaching in B.Ed, course and on completion of course, the Ranchi University held examination and published the result of the Session 1995-96, held in the month of September 1996.

8. For the first time, in view of promulgation of the 'National Council for Teachers Education Act, 1993 (for short, 'Act'), though the Colleges, in question, continued with admission of students for the subsequent Session 1996-97 onwards, the Ranchi University did not choose to hold examination in absence of recognition of Institution under Section 14 of the Act.

9. It appears that both the Colleges applied with the Council for recognition of their respective Colleges and deposited requisite fee with the Council. The Council, in their turn, after proper verification and enquiry, granted recognition in favour of Ursuline Women's Teachers Training College, Lohardaga, vide letter No. 2799(12) dated 11th February, 1997. The Institution was allowed to intake 80 students from Academic Session 1997-98, until further orders for teaching B.Ed. Degree course. Subsequently, the intake of students was increased up to 100 students by Council's letter No. 6391, dated 3rd July, 1998, but from the Session 1998-99.

10. So far as Loyola College of Education, Jamshedpur is concerned, on its application, after necessary scrutiny and enquiry, the Council recognised the College, vide letter No. 2799(12), dated 12th February, 1997. It was granted with effect from Academic Session 1997-98 with the intake of 60 students which was increased to 80 vide letter, dated 22nd June, 1998 for the Session 1998-99 onwards.

11. In the meantime, on the application of the College, the State of Bihar issued a formal letter, vide Memo No. GE/1814 dated 16th October, 1998, ex-tending the affiliation in favour of Ursuline Women's Teachers Training College, Lohardaga for the Sessions 1996-97 to 1999-2000 for B.Ed. course.

12. It may be mentioned that while the Colleges made applications for their recognition with the Council, they were asked to continue to impart teaching till final decision is taken. After recognition was allowed in favour of both the Colleges from the Academic Session 1997-98, the Ursuline Women's Teachers Training College requested the Council to grant recognition from the Session 1996-97. The Council, in their turn, vide letter No. 261, dated 3rd February, 2000 intimated that the recognition will not be effective retrospectively i.e., prior to the Session 1997-98.

13. Admittedly, the Ranchi University came out with Notice in a newspaper 'Ranchi Express' on 6th September, 1997 to hold B.Ed. Examination for the Session 1996-97 from 8th September, 1997. However, for one or other reason, the examination was not held, nor any subsequent notification issued fixing the date of examination for the Session 1996-97 and/or for the subsequent session.

14. Faced with the aforesaid situation the students had to move this Court by filing the present cases.

15. The Ranchi University appeared and filed counter-affidavit. Their stand is that the University is not in a position to grant affiliation in favour of the Colleges and/or to hold examination till the State Government grants approval in favour of the Colleges. Reliance has been placed under Section 4(19) of the Bihar State Universities Act, 1976 and a number of numerous letters, including letter No. GE/1883, dated 16th October, 1998 and reminders made, vide letter No. GE/1246-2000, dated 5th August, 2000, whereby the University has requested to grant prior approval for recognition.

16. The counsel for the Ranchi University white placed reliance on Section 4(19) of the Bihar State UniversitiesAct, 1976, also placed reliance on Section 21(2)(b) of the said Act.

When it was pointed out that the earlier Colleges duly affiliated by the University and there was no specific order of de-affiliation of the Institute, Mr. Mehta submitted that in terms with Sub-sections (4) and (6) of Section 14, the recognition having granted by the Council, fresh affiliation is to be issued by the University,

which cannot be issued without the prior approval of the State Government.

It was also pointed out that the Colleges have already applied for fresh affiliation, recognition having granted by the Council and the matter is pending consideration with the State of Bihar (now to be treated with State of Jharkhand).

17. The counsel for the petitioner merely relied on Supreme Court's decision in *Jaya Gokul Education Trust v. Commissioner and Secretary*, reported in 2000 (3) PLJR (SC) 159, wherein the Supreme Court while dealing the specific provision of AICTE Act, 1987, held that the University statute merely requires views of State Government to be obtained and does not amount to obtaining approval. It is not necessary in view of specific provisions made under the [All India Council for Technical Education Act, 1987](#) (AICTE).

18. From the facts pleaded, it will be evident that the College was affiliated since 1971, which was extended, from time-to-time, the State Government having granted approval.

19. In the case of Ursuline Women's Teachers Training College, Lohardaga, sanction was also granted under Section 5 of Bihar Act 29 of 1982. Both the Colleges being affiliated by the University with the approval of the State, their students were allowed to appear in the B.Ed. Examination till September 1996, lastly held for the Session 95-96. It is only since Session 1996-97, students were not allowed to appear as the Colleges had to apply for their recognition under the National Council for Teachers Education Act, 1993 which were also allowed in their favour by letter, dated 11th February, 1997.

20. The only question arises, as to whether on recognition of the Institute, in question, again fresh affiliation is required to be granted by the Examination Body (Ranchi University, Ranchi) and for which prior approval of the State Government is required to be obtained or not.

21. To determine the aforesaid issue, it is desirable to look into the relevant provisions of Sections 14 and 16 of the NCTE Act, 1993, as set out hereunder :

'14. Recognition of Institutions offering courses or training in teacher education.--

(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations :

Provided that, an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

(2) The fee to be paid along with the application under Sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under Sub-section (1), and after obtaining from the institution concerned such other particulars as it may considers necessary, it shall,--

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfills such other conditions requires for proper functioning of the institution for a course or training in teachers education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfil the, requirement laid down in Sub- clause (a), pass an orderrefusing recognition to such institution for reasons to be recorded in writing :

Provided that, before passing an order under Sub-clause (b) the Regional Committee shall provide a reasonable opportunity to in-concerned institution for making a written representation.

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under Sub-section (3) shall be published in the

Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government,

(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of Sub-section (3).

(6) Every examining body shall, on receipt of the order under Sub-section (4),--

(a) grant of affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.'

16. Affiliating body to grant affiliation after recognition or permission by the Council.--Notwithstanding anything contained in any other law for the time being in force, no examining body shall, on or after the appointed day,--

(a) grant affiliation, whether provisional or otherwise, to any institution, or

(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognised institution.

Unless the institution concerned has obtained recognition from the Regional Committee concerned under Section 14 or permission for a course or training under Section 15.'

22. From the plain reading of Sections 14 and 16 of the National Council for Teachers Education Act, 1993, it will be evident that though for recognition of an institution, which is already offering courses or training in Teachers Education and/or a new Institution which wants to establish, for both, it is mandatory to obtain recognition from the Council, but the question of affiliation of an Institution by an University arises only in the case of an institution, which is not affiliated and as such the question of affiliation afresh of an Institution already affiliated and offering courses for training does not arise.

23. In the facts and circumstances, both the Colleges having already affiliated by the University with the approval of the State of Bihar and no formal order of de-affiliation/de-recognition having issued, after recognition of the Institution by the Council, the University or the State of Bihar cannot refuse to hold examinations for the students and they are bound to grant affiliation to the Institutions recognised by the Council under Sub-section (6)(a) of Section 14 of NCTE Act, 1993, if not affiliated.

24. So far as the students of the Academic Session 1997-98 onwards are concerned, there should not be any difficulty on the part of the respondents to hold examination, having recognised by National Council for Teachers Education with effect from Academic Session 1997-98 onwards.

25. So far as students of Academic Session 1996-97 are concerned, they also cannot be deprived being saved under Proviso to Sub-section (1) of Section 14 of NCTE Act, 1993, as also the letter of the Council dated 31st May, 1996, by which the Loyola College of Education, Jamshedpur was asked to continue with the Academic Session 1996-97 with clear stipulation that the council will take necessary action for final disposal in the meantime. The Institution having recognised and as the matter remained pending with the Council, the students of the Session 1996-97 cannot suffer.

26. So far as respondent State of Bihar is concerned, in spite of notice and specific observations made by the Court on 22nd November, 2000, they did not choose to file counter-affidavit. The averments as made in both the writ petitions, stand uncontroverted.

27. In the facts and circumstances, I hold that the students of both the petitioners' Colleges for the Sessions 1996-97; 97-98; 98-99, as also the Session 1999-2000, are entitled to appear in the B.Ed. Examination, to the extent the Colleges have been allowed to intake the students. The examining body being the Ranchi University is bound to continue with the affiliation and to hold examination, approval having already been granted by the State of Bihar.

28. The respondent-Ranchi University is, accordingly, directed to hold B.Ed. Examinations of the students of the Colleges for the aforesaid Sessions, i.e., 1996-97, 1997-98; and 1999- 2000 and to allow the students of the College up to the limit of intake to appear, as allowed by the Council and to conclude the examinations within two' months from the date of receipt/production of a copy of this judgment. The results of such examinations are to be published, on an early date, preferably within three months from the date of holding the examinations.

29. The counsel for the Ranchi University will intimate this judgment to the Vice-Chancellor of the Ranchi University.

30. Both the writ petitions are allowed with the aforesaid observations and directions. However, in the facts and circumstances, there shall be no order, as to costs.

31. Writ petitions allowed.

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