

infant Jesus Teacher Training Institute,vs. M.Manikandan, and ors.

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Court : Chennai

Decided On : Aug-31-2010

Judge : R.Banumathi; G.M.Akbar Ali, Jj.

Acts : Code of Civil Procedure (CPC) - Section 114, under Order 47, Rule 1

Appeal No. : Review Application No.38 of 2010 in W.A.No.1145 of 2009

Appellant : infant Jesus Teacher Training Institute,

Respondent : M.Manikandan, and ors.

Advocate for Def. : Mr.AR.L.Sundaresan; Ms.A.L.Gandhimathi; Mr.G.Sankaran, Advs.

Advocate for Pet/Ap. : Mr.V.Ayyathurai; Mr.G.R.M.Palaniappan, Advs.

Judgement :

1. This Review Application is filed to review the order dated 23.11.2009 in W.A.No.1145 of 2009, whereby this Court has cancelled the second year examination given by the students and directing the students to sit for the second year Elementary Teacher Training Course Examination once again at the end of academic year 2010-2011.

2. Brief facts are that Review Petitioner Institution viz., Infant Jesus Teacher Training Institute, Vellore District has been granted recognition by Southern Regional Committee [in short, "SRC"], of National Council for Teacher Education

[NCTE] by an order dated 20.01.2005 under Section 14(1) of NCTE Act, 1993 to offer Elementary Teacher Training Course of two years duration from the academic session 2004-05 with an annual intake of 50 students. Review Petitioner- Institute applied to NCTE to grant recognition for an additional intake of another 50 students. NCTE in its letter dated 23.12.2005 informed the Review Petitioner that SRC considered the written representation submitted by the Institution and noted that the existing Teacher Training Institute was recognized only during January 2005 and therefore any application for additional intake will be considered only for 2006-2007. As against that order, Review Petitioner -Institute filed appeal before NCTE in 2006.

3. Even when the Appeal was pending and while recognition for additional intake was pending, Review Petitioner Institution had admitted 49 students for 2005-2006 which is beyond the permitted intake of 50 students. NCTE has earlier rejected the permission only for the said additional intake.

4. Appeal preferred by the Review Petitioner was allowed by the NCTE by the order dated 16.06.2008 which reads as under:-

"... Having considered the oral submission, the papers presented, the records of the case, the VT report and the fact that examination of students enrolled was conducted as per direction of the Hon'ble High Court, the council felt that there was enough ground to accept this appeal. Accordingly the appeal was accepted and SRC's order dated 23.12.2005 was reversed with direction to SRC to grant recognition to the institution accordingly. NOW THEREFORE, the council hereby reverses the Order appealed against. ..."

5. Southern Regional Committee of National Council for Teacher Education has granted recognition vide F.SRO/NCTE/D.T.Ed-A1/2008/ 8190, dated 01.01.2009 to the Review Petitioner-Institute for an additional intake of 50 students subject to fulfilment of certain conditions as under:- "I. The admission of students shall be done only after affiliation by the examining body before the commencement of the academic year and the admission of students shall be completed well before the cut off date prescribed by the Examining/Affiliating body for the academic year 2008-2009 failing which the recognition will be deemed to be from the next

academic year that is 2009-2010. V. The institution shall make admission only after it obtains affiliation from the examining body in terms of clause 8 (12) of the NCTE (Recognition of Norms & Procedure) Regulations, 2007."

6. The additional intake of students [Respondents 1 to 49] have filed W.P.No.20342 of 2008 seeking for Writ of Mandamus directing the Director, Directorate of Teachers Education and the Director, Directorate of Government Examinations to permit them to sit for the second year Elementary Teacher Training Course Examination to commence from 25.08.2008 and they contended that students have already completed the second year course during 2006-2007 and also completed the observation and Teaching Practice during July 2007. By an interim order, they were permitted to write examination, but the result was kept in abeyance. Again, they approached the Court to publish the results. By the order dated 07.01.2009, learned single Judge allowed W.P.No.20342/2008 directing the Director, Directorate of Teachers Education, the Director, Directorate of Government Examinations and the Principal, District Institute of Education and Training, Ranipet [Respondents 50 to 52] to publish the results and to issue certificates to Respondents 1 to 49.

7. Respondents 50 to 53 have filed Review Application No.28 of 2009 before the learned single Judge to review the order of the single Judge in W.P.No.20342/2008 (7.1.2009) on the ground that without staff approval, students cannot be permitted to sit for the examination. Respondents 50 to 53 further averred that Review Petitioner has been granted recognition by the NCTE to admit additional students only from the academic year 2009-2010 and therefore, additional students admitted in the year 2005-2006 were admitted without recognition and without staff approval and therefore, they cannot be issued with Diploma. Observing that staff approval is mandatory and in the absence of compliance of the regulations dealing with the staff approval for the additional intake of the students for the year 2005-2006, students do not have a legal right to seek publication of the result, the learned single Judge allowed the Review Application. The order of learned single Judge reads as under:- "47. As this Hon'ble Court had already taken the view that staff approval is mandatory in the earlier judgments in terms of the regulations, in the absence of compliance of the

regulations dealing with the staff approval for the additional intake of the students for the year 2005-06, it cannot be said that the Writ Petitioners/Students have a legal right to seek for publication of the results. The regulations, relating to staff approval, were not placed at the time of disposal of the Writ Petition. The regulations placed before this Court in the review petition are relevant for the purpose of the deciding the writ petition and had these materials been placed, at the time of hearing of the Writ Petition, this Court would not have issued any directions for publication of the results. Therefore, this Court is of the view that there is an error apparent on the face of the record in directing the publication of the results of the students."

8. As against the order allowing the Review Application No.28 of 2009 in W.P.No.20342 of 2008, the students have filed W.A.No.1145 of 2009. W.A.No.1145 of 2009 was disposed of directing that the students be treated as intake for the academic year 2009-2010 and that the examination which they have taken for the first year shall be cleared and cancelling the 2nd year examination taken up by the students the First Bench of this Court has directed the students to appear for the second year examination during 2010-2011. The order of the First Bench reads as under:-

"12. In view of the statement made by Mr.G.Sankaran, learned Special Government Pleader, as far as the first year of these students are concerned, they have given their examination. That could be adjusted towards the academic year 2009-2010. The students have already given their examination. The institution does have the additional capacity for this year and therefore, the first year examination of the students would stand cleared by the examining body after the necessary approval is given, which would be given within a period of two weeks from today. Learned counsel appearing for respondent No.7 undertakes not to admit any more students for the present academic year 2009-2010 which will enable the fifty students to be adjusted.

13. As far as the second year course to which these students seek induction is concerned, that was without any approval from the examining body. Obviously, it cannot be said that it can be approved nor their examination they have taken be

cleared. Therefore, they have to repeat the exercise for the second year in respect of the academic year 2010-2011. Learned counsel appearing for respondent No.7 states that he will not charge any fees for this course. The examination given for the second year presently will stand cancelled and the students have to write the examination at the end of the academic year 2010-2011."

9. Learned counsel for Review Petitioner Mr.Ayyathurai contended that the Review Petitioner applied for additional intake of 50 students for 2005-2006 and when NCTE allowed the Appeal on 16.6.2008 by setting aside the order of SRC dated 23.12.2005, the recognition for additional intake was deemed to have been granted for the year 2005-2006 since the order of NCTE merges with original order. It was further contended that while disposing the Writ Appeal, Bench placed reliance upon a decision of a Full Bench of this Court in the case of RUKMANI COLLEGE OF EDUCATION VS. THE STATE OF TAMIL NADU, 2008 (1) MLJ 1217, which was rendered under NCTE Act and NCTE (Recognition, Norms and Procedure) (Amendment) Regulations, 2006 and the said judgment is applicable to the cases, where the Institutions started and admitted students before the affiliation procedure has been introduced. It was further submitted that by applying ratio laid down in the said decision - 2008 (1) MLJ 1217, there is an error apparent on the face of the record since, in the instant case, the Review Petitioner institution has admitted students only for diploma in teacher training and the students were admitted only after applying for additional intake of 50 students.

10. We have heard Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the students/Respondents 1 to 49. Learned Counsel submitted that faculty approval was directed to be strictly followed only from 2008-2009 as per Order in W.P.No.20509 of 2007 dated 11.1.2008 and faculty approval was not so mandated in respect of students admitted in 2005-2006 and 2006-2007. Learned Senior Counsel would further contend that while allowing the Review Petition, the learned single Judge re-considered the entire issue as an Appellate Court and such error was not properly considered by the Bench at the time while disposing the Writ Appeal.

11. Drawing our attention to the provisions of NCTE Act and materials on record, learned Special Government Pleader (Education) Mr.G.Sankaran inter alia contended that in as much as recognition for academic year 2005-2006 for the additional intake was not granted by the SRC, the Institution was not entitled to make admission of students. It was further submitted that without proper recognition/without obtaining approval of the staff list from DTERT (Directorate of Teacher Education Research and Training), the Review Petitioner admitted students against the additional intake and the learned single Judge originally allowed the Writ Petition ignoring the mandatory requirement of staff approval and later review petition was rightly allowed by the learned single Judge.

12. We have considered the submissions of the learned counsel appearing for the parties. The learned Senior Counsel Mr.AR.L.Sundaresan made submissions pertaining the order of learned single Judge in Review Application No.28 of 2009 in W.P.No.20342 of 2008. It is pertinent to note that only as against the order in the said Review Application No.28 of 2009, Writ Appeal No.1145 of 2009 was preferred by the students - Respondents 1 to 49. After elaborately considering the submissions, Writ Appeal No.1145 of 2009 was disposed off by the First Bench by the order dated 23.11.2009 in which one of us (R.Banumathi,J.) was a member. In this review application, we are required to only consider whether the order in W.A.No.1145 of 2009 suffers from any error apparent on the face of the record.

13. It is fairly well settled that the foremost requirement of entertaining a review petition is that the order review of which suffers from any error apparent on the face of the order and permitting the order to stand will lead to failure of justice. In the absence of any such error, finality attached to the Judgment or Order cannot be disturbed. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered has a limited purpose and cannot be allowed to be an appeal in disguise.

14. Considering the scope of review jurisdiction and holding "mistake or error apparent on the face of the record must be self evident and does not require a process of reasoning, in Parsion Devi v. Sumitri Devi, ((1997) 8 SCC 715), the Supreme Court has held as under: "7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. v. Govt. of A.P.(AIR 1964 SC 1372 = (1964) 5 SCR 174) (SCR at p. 186) this Court opined: What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an error apparent on the face of the record). The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an error apparent on the face of the record, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by error apparent. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.

15. In the light of the above, the point for falling for consideration is, whether the judgment dated 23.11.2009 in W.A.No.1145 of 2009 suffers from any error apparent on the face of the record and whether there is patent/manifest error warranting review of the earlier judgment in W.A.No.1145 of 2009.

16. The main contention of the review petitioner is that by allowing of Appeal by NCTE (16.6.2008) for additional seats, by setting aside the order of SRC dated 23.12.2005, the recognition for additional intake must be deemed to have been granted for the year 2005-2006 in view of allowing of the appeal by NCTE on 16.6.2008 and in the order dated 23.11.2009 in W.A.No.1145 of 2009, it has not been considered, which is an error apparent on the face of the record. Of course, by an order dated 16.6.2008, NCTE set aside the order of the SRC dated 22.12.2005 and remitted the matter back to SRC with a direction to grant recognition to the institution. On 1.1.2009, the SRC granted affiliation specifically stating that the recognition will be deemed to be from the next academic year i.e.,

2009-2010. The order of SRC reads as under: "3. NOW, THEREFORE, in exercise of the powers vested under Section 15(3)(a) of the NCTE Act, 1993, the Southern Regional Committee, NCTE hereby grants recognition to Infant Jesus Teacher Training Institute, 747, Ramanthapuram Road, Behind E.B. Poer Station, Thiruvalam, Vellore District 632515, Tamilnadu for conducting D.T.Ed (Additional Intake) Course of Two years duration with an annual intake of 100 (Hundred) students which includes the existing intake of 50(Fifty) students and an additional intake of 50 (Fifty) students under clause 7(11) of NCTE (Recognition Norms & Procedure) Regulations, 2007, subject, to fulfilment of the following conditions: I. The admission of students shall be done only after affiliation by the examining body before the commencement of the academic year and the admission of students shall be completed well before the cut off date prescribed by the Examining/Affiliating body for the academic year 2008-2009 failing which the recognition will be deemed to be from the next academic year that is 2009-2010. II. Formal orders for recognition/permission will operate for 2008-2009 only if the requirement of 180 teaching days in the session would be fulfilled as per calendar of the University/Affiliating Body. ... IV. The institution shall comply with the various other norms and standards prescribed in the NCTE regulations, as amended from time to time. V The institution shall make admission only after it obtains affiliation from the examining body in terms of clause 8(12) of the NCTE (Recognition Norms & Procedure) Regulations, 2007. VI. The institution shall ensure that the required number of academic staff for conducting the course is always in position"

17. It was also made clear that recognition/permission will operate for 2008-2009 only if the requirement of 180 teaching days in the session would be fulfilled as per the calendar of the University/Affiliating Body, failing which the recognition will be deemed to be from the next academic year i.e., 2009-2010. It was made clear that the admission of students shall be done only after affiliation by the examining body before the commencement of the academic year and the admission of students shall be completed well before the cut off date prescribed by the Examining/Affiliating body for the academic year 2008-2009 failing which the recognition will be deemed to be from the next academic year that is 2009-2010. As per 3(IV) of SRC's order, the institution shall comply with various other norms and standards prescribed in the NCTE regulations, as amended from time to time.

As per Regulations and Norms and Standards of NCTE under Regulation 8(12) - conditions for grant of recognition - an institution shall make admission only after it obtains order of recognition from the Regional Committee concerned under Regulation 7(11) and affiliation from the examining body, which we have elaborated infra. When it was so explicitly made clear, the Review Petitioner cannot contend that the recognition for additional intake was deemed to have been granted for the year 2005-2006.

18. Learned Senior Counsel Mr.A.R.L.Sundaresan appearing for students/Respondents 1 to 49 contended that SRC has to issue a letter of recognition as a consequence of order of Appellate Authority and cannot impose new terms in the consequential order, which is again a violation of order of Appellate Authority.

19. Under Section 2(d) of National Council for Teacher Education (NCTE) Act, 1993, "examining body" means a University, agency or authority to which an institution is affiliated for conducting examinations in teacher education qualifications. Under Section 2(j) of the Act, "Regional Committee" means a committee established under section 20. Under Section 2(m) of the Act, "teacher education qualification" means a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance with the provisions of this Act.

20. Section 14 deals with Recognition of Institutions offering course or training in teacher education. As per Section 14(1), every institution offering or intending to offer a course of training in teacher education on or after the appointed day may, for grant of recognition under the NCTE Act, make an application to the Regional Committee concerned in such form and in such form and in such manner as may be determined by Regulations. Sections 14(3) and (6) deals with the procedure on receipt of application by Regional Committee. Section 14(3) and (6) reads as under "(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 consider necessary, it shall,- (a) if it is satisfied that such institution has adequate financial resources, accommodation, library,

qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher 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 requirements laid down in sub-clause (a), pass an order refusing 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 the concerned institution for making a written representation.

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

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

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

(underlining added)

As pointed out earlier, an institution shall make admission only after it obtains order of recognition from the Regional Committee concerned. The grant of recognition by the SRC is not automatic. It has to be satisfied that the institution has adequate financial resources, accommodation, library, qualified staff etc.

21. The next contention of the Review Petitioner is that faculty approval was not mandated in 2005-2006 and the same was directed to be strictly followed only from the year 2008-2009 as per order in W.P.No.20509 of 2007 dated 11.1.2008 and faculty approval was not so mandated in respect of students admitted. It was further contended that by allowing Review Application, the learned single Judge erred in saying that staff approval is mandatory in terms of regulations and in the absence of compliance of regulations dealing with the staff for the additional intake, which aspect was not gone into by the Appellate Court in the order dated 23.11.2009 in W.A.No.1145 of 2009. As pointed out earlier, in its order, while granting recognition for additional intake of 50 students, it was made clear that the institutions shall comply with various other norms and standards prescribed in the NCTE regulations. It was also made clear that institution shall make admission

only after it obtains affiliation from the examining body in terms of clause 8(12) of the NCTE Regulations and Norms and Standards 2007 and that the institution shall ensure that the required number of academic staff for conducting the course. As per 8(12) of the Regulations and Norms and Standards, the institution shall make admission only after it obtains order of recognition from the Regional Committee concerned under Regulation 7(11). Regulation 8(12) reads as under: "An institution shall make admission only after it obtains order of recognition from the Regional Committee concerned under Regulation 7(11), and affiliation from the examining body." Regulation 7(11), which deals with the requisite faculty/staff reads as under:-

"The institution concerned, after appointing the requisite faculty/staff as per Regulation 7(9) above and fulfilling the conditions under Regulation 7(10) above shall formally inform the Regional Committee concerned along with the requisite affidavit and staff list. The Regional Committee concerned shall then issue a formal recognition order that shall be notified as per provision of the NCTE Act."

22. A combined reading of Section 14(3) of NCTE Act read with Clauses in Regulations 8(12) and 7(11) makes it clear that requisite faculty/staff approval is mandatory. Only when SRC is satisfied as to the qualified staff, SRC shall issue recognition order. Approval of staff is mandatory in terms of provisions of NCTE Act and NCTE norms and regulations, etc.

23. The main contention of the Review Petitioner is that the faculty approval was not mandated in 2005-2006 and was made mandatory only from 11.1.2008 pursuant to the order in W.P.No.20509 of 2007 and grant of recognition was not depending upon the staff approval. Earlier single Judge has allowed the Writ Petition and the learned single Judge did not keep in view that staff approval is mandatory and the learned single Judge directed the publication of the results. When it was brought to the notice of the learned single Judge as to the mandatory requirement of staff approval, the learned counsel rightly allowed the review application setting aside his earlier order dated 7.1.2009. The learned single judge referred to clause 3(a) of the Order of NCTE dated 20.1.2005, whereby, while granting recognition, for the annual intake of 50 students, the NCTE, by Order

dated 20.1.2005 made clear that the institution will ensure six exclusive faculty members duly approved by the State Board are in position for an intake of 50 students before commencement of the course and a report to that effect was directed to be sent to the SRC. It was also made clear that the faculty list is to be approved by the Director of DTERT, Chennai. Approval of faculty/staff was mandatory even in 2005.

24. The learned single Judge observed that the said order shows that the institution, which gets recognition, should ensure approval of those faculty members by the State Board i.e., DTERT Chennai before the commencement of the Course and that the report to that effect should be sent to SRC. While obtaining recognition from NCTE for the original intake of 50 students, the Review Petitioner Institute itself has obtained recognition on condition of approval of faculty members by the State Board i.e., DTERT. While so, it is not open to the Review Petitioner - Institution to contend that staff recognition was made mandatory only from the year 2008-2009.

25. In the Review Application, the learned single Judge considered the regulations and norms and standards of NCTE. After referring to various regulations, the learned single judge rightly held that it is mandatory for getting approval of staff. In our earlier order in W.A.No.1145 of 2009 dated 23.11.2009, all these aspects were well considered. Having regard to the fact that the mandatory requirement of staff approval was not obtained, by the order dated 23.11.2009, Bench has directed the State Board DTERT to grant staff approval within two weeks from the date of receipt of copy of the order. Having regard to the fact that the students have already given their first year examination and the learned Special Government Pleader Education came forward in making the statement that the students could be adjusted towards academic year 2009-2010. In fact, when the matter was argued before the Bench the learned counsel appearing for the review petitioner Institute undertook not to admit any more students for the academic year 2009-2010. Since there was no approval of faculty/staff from the DTERT, we have directed the students to repeat the exercise for the second year in respect of the academic year 2010-2011 and ordered cancellation of examination given for the second year and directed the students to write the examination at the end of the

academic year 2010-2011.

26. On behalf of the students, Learned Senior Counsel Mr.AR.L.Sundaresan submitted that RUKMANI COLLEGE OF EDUCATION VS. THE STATE OF TAMIL NADU, 2008 (1) MLJ 1217 was rendered in respect of B.Ed. Course and the said judgment would be applicable only to the cases where institution started and admitted before the affiliation procedure has been introduced. The Learned Senior Counsel submitted that the case on hand is distinguishable from the decision reported in 2008 (1) MLJ 1217 and submitted that in the instant case, the issue involved is in respect of diploma in teacher training institute and that the review petitioner Institute has already applied for additional intake of 50 students even in December 2004 and the students have undergone the course from the academic year - 2005-2006. There is no force in the contention that the ratio of the said decision - 2008(1) MLJ 1217 is not applicable to the instant case. As per Section 2(m) of NCTE Act, "teacher education qualification" means a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance with the provisions of the Act". The ratio of the above decision applicable to B.Ed. is applicable in all force to the case on hand in respect of diploma in teacher training.

27. Time and again Supreme Court has deprecated the practice of educational institutions admitting the students without requisite recognition or affiliation, vide STATE OF TAMIL NADU VS. ST.JOSEPH TEACHER'S TRAINING INSTITUTE (1991) 3 SCC 87) and MINOR SUNIL ORAON TR.GUARDIAN VS. C.B.S.E. & OTHERS (2007 (4) LAW WEEKLY 97). Though the ultimate victims are innocent students, that cannot be a ground for granting the relief to the educational institutions. In 1991 (3) SCC 87, it was held that the students, who are admitted in unrecognised institutions cannot be permitted to write examinations. Learned Special Government Pleader Mr.G.Sankaran has drawn our attention to the judgment of the Supreme Court in S.L.P.(C) Nos.7375, 8009 11, 8108, 7416, 7560 62 of 1993 dated 15.6.1993 in St.Johns Teacher Training Institute (W), Madurai v. State of Tamil Nadu and others, wherein it was held as under: "The teacher-education programme has to be redesigned to bring in a system of education which can prepare the student-teacher to shoulder the responsibility of imparting

education with a living dynamism. Education being closely inter related to life, the well trained teaching can instil anaesthetic excellence in the life of his pupil. The traditional, stereotyped, lifeless and dull pattern of "chalk, talk and teach" method has to be replaced by a more vibrant system with improved methods of teaching to achieve qualitative excellence in teacher-education. Keeping in view the National Policy on Education, Government of Tamil Nadu has published a revised syllabus for the diploma in teacher education course in the Government Gazette of August, 15, 1990. The aims and objectives of the said syllabus and curriculum as given by the State of Tamil Nadu are as under:- "A Sound Programme of Elementary Teacher Education is inevitable for the qualitative improvement of education. Education must become an effective instrument of social change and the part played by the teacher should be suitable and significant for this purpose, the gap between Teacher Education curriculum and School Curriculum has to be minimised for enabling the teachers to act as agents of social change which necessitates that the education imparted in school has relevance to the personal as well as social life of individuals and to the needs and aspiration of the people in order to be a catalyst in the process of developing a citizen who is productive and who believes in social justice and national integration, the teacher himself needs to become such a citizen through appropriate learning experience"

28. As rightly contended by the learned Special Government Pleader, unless the appropriate staff are appointed in terms of the requirements as prescribed in the NCTE Regulations, Norms and Standards and duly approved by the competent authority viz., DTERT, the student teacher trainees admitted in the institutions against the additional intake will not be in a position to achieve the avowed policy of the Government.

29. As pointed out earlier, students were admitted even before grant of affiliation. Having regard to the plight of the students, extreme indulgence was shown to the students that is even awaiting staff approval, the additional intake of 50 students was ordered to be taken as intake for the academic year 2009-2010 and the review petitioner Institution has also undertaken not to admit any fresh students and that the 50 students would be treated as students for the academic year 2009-2010. Review Petitioner Institution has also undertaken that for the academic year

2010-2011 no fees will be charged.

30. It is pertinent to note that our order in W.A.No.1145 of 2009 dated 23.11.2009 was partly acted upon. No order granting recognition by SRC prior to 2009-2010 is also produced before us. The SRC is the body competent to grant recognition for additional intake of students to Teacher Training Institute. Referring to statement of Special Government Pleader and as per the order of SRC dated 1.1.2009, the officers of DTERT have already visited the institution and examined facilities available and keeping in view the interest of the students as we have also directed the respondents 50 to 53 to pass orders within a period of two weeks from the date of receipt of copy of the order in the Writ Appeal. Pursuant to our direction, the Director, Directorate of Teachers Education Research and Training (DTERT), Chennai had also granted approval for the teaching staff by proceedings dated 20.1.2010 for the year 2009-2010. By obtaining approval of staff list and having acted upon the order, the Review Petition filed on 18.3.2010 is not maintainable. The Review Petitioner is not justified in contending that there is error apparent on the face of record in our order in W.A.No.1145 of 2009 dated 23.11.2009 and that the same has to be reviewed.

31. The review proceeding is not by way of an appeal. Holding that the review must be confined to error apparent on the face of the record and re-appraisal of the entire evidence on record for finding the error would amount to exercise of Appellate Jurisdiction, which is not permissible, in *Meera Bhanja v. Nirmala Kumari Choudhury*, (1995) 1 SCC 170, the Supreme Court held as under: "8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. In connection with the limitation of the powers of the court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma* ((1979 (4) SCC 389), speaking through Chinnappa Reddy, J., has made the following pertinent observations: (SCC p. 390, para 3) It is true as observed by this Court in *Shivdeo Singh v. State of Punjab* (AIR 1963 SC 1909), there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which

inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.

9. Now it is also to be kept in view that in the impugned judgment, the Division Bench of the High Court has clearly observed that they were entertaining the review petition only on the ground of error apparent on the face of the record and not on any other ground. So far as that aspect is concerned, it has to be kept in view that an error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two opinions. We may usefully refer to the observations of this Court in the case of *Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale* (AIR 1960 SC 137), wherein, K.C. Das Gupta, J., speaking for the Court has made the following observations in connection with an error apparent on the face of the record: An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ."

32. As held by the Supreme Court in AIR 1960 SC 137, (*SATYANARAYAN LAXMINARAYAN HEGDEVS. MALLIKARJUN BHAVANAPPA TIRUMALE*), the

error must be apparent on the face of the record i.e., error must be self-evident and not which has to be established by a long drawn process of reasoning or which has to be searched. In other words, it must be an error and it must be one which must be manifest on the face of the record. Under the guise of review, parties are not entitled to rehearing of the same issue. An error can be said to be apparent on the face of the record only if such error is patent and can be located without any elaborate argument and without any scope for controversy with regard to such error, which stares at the face even by a mere glance of the judgement. The said position of law is reiterated in the decisions reported in (1997) 8 SCC 715, DELHI ADMINISTRATION VS. GURDIP SINGH UBAN AND OTHERS (2001(1) MLJ 45 (SC)), KERALA STATE ELECTRICITY BOARD VS. HITECH ELECTROTHERMICS HYDROPOWER LTD. AND OTHERS ((2005) 6 SCC 651), HARIDAS DAS VS. USHA RANI BANK (2006(4) SCC 78) and STATE OF WEST BENGAL AND OTHERS VS. KAMAL SENGUPTA ((2008) 8 SCC 612).

33. The uniform principle that runs through catena of decisions is that "a mistake apparent on record" must be obvious and apparent mistake and not something, which can be established by a long-drawn process of reasoning on points on which there may be conceivably two opinions. Upon careful consideration of the points urged by the Review Petitioner, in our considered view, the Judgment dated 23.11.2009 in W.A.No.1145 of 2009 does not suffer from any error apparent on the face of the record warranting review of our judgment dated 23.11.2009 and the review Application is liable to be dismissed and accordingly the same is dismissed. However, there is no order as to costs.

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