

A.E.Chelliah Educational Trust, Vs. the State of Tamil Nadu, and ors.

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Court : Chennai

Decided On : Jul-05-2010

Judge : V.Dhanapalan, J.

Acts : Constitution Of India - Article 226

Appeal No. : Writ Petition No.10309 of 2010 & M.P.No.1 of 2010

Appellant : A.E.Chelliah Educational Trust,

Respondent : The State of Tamil Nadu, and ors.

Advocate for Def. : Mr.P.Wilson; Mr.V.N.G.Rama Kannan; Mr.K.Venkatakrishnan, Adv.

Advocate for Pet/Ap. : Dr.A.E.Chelliah, Adv.

Judgement :

1. The prayer in the Writ Petition is for issuance of a Writ of Mandamus, to direct the first respondent-State of Tamil Nadu, represented by its Secretary to Government, Law Department, Fort St.George, Chennai, to issue "No Objection Certificate" (for short, 'the NOC') to the petitioner-Trust for starting a Law College as "Ideal Law College" in Thiruvallur, Thiruvallur District and further to direct the second respondent-Dr.Ambedkar Law University, represented by its Registrar, to grant affiliation to the said Ideal Law College, for enabling the third respondent-Bar Council of India, to permit the petitioner-Trust to run the said Law College from this academic year itself, 2010-2011.

2. The averments in the affidavit filed in support of the Writ Petition are as follows:

(a) The petitioner, a Senior Advocate, claims to be the author of several legal books, and has interest of the Bench and the Bar and the litigant public. He has undertaken several sensational issues concerning the law. With this background, he wanted to start a private Law College.

(b) He further states that the Bar Council of India has already addressed a letter to the petitioner in BCI/D/1282/2003 (LE/Affln), dated 3.11.2003, in this regard, seeking for certain particulars.

(c) The petitioner-in-person/Senior Advocate, after forming the petitioner-A.E.Chelliah Educational Trust, wanted to impart ideal legal education and hence, requested the authorities seeking for NOC/affiliation and corresponded to them on many occasions.

(d) In spite of repeated requests, the authorities in the State are stated to be silent, which according to the petitioner-in-person, amounts to violation of Articles 14 and 19(1)(g) of the Constitution of India.

(e) He also claims to have written to the State of Tamil Nadu for giving financial assistance to the new entrants of the legal profession as done in Karnataka, where Rs.1,000/- is paid per month for a year, to maintain the dignity of the profession and in this regard, he has also received a response from 31.7.2007, whereby, the Government has addressed the Chairman of the Bar Council of Tamil Nadu to take necessary action at their end.

(f) The petitioner-in-person, quoting various speeches of the legal luminaries, touching the legal aspects on improvement of the Judiciary and its wings, further states that the Temple of Justice should redress the grievances of the public.

(g) He further states that all the above information is being furnished for running the institution to improve the legal field.

(g) Hence, the petitioner-in-person claims that NOC could kindly be directed to be issued by the State and affiliation may be granted by the Bar Council of India, so

that he will run the institution by advertising the public through Press and Media, from this academic year 2010-2011 itself in Thiruvallur District.

3. A counter affidavit is filed on behalf of the first respondent-Law Secretary of the State, adverting to the points raised by the petitioner, by inter-alia stating as follows:

(a) At present, there are 7 Government Law Colleges in Tamil Nadu, functioning at Chennai, Madurai, Tiruchirapalli, Coimbatore, Tirunelveli, Chengalpat and Vellore, apart from a School of Excellence in Law functioning at Chennai under the control of Tamil Nadu Dr.Ambedkar Law University. The Government has not so far granted any permission to establish a private Law College under the provisions of the Tamil Nadu Dr.Ambedkar Law University Act, 1993, after the establishment of Tamil Nadu Dr.Ambedkar Law University. It is further stated that the guidelines for granting permission to establish a private Law College is under consideration by the Government.

(b) As per the recommendations of Justice P.Shanmugam Commission of Inquiry, opening of three Law Colleges at Tambaram, Thiruvallur, Ennore and Poonamalle, by shifting Dr.Ambedkar Government Law College, Chennai, is under consideration by the Government.

(c) The Government Law Colleges at Chengalpet and Vellore and two Law Colleges in Chennai, are sufficient for the students hailing from Thiuruvalur District and hence, there is no necessity of opening one Private Law College at Thiruvallur.

(d) It is further stated that the petitioner has not informed anything about the infrastructure facilities like, extent of land, building, etc., and no documents for starting a full-fledged College have been filed. (d) Hence, it is stated that the Government is not in a position to accede to the request of the petitioner to start a private Law College at Thiruvallur and the first respondent prays that the Writ Petition may be dismissed.

4. The petitioner-in-person has filed a rejoinder, by contending that the need for opening a Law College at Thiruvallur, was felt by the Bar Council of India, even in 2003 itself. While advertng to the fact, he states that many litigations are frustrating the aim and object of imparting legal education in an ideal manner. Regarding infrastructure, it is stated that the same has already been discussed in W.P.No.17216 of 2008, wherein, he has argued regarding lack of infrastructure with regard to Government Law College, Vellore and hence, he claims to provide for proper infrastructure. He relied on various Bar Council of India Rules for issuance of NOC to the petitioner-Trust for starting a private Law College at Thiruvallur. The petitioner-in-person claims to have won awards and appreciation from the then President of India Bharat Ratna Dr.A.P.J.Abdul Kalam. It is claimed that the petitioner-Trust located building and land and it is only after getting the NOC and affiliation, the petitioner could approach the Bar Council of India, as indicated in their letter of 2003 itself. Already, there is a private Law College in Salem run by the former teaching faculty and similar one is prayed for in Thiruvallur District, now by the former teaching faculty, who is none other than the petitioner-in-person. Not only Judiciary, but also all Government services and Corporated Bodies require legally qualified persons and it could not be stated that the desire to pursue legal education has decreased in the State of Tamil Nadu.

5. Mr.A.E.Chelliah, learned Senior Advocate, who claims to be the Patron of A.E.Chelliah Educational Trust, the petitioner-in-person, argued that the private colleges were already granted permission and they are functioning at Salem and other two Colleges are run by Saveetha and SASTRA Colleges, and therefore, the claim of the petitioner-Trust may also be considered positively in the same manner by the respondents, and without considering the various representations said to have been preferred by the petitioner-Trust, the respondents are keeping the same in cold storage.

6. Learned Senior Advocate, the petitioner-in-person, would further contend that the third respondent-Bar Council of India addressed a letter to the petitioner-Trust intimating that only on receipt of NOC from the first respondent-State, the petitioner-Trust's application could be processed and and approval could be granted and hence, the petitioner-in-person requests that the respondents may be

directed to issue NOC to the petitioner-Trust; otherwise, the petitioner would be put to great hardship and will be prejudiced. The petitioner-in-person, learned Senior Advocate further referred to various provisions of the Bar Council of India Rules in respect of grant of approval.

7. Learned Senior Advocate, the petitioner-in-person further contended that though there are no guidelines to issue the NOC and though there is no law or rule preventing a running of private Law College, there could be no impediment for the respondents to consider the request of the petitioner-Trust favourably. Learned Senior Advocate, the petitioner-in-person further took this Court through the typed set of papers and contended that for Law Degrees, people are flying to other States, which has to be kept in mind while granting NOC/affiliation. He further submits that there are sufficient lands for occupation of the College and the moment the authorities give the NOC/affiliation, the petitioner may proceed for further processes. The petitioner had been representing the authorities since 2005, in vein. Learned Senior Advocate-petitioner-in-person further produced a copy of the acknowledgement stated to have been given by the Special Cell of the Chief Minister, in proof of giving his petition to issue NOC to start a private Law College at Thiruvallur, stating therein that due action will be taken by forwarding the same to the concerned Office.

8. Mr.Venkatakrishnan, learned Standing Counsel for the third respondent-BCI submits that there is no representation properly addressed to the concerned authority and on technical reasons, the Writ Petition could be dismissed. Further, he disputes the starting of a private Law College.

9. Mr.P.Wilson, learned Additional Advocate General, appearing for the first respondent-State submits that the Government of Tamil Nadu has not granted permission to any person to establish a private Law College under the control of Tamil Nadu Dr.Ambedkar Law University and after the establishment of Tamil Nadu Dr.Ambedkar Law University, granting permission to establish a private Law College is under the consideration of the Government. Learned Additional Advocate General further submitted that there are two private Law Colleges, namely Saveetha College and SASTRA College, apart from Government Law

College in Chennai and Dr.Ambedkar Law University and there are also Government Law Colleges at Chengalpet and Vellore, which are all sufficient for the students hailing from Tiruvallur District, and therefore, there is no necessity for opening a new private College in Thiruvallur, more particularly, when the decision of the Government to start a new Government Law College at Thiruvallur, is pending consideration by the Government. Further, in the absence of proper infrastructure, land, etc., about the so-called new private College, the petitioner-Trust cannot seek for NOC and hence, the first respondent-State is not in a position to consider the request of the petitioner-Trust.

10. Learned Additional Advocate General fairly stated that this Court, if at all, could direct the concerned authority for consideration of the representation given by the petitioner-Trust.

11. This Court also heard the submissions of Mr.Rama Kannan, learned counsel appearing for the second respondent-Tamil Nadu Dr.Ambedkar Law University.

12. Having heard the learned counsel appearing for the parties and the petitioner-in-person, this Court is of the view that the petitioner has already made an application by way of representation to the Chief Secretary of the Government of Tamil Nadu, a copy of which is stated to have been forwarded to the Law Secretary, who is competent to look into the matter in respect of the petitioner's claim for issuing NOC to start a new private Law College at Thiruvallur. It is stated that the said application/representation is pending consideration by the first respondent-Law Secretary of the State, and therefore, this Court is of the view that it is obligatory on the part of the first respondent to consider the said application/representation and pass appropriate orders, on merits and in accordance with law.

13. The petitioner-in-person/learned Senior Advocate states that he has already given various representations/applications and the recent representation/application has been acknowledged, by the Special Cell of the Chief Minister, by way of acknowledgement, dated 29.10.2007 issued by the Special Cell of the Chief Minister of Tamil Nadu and as seen from the copy of the said acknowledgement finding place in the typed set of papers, the said

representation/application is stated to have been forwarded to the first respondent-Law Secretary of the Government.

14. Regarding the starting of the Law College, it is worthwhile to refer the decision of the Supreme Court in the decision reported in 1999 (3) SCC 224 (Shivaji University v. Bharti Vidyapeeth), wherein, while adverting to the permission to start a new Law College, the Apex Court held as follows: "8. Account has not be taken of whether or not a law college exists in a district. What is relevant and what should be taken into consideration is the population which the existing law college serves and whether, therefore, there is need for an additional college."

15. In view of the above ruling of the Apex Court, it is not material about the existence of the College in any area, but what is significant is that the requirement should be based on the serving population and in the present case, the same has to be taken into account by the respondents before issuing the NOC for starting a new private Law College at Thiruvallur.

16. Be that as it may, keeping in mind the goal of achieving the total public literacy and also keeping in mind the fact that legal education is a sine-qua-non for the present scenario of the country/State, instead of negating the claim of the petitioner-Trust, this Court, directs that the Chief Secretary of the State of Tamil Nadu, may forward the representation/application, if not yet forwarded, which is said to have been submitted on behalf of the petitioner-Trust by the petitioner-in-person and the same having been acknowledged by the Special Cell of the Chief Minister, on 29.10.2007 in petition No.F/297455, for starting a new private Law College at Thiruvallur, to the first respondent-Secretary of the Law Department, who is competent to deal with the application/representation of the petitioner for issuance of NOC, and if the said representation/application is already on the file of the first respondent-Law Secretary, or as soon as the first respondent-Secretary of the Law Department of the State receives such application/representation from the Chief Secretary on being forwarded, the first respondent-Law Secretary of the State shall consider the representation/application and issue NOC to the petitioner-Trust, provided if it is in order, and pass appropriate orders, as expeditiously as possible, taking into consideration the need and pendency of the

matter.

17. With the above observations, the Writ Petition is disposed of. No costs. The Miscellaneous Petition is closed.

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