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*Before Viney Mittal and H.S. Bhalla, JJ.*

MANGE RAM EDUCATIONAL AND CHARITABLE TRUST  
(REGD.),—*Petitioners*

*versus*

STATE OF HARYANA AND ANOTHER,—*Respondents*

C.W.P. NO. 14105 OF 2006

12th September, 2006

*Constitution of India, 1950—Art. 226—National Council of Teacher Education Act, 1993—Ss. 14, 15 and 16—Petitioner applying for recognition and permission for starting a new College for running B.Ed course—NCTE granting conditional recognition to start B.Ed course—Petitioner fulfilling all conditions—State Government not granting 'NOC' to the College on the ground that College not having separate building for running the College—In view of provisions of 1993 Act once a decision is taken by NCTE it has to be implemented by all the authorities—State Government could not have interfered with decision granting permission to petitioner—Petition allowed while directing the University to grant affiliation to institution run by petitioner for B.Ed course.*

*Held*, that in terms of Sections 14 and 15 of the Act, the petitioner Trust duly applied for grant of recognition and permission for starting a new College for running B.Ed course. After the completion of due formalities and after being satisfied of infrastructure possessed by the petitioner Trust/College and on being satisfied of all other requirements, the conditional recognition was granted to the petitioner Trust,—*vide* recognition dated 27th August, 2006. The only requirement subject to which the said recognition was granted was that the petitioner College was to appoint the staff by a duly constituted committee with the requisite qualification as per norms of NCTE and affiliating University and inform the Regional Committee by sending signed copy of minutes along with affidavit. It is not in dispute that in pursuance to the aforesaid stipulation the petitioner Trust made a request to the University and on nomination of two nominees of the University, the aforesaid Selection Committee duly selected and appointed the staff.

This fact is not even in dispute by the University. Thus, the only condition subject to which the recognition was granted has been fulfilled.

(Para 19)

*Further held*, that the State Government under the provisions of the Act and Regulations is authorized to raise an objection to the grant of recognition/permission once the copy of an application filed by the applicant is forwarded to it. The aforesaid objection is required to be sent to NCTE. The NCTE shall take into consideration the aforesaid objection but may choose not to agree with the same. In case the aforesaid objection is not accepted by NCTE and a permission/recognition in terms of sections 14 and 16 of the Act is granted, then the State Government has no further role to play.

(Para 21)

Rajiv Atma Ram, Senior Advocate with Aman Chaudhary,  
Advocate, *for the petitioners.*

Ashok Jindal, Additional Advocate General, Haryana with  
Ajay Gulati, Assistant Advocate General, Haryana *for  
respondent No. 1.*

Balram Gupta, Senior Advocate with Shireesh Gupta, Advocate  
*for respondent No. 2.*

## JUDGEMENT

**VINEY MITTAL, J.**

(1) The petitioner Trust has approached this Court for issuance of directions to Maharshi Dayanand University, Rohtak, arrayed as respondent No. 2, to grant affiliation to the college run by the petitioner Trust for B.Ed course session 2006-07. The State of Haryana through the Financial Commissioner and Principal Secretary, Department of Education, has also been arrayed as respondent No. 1 for the grant of any other appropriate relief.

(2) The petitioner is registered as a charitable and educational Trust and is running a Senior Secondary School at Sonapat. It has been pleaded by the petitioner Trust that it has 6 acres of land situated at Sonapat. The petitioner Trust got the use of the said land changed for using the same for educational purposes. As per the C.B.S.E.

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norms, a minimum of 2 acres of land is required for running a Senior Secondary School. The petitioner Trust claims that it is running the aforesaid School on three acres of land at Sonapat under name and style of South Point Public School, Sonapat. It has also been pleaded that the aforesaid School has a separate building which is being used exclusively for the said School.

(3) Since the petitioner Trust was wanting to open a B.Ed College on remaining three acres of land at Sonapat, therefore, it made a request to the State of Haryana for grant of no objection certificate.—*vide* an application filed on 15th December, 2005. The requisite fee of Rs. 25,000 and all other documents required for the aforesaid purpose, were appended with the application form. The aforesaid documents were the viability of the College, documents showing the ownership of the land, C.L.U. certificate, site plan/building plan alongwith photographs of the building, funds statement, etc. In pursuance to the aforesaid application filed by the petitioner Trust a letter of intent was issued by the State of Haryana in favour of the petitioner Trust on 23rd December, 2005. A Copy of the aforesaid letter of intent has been appended as Annexure P.1 with the present petition.

(4) In pursuance to the aforesaid letter of intent, the petitioner brought to the notice of the State Government that it had already developed all the infrastructure facilities and had already constructed the requisite building as per the guidelines. Consequently, the petitioner Trust requested the State Government to depute an inspection team to inspect/physically verify the infrastructure and other facilities available. In pursuance to the aforesaid request made by the College/Trust, an inspection team was deputed by the State of Haryana, which inspected the infrastructure and building of the College on 25th December, 2005.

(5) However, in spite of the aforesaid inspection carried out by the Inspection Team, no objection certificate has not been issued in favour of the College, nor the same has been refused so far. The petitioner Trust has maintained that the establishment of a B.Ed College is governed by the provisions of National Council of Teacher Education Act, 1993 (hereinafter referred to as the Act) and the regulations framed thereunder. The petitioner Trust maintains that as per the aforesaid regulations, no NOC is required from the State

Government by the College applying for approval of the National Council for Teacher Education (hereinafter referred to as the NCTE). Wherever an application in this regard is received by the NCTE, then a copy thereof is sent to the State Government, which is required to furnish its comments on the said application within 60 days from the receipt thereof. In case the State Government gives a negative recommendation, it is required to give detailed reasons and grounds. The said reasons are considered by the NCTE and thereafter a decision is taken in accordance with the provisions of the Act and the Regulations. However, if no communication is received from the State Government within a period of 60 days, then a presumption is raised that the State Government has no recommendation to make.

(6) The petitioner Trust has maintained that on receipt of the letter of intent from the State Government on 23rd December, 2005, petitioner Trust filed an application on 24th January, 2006 before NCTE seeking recognition in terms of Sections 14(1), 15(1) of the Act. Alongwith the said application, the petitioner Trust deposited an application fee of Rs. 40,000, the LOI of the State Government, land documents, approved buildings plans, fixed deposit receipts of Rs. 5 lacs towards endowment fund and other requisite documents. It has been claimed by the petitioner Trust that in pursuance to the aforesaid application filed by the petitioner Trust, NCTE conducted an inspection of the College premises. On being satisfied of the building and infrastructure possessed by the College, a conditional recognition was granted to the College set up by the petitioner to start a B.Ed course for the academic session 2006-07,—*vide* a communication dated 27th August, 2006. The aforesaid communication has been appended as Annexure P.5 with the present petition. A perusal of the aforesaid communication Annexure P.5 reveals that the South Point College of Education Purkhas Road, Near Sugar Mill, Sonapat, proposed by the petitioner Trust is listed at Sr. No. 3 and the conditional recognition has been granted to the said College subject to the following conditions :

"Appoint staff by a duly constituted selection committee with the requisite qualification as per Norms and Standards of NCTE and affiliating University and inform the Regional Committee by sending signed copy of the minutes along with an Affidavit."

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(7) A Copy of the aforesaid conditional recognition was also sent to the Registrar of the concerned Universities, affiliating bodies, with the direction that the affiliating body/University shall adhere rules and regulations of NCTE and also take further necessary action with reference to the selection of the requisite faculty/staff etc. as per the NCTE rules/regulations before the commencement of Session 2006-07. A Copy of the aforesaid communication has also been forwarded to the Educational Secretary of the Government of Haryana for ensuring necessary compliance by the affiliating body/University before the commencement of the academic session 2006-07.

(8) After the conditional recognition was received by the petitioner college, it requested the Maharshi Dayanand University for nomination of members from the University for selection of staff. In pursuance to the aforesaid request of the petitioner College, the respondent University deputed Dr. K. S. Sangwan, Dean of Education and Dr. N. K. Bansal, Principal, Hindu College of Education, Sonapat for selection of the staff. The aforesaid two nominees of the University alongwith Shri Dilbag Singh, Managing Trustee/Chairman of the Trust constituted a Selection Committee and in pursuance to the selection process carried out from the applicants, selected the requisite staff. Appointment order were also issued to the selected staff. This fact was even communicated to the respondent University on 28th August, 2006.

(9) However, the request made by the petitioner Trust/ College for the grant of affiliation on 23rd May, 2006 alongwith the requisite payments/documents has still remained pending and no action thereupon has been taken by University. Certain clarifications were sought and were duly replied by the petitioner Trust. However, the petitioner Trust was given to understand by the respondent University that since no objection certificate had not been issued by the State Government, therefore, the request for affiliation could not be processed any further. It is in these circumstances that the petitioner Trust has approached this Court through the present petition.

(10) In pursuance to the notice of motion issued in the present petition, the respondents have put in appearance through their learned counsel.

(11) Arguments of the learned counsel for the parties have been heard at some length.

(12) At the outset, it may be relevant to notice that Shri Balram Gupta, the learned Senior Counsel appearing for the respondent University has informed the Court that in pursuance to the conditional recognition granted to the petitioner Trust for running a College for B.Ed course for the session 2006-07, the University had nominated two persons for comprising a Selection Committee and the aforesaid Selection Committee had duly appointed the staff of the faculty for running the said College. In these circumstances, Shri Gupta very fairly informs the Court that the conditions stipulated in the conditional recognition have duly been fulfilled by the College. However, Shri Gupta maintains that the petitioner College has not been granted no objection certificate by the State Government so far and it was for that reason that the University had not taken a final decision to grant affiliation to the College run by the petitioner Trust.

(13) On the other hand, Shri Ashok Jindal, the learned Additional Advocate General, Haryana appearing for the respondent State has produced before us a communication dated 5th June, 2006 issued by Commissioner, Higher Education, Haryana addressed to the Regional Director, NCTE, Northern Regional Committee, Jaipur whereby it was communicated on behalf of the State Government that the petitioner Trust had no separate building for running the College according to the State Government guidelines and, therefore, the request of the Society for NOC could not be accepted. Shri Jindal, on instructions, has also brought to the notice of the Court that a policy decision had been taken by the State Government not to issue any no objection certificates to any more Education Colleges in the State of Haryana on account of the fact that the State had already sufficient number of such Colleges. On the basis of the aforesaid two facts, Shri Jindal has maintained that the State Government had not issued a no objection certificate to the College proposed to be run by the petitioner Trust.

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(14) In the back drop of the stand taken by the respondents, Shri Rajiv Atma Ram, the learned Senior Counsel appearing for the petitioner Trust has argued that the National Council of Teacher Education Act, 1993 was a complete code in itself and the said Act and the Regulations framed thereunder had vested the entire authority to grant recognition to an institution to run B.Ed course in the NCTE only and in these circumstances, once the recognition had been granted by NCTE, neither the State Government nor an affiliating University had any right or say in the matter. The learned Senior Counsel, in support of the aforesaid arguments has relied upon a judgement of the Supreme Court of India in **Jaya Gokul Educational Trust versus The Commissioner and Secretary to Government Higher Educational Department, Thiruvananthapuram and another (1)**, and a recent judgement of the Apex Court in the case of **State of Maharashtra versus Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Ors. (2)**. Shri Rajiv Atma Ram has also contested that communication dated 5th June, 2006 from Commissioner, Higher Education to the Regional Director of NCTE was much prior in time than the conditional recognition (Annexure P.5), which had been granted on 27th August, 2006 and, therefore, in terms of the provisions of the Act and the Regulations, once the aforesaid objection raised by the State Government had been taken into consideration by NCTE and even thereafter the recognition had been granted, the said objected shall be deemed to have been over ruled. On facts also, Shri Atma Ram has informed the Court that the objection raised by the State of Haryana with regard to the Trust having no separate building was factually incorrect inasmuch as the Trust had raised a huge building which was more than sufficient for running the B.Ed College. In this regard, the learned Senior Counsel has referred to the photographs which have been appended as Annexure P.11 with the present petition and has also produced few more photographs during the course of arguments to support the fact that the petitioner Trust/College had a big building and other infrastructure which was more than sufficient for running the B.Ed College.

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(1) J.T. 2005 (5) S.C. 118

(2) J.T. 2006 (4) S.C. 201

(15) We have duly considered the rival contentions of the learned counsel for the parties.

(16) We have also taken into consideration the objections raised by the State of Haryana for not issuing no objection certificate. We have also noticed the fact that the only reason for not granting the affiliation by the University is the non issuance of no objection certificate by the State Government.

(17) Under the provisions of Sections 14 and 15 of the Act, 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/permission under the Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by Regulations. The aforesaid provisions also provide for certain requisites which are required to be fulfilled and the fee which is required to be paid alongwith the application forms.

(18) Section 16 of the Act reads as under :—

"16. Affiliation 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."

(19) It is not in dispute that in terms of Section 14 and 15 of the Act, the petitioner Trust duly applied for grant of recognition and permission for starting a new College for running B.Ed Course. After the completion of due formalities and after being satisfied of

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infrastructure possessed by the petitioner Trust/College and on being satisfied of all other requirements, the conditional recognition was granted to the petitioner Trust,—*vide* recognition dated 27th August, 2006. The only requirement subject to which the said recognition was granted was that the petitioner College was to appoint the staff by a duly constituted committee with the requisite qualification as per norms of NCTE and affiliating University and inform the Regional Committee by sending signed copy of minutes alongwith affidavit. It is not in dispute that in pursuance to the aforesaid stipulation, the petitioner Trust made a request to the University and on nomination of two nominees of the University, the aforesaid Selection Committee duly selected and appointed the staff. This fact is not even in dispute by the University. Thus, the only condition subject to which the recognition was granted has been fulfilled. The said recognition granted to the petitioner by NCTE has become operative. A copy of the recognition letter (Annexure P.5) was addressed to the Registrar of the respondent University and also to the Education Secretary of the Government of Haryana requiring them to ensure the compliance by the affiliating body/University before the commencement of the academic session 2006-07. In these circumstances, the only question which remains to be examined is as to whether on such recognition having been granted to a College under the provisions of the Act by NCTE, the State Government had any further role to play or could the State Government object to the opening of the College on the ground of having not issued NOC and as to whether the affiliating University could reject the request of such a recognised College merely on the ground that NOC had not been issued by the concerned State Government.

(20) In our considered opinion, in view of the provisions of the Act, more specifically in the light of section 16 of the Act and in view of the law laid down by the Apex Court in Sant Dnyaneshwar Shikshan Shāstra Mahavidyalaya's case (*supra*), the answers to the aforesaid questions have to be in favour of the petitioner Trust.

(21) We have already taken note of section 16 of the Act, when it mandatorily requires the affiliating body to grant affiliation after recognition or permission had been granted by the Council. As a matter of fact, no discretion is left with the affiliating body/University. the State Government under the provisions of the Act and Regulations

is authorised to raise an objection to the grant of recognition/permission once the copy of an application filed by the applicant is forwarded to it. The aforesaid objection is required to be sent to NCTE. The NCTE shall take into consideration the aforesaid objection but may choose not to agree with the same. In case the aforesaid objection is not accepted by NCTE and a permission/recognition in terms of sections 14 and 16 of the Act is granted, then the State Government has no further role to play.

(22) While interpreting the provisions of All India Council of Technical Education Act, which are identical to the provisions of NCTE Act, the Apex Court in *Jaya Gokul Educational Trust's case (supra)* held that there was no statutory requirement for obtaining the approval of the State Government and even if there was one, it would have been repugnant to the AICTE Act. Only views of the State Government were required to be obtained before granting recognition.

(23) The same did not require to an approval of the State Government. Once the permission is granted by AICTE, the University was required to grant affiliation without waiting for any approval from the State Government.

(24) In a recent judgment in *Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya's case (supra)*, the Apex Court while dealing with the provisions of NCTE Act has held that the State Government could not have taken a policy decision nor the State Legislature had any power to enact a law repugnant to the Central Act requiring a no objection certificate from the State Government or authorizing it refuse permission.

(25) The following observations made by the Apex Court in the said judgment may be noticed with advantage :

"48. In the instant case, admittedly, Parliament has enacted 1993 Act, which is in force. The Preamble of the Act provides for establishment of National Council for Teacher Education (NCTE) with a view to achieving planned and coordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith.

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With a view to achieving that object, National Council for Teacher Education has been established at four places by the Central Government. It is thus clear that the field is fully and completely occupied by an Act of Parliament and covered by Entry 66 of List 1 of Schedule VII. It is, therefore, not open to the State Legislature to encroach upon the said field. Parliament alone could have exercised the power by making appropriate law. In the circumstances, it is not open to State Government to refuse permission relying on a State Act or on 'policy consideration'.

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53. In view of the fact, however, that according to us, the final authority lies with NCTE and we are supported in taking that view by various decisions of this Court, NCTE cannot be deprived of its authority or power in taking an appropriate decision under the Act irrespective of absence of No Objection Certificate by the State Government/Union Territory. Absence or non production of NOC by the institution, therefore, was immaterial and irrelevant so far as the power of NCTE is concerned.

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57. It is thus clear that the Central Government has considered the subject of secondary education and higher education at the national level. The Act of 1993 also requires Parliament to consider Teacher Education System 'throughout the country'. NCTE, therefore, in our opinion, is expected to deal with applications for establishing new B.Ed. Colleges or allowing increase in intake capacity, keeping in view 1993 Act and planned and co-ordinated development of teacher-education system in the country. It is neither open to the State Government nor to a University to consider the local conditions or apply 'State policy' to refuse such permission. In fact, as held by this Court in cases referred to hereinabove, State Government has no power to reject the prayer of an institution or to overrule the decision of NCTE. The action of the State Government, therefore, was contrary to law and has rightly been set aside by the High Court."

(26) The Apex Court held that the guidelines and the regulations permitted the State Government to collect necessary data and materials and make the same available to NCTE, so as to enable it to take an appropriate decision in accordance with the provisions of 1993 Act. Final decision can be taken only by NCTE and once a decision is taken by NCTE, it has to be implemented by all the authorities in the light of the provisions of the Act. Once the applications have been made by the College to NCTE under 1993 Act and after complying with the provisions of the Act, permission was granted by NCTE, the State Government thereafter could not have interfered with the said decision.

(27) The law laid down by the Apex Court in **Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya's case** (*supra*) fully covers the controversy in question involved in the present case. Thus, it has to be held that once recommendation had been granted by NCTE to the petitioner Trust to run a B.Ed College, then no further NOC was required from the State Government and on grant of recognition, Maharshi Dayanand University is also bound to grant affiliation to the College run by the petitioner Trust.

(28) In view of the aforesaid discussion, the respondent Maharshi Dayanand University, Rohtak is directed to grant an affiliation to the institution run by the petitioner Trust for B.Ed course for the academic session 2006-07. However, the aforesaid affiliation shall be wholly provisional and shall be subject to a permanent recognition being granted by the National Council of Teachers Education. The College run by the petitioner Trust shall also be entitled to commence the process of admission for the academic session 2006-07 for admitting the students to B.Ed course.

(29) The State of Haryana is also directed to include the institution run by the petitioner in the list of institutions *qua* which the counselling for admission to B.Ed course is to be held for the academic session 2006-07.

(30) A copy of the order be given dasti on payment of charges for urgent copy.