

Vellore Educational Trust vs State Of Andhra Pradesh And Ors. on 19 November, 1987

Equivalent citations: AIR1988SC130, JT1987(4)SC396, 1987(2)SCALE1042, 1987SUPP(1)SCC543, 1988(1)UJ29(SC), AIR 1988 SUPREME COURT 130, 1987 5 JT 396, 1987 SCC (SUPP) 543, 1988 21 REPORTS 151, (1987) 4 JT 396 (SC), 1988 (1) UJ (SC) 29, (1988) IJR 64 (SC), (1988) 1 CURCC 109

Bench: B.C. Ray, K. Jagannatha Shetty Shetty

JUDGMENT

1. The petitioner, 'Vellore Educational Trust' is a Trust registered by The Registrar, Registration Department at Vellore which is in Tamil Nadu. It wants to establish an Engineering College in Andhra Pradesh for the benefit of Tamil minorities.

2. There is no dispute and indeed there cannot be any dispute that Tamils are minority community in Andhra Pradesh. The petitioner trust in order to conserve and preserve the language, script and culture of the Tamil speaking community particularly of those who have been living in the adjoining districts made an application to the first and second respondent on May 24, 1984 seeking permission under Section 20 of the Andhra Pradesh Education Act, 1982 to establish a private engineering college with affiliation to Sri Venkateswara University, Tirupati. As the respondents did not take any action on the said application, the petitioner trust gave several reminders to the respondents to consider the application. The petitioner also made a written application to Sri Venkateswara University, Tirupati on June 22, 1985 for according affiliation/recognition to the Maruti College of Engineering, Palluru, Chittoor District which is a unit of the petitioner's trust. The Registrar, Sri Venkateswara University, the third respondent by his letter dated August 12, 1985 rejected the application for affiliation on the ground that the question of granting affiliation to the petitioner's Maruti College of Engineering will be considered only on production of permission letter from the Government of Andhra Pradesh for starting of a private engineering college at Palluru.

3. The petitioner filed a writ petition before the High Court for a writ of certiorari for quashing the decision of the University and also for a direction against the State Government to grant permission under Section 20 of the said Act and also for other reliefs. The said writ petition No. 12215 of 1985 was dismissed as pre-mature by a single Judge of the High Court of Andhra Pradesh by observing as follows:

under Section 20(3) of the A.P. Education Act, 1982 recognition of the private Institution is mandatory and as long as that recognition is not accorded the question of its affiliation to the University does not arise. Obviously for this reason the University in their letter dated August 12, 1985 informed the petitioner that his request for affiliation will be considered on his submitting a copy of the permission

granted by the Government. Admittedly, no such permission has been granted so far. Therefore, the writ petition is pre-mature. It is accordingly dismissed.

4. The petitioner thereafter filed a writ appeal No. 1260 of 1985. The Division Bench allowed the appeal with the following order:

...

The Director of Technical Education is directed to dispose of the application made by the writ petition on May 24, 1984 within one month from today. The writ petition is ordered accordingly. No costs.

In view of the orders passed in the writ petition, no orders need be passed in the writ appeal. No costs. Advocate's fee Rs. 150/.

5. The State Government i.e. respondent No. 1 sent a letter No. 746/RC. 2/85-4 dated 30th January, 1986 to the Chairman of the petitioner trust intimating that the application for permission has been rejected on the ground "...The present policy of Government is also not to give permission to any more private engineering colleges until the existing engineering colleges get stabilised and consolidated."

6. Feeling aggrieved by this order, the petitioner has filed the instant writ petition. It has been stated in the petition that the application for permission under Section 20 of the Andhra Pradesh Education Act, 1982 was filed as early as in May, 1984 before the respondent No. 1 whereas the policy not to grant permission for establishment of new engineering colleges came into force from July, 1985. It has also been stated that the authorities concerned discriminated in the matter of grant of recognition of colleges in as much as Chudi Ranganayakalu Charitable Trust Chilakalurupeta, Guntur District applied for permission for establishment of a private engineering college on October 15, 1984 while the petitioner trust applied for permission of a private engineering college on May 24, 1984. The respondent No. 1 granted permission to the establishment of the private college of the Chudi Ranganayakalu Charitable Trust whereas the petitioner's case was neither considered nor was granted any permission. Similarly, the respondent No. 1 also granted permission for the establishment of a private engineering college by Nagarjuna Education Society, Guntur vide Memo No. 854/EC2/85-2 dated November 15, 1985 i.e. after enforcement of the alleged policy of the Government. It has therefore, been submitted that the respondent No. 1 acted arbitrarily in not considering the application of the petitioner for according permission for establishment of a private engineering college to be affiliated with Sri Venkateswara University. The petitioner prays for an appropriate order/direction to respondent No. 1 to consider the case of the petitioner and to grant permission under Section 20 of the said Act for the establishment of an engineering college.

7. It has been contended on behalf of the respondent that in view of the policy of the Government adopted in 1985, the permission as required under Section 20 of the said Act, was not granted to the petitioner for the establishment of a private engineering college at Palluru in the District Chittoor. It

has also been submitted that the petitioner trust was registered in Vellore in the Tamil Nadu State and no society has been registered in the State of Andhra Pradesh and such the petitioner can not be granted permission to establish a college in the State of Andhra Pradesh.

8. It is evident from the Government's letter dated November 15, 1985, annexed as annexure-I to the writ petition that the respondent No. 1 accorded permission to Nagarjuna Education Society, Guntur to establish a private engineering college subject to the fulfilment of conditions mentioned in Section 20 of the Act. Permission was accorded for establishment of new engineering college even after the Government policy said to have been adopted in July, 1985. The respondent No. 1 also considered the application made by Chudi Ranganayakalu Charitable Trust, Guntur who applied for permission for the establishment of a private engineering college on October 15, 1984 and granted permission for the establishment of Chudi Ranganayakalu Engineering College at Chilkalurupeta in Guntur District. It may be mentioned in this connection that the application made by the petitioner was much earlier in point of time as it was submitted on May 24, 1984. It was also long before the policy adopted by the respondent No. 1.

9. As regards the objection that the petitioner trust has not got a society registered within the State of Andhra Pradesh, the learned Counsel for petitioner submitted that as soon as the permission is accorded, trustees of the petitioner trust will take immediate steps to have a society duly registered within the State of Andhra Pradesh. In our opinion, there cannot be any bar for the Trust at Tamil Nadu to apply for permission to start an educational Institution in another State for the benefit of minority communities. The Trust, however, must satisfy the requirements of the Andhra Pradesh Education Act.

10. The impugned order made by the respondent No. 1 refusing to grant permission solely on the ground of policy of the Government, is in our considered opinion not at all tenable as we have stated hereinbefore that such permission has already been accorded to establish private engineering college to Nagarjuna Education Society on November 15, 1985. Moreover the application for permission was filed long before the alleged policy in question was adopted by the respondent No. 1.

11. Considering all these facts and circumstances, we make the rule absolute, quash the impugned order dated January 30, 1986 and direct the respondent No. 1 to re-consider the application of the petitioner and dispose of the same in accordance with the law. In the facts and circumstances of the case we make no order as to costs.