

Andhra Kesari Educational Society vs Director Of School Education & Ors on 18 November, 1988

Equivalent citations: 1989 AIR 183, 1988 SCR SUPL. (3) 893, AIR 1989 SUPREME COURT 183, 1989 (1) SCC 392, (1988) 4 JT 431 (SC), (1989) 1 APLJ 16

Author: K.J. Shetty

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

PETITIONER:

ANDHRA KESARI EDUCATIONAL SOCIETY

Vs.

RESPONDENT:

DIRECTOR OF SCHOOL EDUCATION & ORS.

DATE OF JUDGMENT 18/11/1988

BENCH:

SHETTY, K.J. (J)

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SHETTY, K.J. (J)

RAY, B.C. (J)

CITATION:

1989 AIR 183 1988 SCR Supl. (3) 893

1989 SCC (1) 392 JT 1988 (4) 431

1988 SCALE (2) 1334

CITATOR INFO :

RF 1990 SC 592 (6)

E&D 1992 SC 1926 (10)

ACT:

Professional Colleges--College of Education--
Affiliation--Grant of--Nagarjuna University--Guidelines laid
by High Court--Necessity for compliance--Essentiality of
teachers--Role--Importance stressed Rigorous training--
Necessity for.

HEADNOTE:

In August, 1984 the State Government granted permission to various private bodies and individuals for starting colleges of education (B.Ed.) courses, with several

conditions required to be complied with within a period of six months. The appellant was one among these beneficiaries. When a change of the Government ensued in September 1984, the permissions granted were suspended or cancelled. The appellant and other institutions aggrieved by the cancellation moved the High Court for relief under Article 226. The High Court while disposing of all the writ petitions by a common order was of the opinion that the cancellation was as arbitrary as the grant of permission. Since the parties had invested large sums of money for establishing the colleges a *via media* was taken. The High Court laid down certain conditions and issued directions for compliance for granting permission and recognition to the colleges.

The District Educational Officer inspected the appellant's college and made a report stating that there was non-compliance with the directions of the High Court. Accepting that report, Director of School Education made an order declaring that the College of the appellant shall cease to exist with effect from the last working day of the academic year 1985-86.

Challenging the validity of that declaration, the appellant again moved the High Court by filing a writ petition. He filed two more writ petitions for a direction to the Nagarjuna University to grant affiliation to the appellant's college and for a declaration that the resolution of the Nagarjuna University refusing to grant affiliation to the college of the appellant was arbitrary and illegal. The students of the college also filed a writ petition for a direction to declare the results of their B.Ed. examination held in 1985. The High Court by a common order disposed of all the four writ petitions.

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PG NO 894

The appellant filed an appeal to this Court only against the order dismissing writ petition No. 1645 of 1987, on the ground that the appellant has not complied with the conditions laid down by the High Court. Before the High Court the appellant did not contend that it had complied with all the conditions laid down for recognition. However, it was contended that the college is a minority institution and, therefore, it need not comply with all those requirements. The High Court did not accept this contention. Before this Court he relied solely on the ground that the conditions laid down by the High Court have been substantially complied with. On behalf of the respondent State it was contended that the appellant has been a law breaker from the very beginning and no concession should be extended to perpetuate the illegality by permitting the students to appear in the examination and in any event, more than 100 students should not be permitted.

Dismissing the appeal, this Court,

HELD: 1. While considering the validity of the earlier

cancellation of the permission, the High Court had laid down certain guidelines and issued some directions for obedience. The High Court made that order in the interest of the institution and the students, though strictly speaking it was beyond the power of the High Court. The High Court did make it clear that if those conditions were not complied with within the prescribed period, the institution shall cease to function. The record reveals that there were many deficiencies in the institution. The reports of the District Educational Officer and Inspection Commission of Nagarjuna University indicated that the appellant did not satisfy all the requirements for granting permission or affiliation. [900D-E]

2. The permission to start the college by the appellant was cancelled twice by the authorities for want of requirements. On that ground, the University also has refused to grant affiliation to the college. The order of the High Court affirming the decision of the University is not under appeal before this Court. In spite of it, the appellant's sought an interim order from this Court and admitted 160 students. If the Government order had been delayed, the appellant ought to have asked the Convenor, B.Ed. Common Entrance test to allot the students for admission to the college. That was one of the conditions laid down by the High Court also. Even that was not complied with. [903B-D]

3. They are the students who were admitted on the strength of the interim order made by this Court. It may not be proper to drive them to street if they have under-gone the prescribed course with the necessary syllabi and other

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matters relating thereto. But it would be for the Director of School Education and the Registrar, Nagarjuna University to consider and satisfy themselves and not for this Court at once to permit them to appear in the examination. [903E-F]

4. Though teaching is the last choice in the job market, the role of teachers is central to all processes of formal education. The teacher alone could bring out the skills and intellectual capabilities of students. He is 'engine' of the educational system. He is a principal instrument in awakening the child to cultural values. He needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefitter. He must keep himself abreast of ever changing conditions. He is not to perform in a wooden and unimaginative way. He must eliminate fissiparous tendencies and attitudes and infuse nobler and national ideas in younger minds. His involvement in national integration is more important, indeed Indispensable. It is, therefore, needless to state that teachers should be subjected to rigorous training with scrutiny for efficiency. It has greater relevance to the needs of the day. The ill trained or sub-standard teachers would be detrimental to our educational

system; if not a punishment on our children. The Government and the University must, therefore, take care to see that inadequacy in the training of teachers is not compounded by any extraneous consideration. [903H; 904A-D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal NO. 293 of 1988.

From the Judgment and Order dated 24.4.1987 of the Andhra Pradesh High Court in W.P. NO.1645 Of 1987. M.C. Bhandare, M. Qamaruddin and Mrs. M. Qamaruddin for the Appellant.

P.A. Choudhary, A.V. Rangam and T.V.S.N. Chari for the Respondents.

The Judgment Of the Court was delivered by. JAGANNATHA SHETTY, J. This appeal by leave is directed against the judgment and order dated April 24, 1987 Of the Division Bench Of the High Court of Andhra Pradesh dismissing the writ petition NO.1645 Of 1987.

PG NO 896 Briefly stated, the facts are these:

In the month of August 1984 a Ministry headed by Sri N. Bhaskara Rao suddenly came into power in A.P. The said Ministry just lasted for about a month and had to go out of office for want of vote of confidence by the State Legislative Assembly. During that short term, the Government granted a number of permissions to various private bodies and individuals for starting colleges of education (B.Ed.) courses. The appellant was one among those beneficiaries. The permission was granted with several conditions. Those conditions were required to be complied with within a period of six months. In the middle of September 1984 Bhaskara Rao's Ministry went out of office and the Government headed by Sri N.T. Rama Rao came back to power. Soon thereafter the permissions granted were suspended or cancelled. The appellant and other institutions aggrieved by the cancellation moved the High Court of Andhra Pradesh for relief under Article 226. The appellant filed writ petition No. 812 of 1986. The State contended that the parties did not comply with the conditions of the grant of permission. All those writ petitions were disposed of by common order dated March 7, 1986. The High Court was of opinion that the cancellation was as arbitrary as the grant of permission. So a via media was taken since the parties have invested large sums of money for establishing the colleges. The High Court laid down certain conditions and issued directions for compliance for granting permission and recognition to the colleges. Some of those directions are as follows| "(1) The petitioners shall comply with the requirement of the deposit of Rs.4,50,000 within one month from this date. If the Director of School Education does not cooperate with the petitioners in opening a joint account the deposit shall be made in a fixed deposit account in the name of the college in any nationalised or scheduled bank. (It shall be open to the petitioner to pursue his application for exemption meanwhile but

the time limit prescribed herein remains or applies to this petition as well). (2) The petitioners shall comply with the requirements relating to the appointment of qualified staff and the laboratory, Library and audio-visual equipment within three months from today. For the purpose of recruitment of the teaching staff, the petitioners shall issue Notifications in two dailies with wide circulation in this State Calling PG NO 897 for applications from the qualified teachers on receipt of applications selections shall be made by the Selection Committee if one is already constituted by the Government or the University and if no Selection Committee is constituted, it shall be constituted consisting of a member of the Management, the Director of School Education or his nominee, not below the rank of a Joint Director and in his absence by D.E.O and an Expert to be nominated by the University. The petitioners shall send communications to the Director of School Education and the University as soon as applications are received for the purpose of constituting the Selection Committee and the said officers shall take the necessary steps in this behalf.

(3) If the qualified staff do not respond to the Notification issued by the petitioners and consequently the petitioners find difficulty in appointing qualified staff the petitioners shall made a representation to the Director of School Education seeking his help in the recruitment and appointment of qualified teaching staff.

(4) All other requirements, including the Model School, subject to which permissions were initially granted to the petitioners shall be complied with by the petitioners not later than 3]st July, 1986.

(5) The petitioners shall send a compliance report to the Director of School Education as soon as the requirement regarding deposit of Rs.4,50,00() within the permitted time is complied with duly endorsing a copy of the compliance report to the Government. Similarly, the petitioners shall send a compliance report to the Director of School Education regarding the appointment within the permitted time of the required qualified teaching staff and also the provision of library laboratory and audio-visual equipment endorsing a copy of the compliance shall send a report to the Director of School Education endorsing a copy thereof to the Government regarding the compliance of all other requirements as directed above by 3 Ist July, 1986."

The Director of School Education was asked to make such enquiry as he thinks fit to satisfy himself about compliance of the above requirements. If there was no satisfactory compliance within the prescribed period, the High Court said PG NO 898 that the concerned institution shall cease to function at the end of the academic year 1985-86.

In accordance with directions issued by the High Court, the District Educational Officer inspected the appellant's college. He made a report dated June 25, 1986 stating that there was non-compliance with the directions of the High Court. Accepting that report, the Director made an order dated September 20, 1986 declaring that the college shall cease to exist with effect from the last working day of the academic year 1985-86. Challenging the validity of that declaration, the appellant moved

the High Court with writ petition No. 1645 of 1987. The appellant also filed three more writ petitions. Writ petition No. 11087 of 1985 was filed for a direction to the Nagarjuna University, Guntur to grant affiliation to the appellant's college. Writ petition No. 9417 of 1986 was filed for a declaration that the resolution of the Nagarjuna University refusing to grant affiliation to the college was arbitrary and illegal. Writ petition No. 17725 of 1986 was filed by the students of the college for a direction to declare the results of their B.Ed. examination held on October 7, 1985. All the four writ petitions were disposed of by the High Court by a common order which is now under appeal before us. The writ petition No. 1645 of 1987 was dismissed on the ground that the appellant has not complied with the conditions laid down by the High Court. Consequently, Writ Petition Nos. 11087 of 1985 and 9417 of 1986 which were filed against the Nagarjuna University were also dismissed. The High Court however, made some observations regarding the manner in which the syndicate of the University has to dispose of the application for affiliation. The High Court observed that denial of affiliation affects the very life and existence of institution. Therefore, it would be fair and proper that the syndicate or other competent authority of the University which deals with the question of affiliation, must give reasons for refusal to grant affiliation. However, there are no appeals before this court against the dismissal of those two writ petitions. The present appeal is only against the order of dismissing writ petition No. 1645 of 1987.

At the outset, it may be stated that before the High Court the appellant did not contend that it had complied with all the conditions laid down for recognition. The contention, however, was that the college is a minority institution and therefore, it need not comply with all those requirements. The High Court did not accept that contention and in our opinion very rightly. It was observed that since the appellant has deliberately refused to comply PG NO 899 with the conditions by taking a new and untenable stand that it is a minority institution, it is not entitled to any relief. The High Court also noted the inadequacy in the recruitment of lecturers. As against seven lecturers, only five lecturers were appointed by the appellant. The posts of lecturer in Mathematics and Physical Science were left unfilled. The Principal was not qualified to hold the post. The lecturer in social studies was also not qualified. The High Court further referred to the deficiencies pointed out by the Inspection Commission of Nagarjuna University and finally said:

"The court allowed the writ petition subject to directions (a) to (j) contained in paragraph 134 of its judgment. Direction (b) clearly says that the selections shall be made by a selection committee comprising of one nominee of the Director of School Education and one nominee of the University. This was so directed notwithstanding the contention urged by the petitioner that it is a minority institution. Indeed, the Bench was of the opinion that the said aspect is totally irrelevant in the circumstances of the case. The reason is evident. The Division Bench merely directed the petitioner-institution to comply with the conditions of grant within a certain extended period and no more. The petitioner did not question the judgment of the Division Bench dated 7.3.1986, which means that he has accepted it. The said judgment has become final so far as the petitioner is concerned. Now when the question of compliance with and implementation of those direction arise, the petitioner cannot turn round and say that since the petitioner-institution is a minority institution, it need not comply with the said directions. Such a contention

cannot be countenanced, and cannot be taken note of in the circumstances of the case."

Before us, the question as to the nature of the institution--whether it is a minority institution or not, has not been canvassed. Counsel for the appellant said that he will urge that contention in other appropriate case. He rested this case on one ground that the conditions laid down by the High Court have been substantially complied with. Reference was made to the earnest efforts made by the appellant to recruit the best qualified staff by inviting applications through successive advertisements in news papers. When there was no response to the advertisements, the appellant, it is said, approached the department for recruitment of staff. But the department did not cooperate.

PG NO 900 It was argued that the appellant in the circumstances could not be blamed and if at all it should be the department to be found fault with. In the alternative it was contended that the appellant has since satisfied all the necessary requirements for grant of permission and affiliation of the college.

We do not want to examine the alternate contention urged by the appellant. That is a matter for the statutory authorities like the District Educational Officer and the Nagarjuna University to satisfy them-selves whether the institution should be permitted to carry on the course of study. Whether it has satisfied the necessary conditions for grant of permission and affiliation. We express no opinion on that aspect of the matter.

As to the first contention, very little remains in favour of the appellant. While considering the validity of the earlier cancellation of the permission, the High Court had laid down certain guidelines and issued some directions for obedience. The High Court made that order in the interest of the institution and the students, though strictly speaking it was beyond the power of the High Court. The High Court did make it clear that if those conditions were not complied with within the prescribed period, the institution shall cease to function. The record reveals that there were many deficiencies in the institution. The reports of the District Educational Officer and the Inspection Commission of Nagarjuna University indicated that the appellant did not satisfy all the requirements for granting permission or affiliation. We find no justification to consider the correctness of those reports. Nor we could find fault with the order of the High Court. Indeed we must accept it in the circumstances of the case. We may however, state that if the appellant has since substantially complied with the necessary conditions after the disposal of the matter by the High Court, it will be open to it to approach the concerned authorities for permission to start the college again.

This however, is not the end of the matter. There still remains another question. That question arises out of the interim order made by this Court. In this Court when the Advocates were on strike, the appellant appears to have personally moved CMP No. 5153 of 1988 for permission to admit students for the term 1987-88. That petition came up before a Bench of this Court on February 23, 1988. Mr. J. Prasad, petitioner-in-person was present in the Court and Mr. Balasubramaniam on behalf of the State Government was present. No advocate was present. Mr. Balasubramaniam, was PG NO 901 an officer of the establishment of the Andhra Pradesh Government Legal Cell at Delhi.

Obviously he was ignorant of, the facts of the case. This Court after going into the relevant papers made an interim order as follows:

"We have also read the report of 9th February, 1988 made by the District Educational Officer, Ongole. We direct subject to compliance of the conditions, petitioners should be permitted to admit students for the term 1987-88. The verification should be made within one week from today and if there have been any shortfall, petitioner has opportunity to comply the same within one week. The time granted upto 1st of March, 1988 shall stand extended upto 15th March, 1988. CMP is disposed of."

As is obvious from the above interim order that the appellant was permitted to admit students for the academic year 1987-88 subject to compliance with the conditions. This Court did not specify the number of students to be admitted. On March 9, 1988, the Department sent a Committee of two persons for inspection and report about the facilities available in the college. The Committee consisted of Shri R. Durga Prasad of G.G.C.E. Nellore and Shri B. Venkateswara. District Educational Officer, Ongole. They visited the college and submitted the report dated March 9, 1988. Several irregularities were pointed out in that report particularly with regard to accommodation, furniture, library, laboratory and games material. With regard to staff it is stated that the staff appointed are qualified, but it does not state whether the required numbers in different disciplines have been recruited or not. That report was forward to the Directorate of School Education. On March 11, 1988, the Director wrote to the Secretary, Government Education Department, A.P. to examine the case of the appellant in detail and accord permission to run the college till 1987-88 and also permit admissions of students in view of the interim order made by this Court. The Director also pointed out in his letter that the appellant is claiming to be a minority institution and seeking admission of 160 students. On April 4, 1988, the Government made an order according sanction to run the college till 1987-88 with an intake capacity of 100 students subject to fulfilment, among others, the following conditions:

"(1) The college building should be constructed expeditiously. The management should procure equipment and material for the laboratories expending an amount of not less than Rs.20,000 during 1987-88. They should also procure audio visual equipment and material at a cost of not less than Rs.30,000. The management should provide library facilities and expend a sum of Rs.5,000 towards purchase of books. They should also provide adequate furniture. (2) The management should appoint full contingent staff on prescribed scales of pay.

(3) They should appoint adequate teaching and non-teaching staff on prescribed scales of pay.

(4) Admissions into the B.Ed. Course in the College should be through the Common Entrance Examinations conducted by the University in view of the High Court judgment dated 8.10.1987 in W.P. No. 552 of 1986.

(6) The management should not collect any capitation fees.

(7) To establish a Model School The Director of School Education was requested to report the fulfilment of conditions by the management to the Government within six months from the date of issue of the order, failing which the permission accorded as liable to be cancelled without any notice.

This order was made subject to final judgment of the Supreme Court of India." It appears even before the aforesaid Government order, the appellant had admitted 160 students. The students were not allotted by the Convenor, B.Ed., Common Entrance Test. It is now said that these 160 students have undergone the required nine months training in the academic year 1987-88 and therefore, they should be permitted to appear for the examination.

Counsel for the State submitted that the appellant has been a law breaker from the very beginning and no concession should therefore be extended to perpetuate the illegality by permitting the students to appear in the examination. In any event, he said that more than 100 students should not be permitted.

PG NO 903 The explanation of the appellant however, in this context is, that there is a general circular of the State Government permitting unaided schools/colleges to admit 160 students for B.Ed. course as economic viability. The appellant, therefore, had to admit the students before the due date extended by this Court and could not have waited for the belated Government order.

The explanation of the appellant appears to be far from satisfactory. The permission to start the college by the appellant was cancelled twice by the authorities for want of requirements. On the ground, the university also has refused to grant affiliation to the college. The order of the High Court affirming the decision of the university is not under appeal before us. In spite of it, the appellant sought an interim order from this Court and admitted 160 students. If the Government order had been delayed, the appellant ought to have asked the Convenor, B.Ed. Common Entrance Test to allot the students for admission to the college. That was one of the conditions laid down by the High Court also. Even that was not complied with. From the sequence of events which were earlier referred to, we cannot avoid the conclusion that the appellant was trying to overreach everybody at every stage.

This is one side of the picture. There is however, another side. They are the students who were admitted on the strength of the interim order made by this Court. The student were perhaps led to believe that this Court permitted the appellant to admit them. We consider, therefore, that it may not be proper to drive them to street if they have undergone the prescribed course with the necessary syllabi and other matters relating thereto. But it would be for the Director of School and the Registrar. Nagarjuna University to consider and satisfy themselves and not for this Court at once to permit to them to appear in the examination.

In the result we dismiss the writ appeal. but direct respondent 1 and 3 to consider forthwith whether the students in the appellant's college have undergone the necessary B.Ed. course and if so, permit them to appear for the ensuing examination and publish their result. In the circumstances. however, we make no order as to costs.

Before parting with the case, we should like to add a word more. Though teaching is the last choice in the job market, the role of teachers is central to all processes of formal education. The teacher alone could bring out the PG NO 904 skills and intellectual capabilities of students. He is the 'engine' of the educational system. He is a principal instrument in awakening the child to cultural values. He needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefitter. He must keep himself abreast of ever changing conditions. He is not to perform in a wooden and unimaginative way. He must eliminate fissiparous tendencies and attitudes and infuse nobler and national ideas in younger minds. His involvement in national integration is more important, indeed indispensable. It is, therefore, needless to state that teachers should be subjected to rigorous training with rigid scrutiny of efficiency. It has greater relevance to the needs of the day. The ill trained or substandard teachers would be detrimental to our educational system; if not a punishment on our children. The Government and the University must, therefore, take care to see that inadequacy in the training of teachers is not compounded by any extraneous consideration.

A.P.J.

Appeal dismissed.