

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WP/2094/2023 WP/1820/2023 WP/1924/2023 WP/1954/2023 WP/1957/2023
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PROCEEDING SHEET

Sl. No	DATE	ORDER	OFFI CE NOTE
	12.04.2023	<p><u>GRKP, J</u></p> <p>Ms. M. Manikya Veena, learned Standing Counsel for Padmavathi Mahila University, Tirupati/Respondent No.18 in W.P.No.2094 of 2023 has submitted that the said University does not have any affiliated Colleges.</p> <p>2. Ms. Habeen Sheikh, learned Standing Counsel for Dr. YSR Architecture and Fine Arts University/Respondent No.22 in W.P.No.2094 of 2023 submitted that the said University does not have any affiliated Colleges.</p> <p>3. Registry is directed to delete the Respondent Nos.18 and 22 from the arrayed parties.</p> <p>4. Heard Sri Sri Vijay Mathukumilli, learned Counsel for the Writ Petitioners; Sri T. Niranjan,</p>	

		<p>learned Standing Counsel for Yogi Vemana University; Sri K. Dhanunjaya Reddy, learned Standing Counsel for Aadikavi Nannayya University; Sri Butta Vijaya Bhaskar, learned Standing Counsel for Sri Venkateswara University; Sri K. Ram Babu, learned Standing Counsel for Nagarjuna University; Sri T.S.N. Sudhakar, learned Standing Counsel for Krishna University; Sri M. Karibasaiah, learned Standing Counsel for Sri Krishna Devaraya University; Ms. Padmavathi Padnavis, learned Standing Counsel for Dravidian University, Sri M.V. Sai Kumar, learned Standing Counsel for Andhra University; Sri M.C. Reddy, learned Standing Counsel for Vikrama Simhapuri University; Smt. S. Parineeta, learned Standing Counsel for A.P State Council of Higher Education and Sri Hemanth Kumar, learned Standing Counsel for NCET.</p> <p>5. Writ Petitioners are the Colleges running B.Ed Courses in this State. Basing on the location of the Writ Petitioners' Colleges, the Writ Petitioners are affiliated to various Universities. The Writ Petitioners would establish their Colleges in accordance with the provisions of the National Council for Teacher Education Act, 1993 (the NCTE Act). The National Council for Teacher Education has been established in accordance with the NCTE Act and this is the Apex Regulatory Body, which is responsible for grant of recognition to each of the Colleges and their continuance thereof.</p>	
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	<p>6. Universities are also responsible for granting affiliations to the respective Colleges under their geographical jurisdiction.</p> <p>7. Various issues raised by the present Writ Petitioners would generally relate to prescribing various kinds of punitive actions by the respective Universities in the form of 'zero admission year' or the reduction of annual intake of students.</p> <p>8. Commonly all the Writ Petitioners are aggrieved because the respective Universities have communicated their decisions with regard to the implementation of 'zero academic year' or reduction of intake capacity just before either the commencement of counseling for admission into B.Ed Course for the current academic year or after commencement of admissions but before the spot admissions would take place as per the counseling schedule.</p> <p>9. In this regard, the Writ Petitioners are also questioning the competence of the Universities in exercising powers under the NCTE Act. They contends that the Impugned Actions of the Universities are unauthorized inasmuch as the Universities do not have the statutory competence to do so because such power/authority vests only with the NCTE as per the NCTE Act.</p> <p>10. From the Writ Petitions which are perused by this Court, it transpires that the University would send an Inspection Team and that the Inspection Team would submit its Report</p>	
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	<p>pointing out certain deficiencies. Thereafter, time would be granted for curing the deficiencies. After curing the deficiencies, the Inspection Committee from the University would inspect again. The second Inspection, is basically to ensure compliance of the earlier deficiencies. However, as a matter of practice, it has been noticed by this Court that the second Committee has been pointing out new deficiencies which would infact require time for curing of defects or for submission of suitable reply.</p> <p>11. While all these procedures have consumed substantial time, just at the time when the admissions were to take place, the Universities have communicated their decisions declaring several Colleges as 'zero admission year' and in respect of some other Colleges the reduction of intake of students has been done.</p> <p>12. This Court has noticed that various Universities have been following various time schedules in appointing the Inspection Committees. This Court has also noticed that various Inspection Committees have been taken their own sweet time not only about the conduct of Inspection but also in submission of Reports and communication of such Reports to the NCTE. This Court has also noticed that the second Inspection Committee, which generally ought to be only for verification of compliance of the earlier deficiencies, have been raising new defects, thereby directing the Colleges to cure such defects</p>	
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	<p>well before the counseling for current admission would take place.</p> <p>13. This Court has also noticed that by the time the Inspection Committees sent by the Universities have pointed out new defects in their second Inspection, the schedule for conducting counseling would have almost began.</p> <p>14. Having noticed all these aspects, this Court has opined that the Universities shall not fix schedules for inspection independently at their discretion and for grant of affiliation etc., keeping in mind, the one single measure undertaken by the Common Entrance Test Conveners to effect admissions commonly for all the Colleges across the State in one single exercise. Since the administration of admission through common counseling is a single process, this Court has opined that all the Universities shall have one common schedule for conduct of Inspections, submission of Report, granting time for the respective Colleges to cure deficiencies and for re-inspection to ensure curing of such deficiencies.</p> <p>15. This Court has also opined that the second Inspection Committee would be at liberty to point out any new deficiencies that may have missed their attention earlier but the Universities cannot insist on the Colleges to cure such new deficiencies for the current academic year because of the lapse of time between the first and second Inspection and that the second Inspection is generally in close proximity to the schedule fixed</p>	
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		<p>for common counseling for admission.</p> <p>16. On 17.03.2023, this Court has given certain directions requiring all the Universities and other stakeholders namely Andhra Pradesh State Council of Higher Education (APSCHE) and National Council for Teacher Education (NCTE) to sit together and draft out a common schedule. When the matter was again listed on 29.03.2023, Sri Hemanth Kumar, learned Standing Counsel for NCTE has submitted that the NCTE was not informed about the meeting that APSCHE had with the Universities, and therefore, the NCTE could not express its concerns. On the said date i.e., on 29.03.2023, this Court has also indicated that the Inspections shall be only a single time affair which shall be, if necessary be jointly conducted by the Officials of the NCTE and the respective Universities.</p> <p>17. Basing on the submissions made by the learned Standing Counsels of various Universities namely Sri T. Niranjana, learned Standing Counsel for Yogi Vemana University; Sri K. Dhanunjaya Reddy, learned Standing Counsel for Aadikavi Nannayya University; Sri Butta Vijaya Bhaskar, learned Standing Counsel for Sri Venkateswara University; Sri K. Ram Babu, learned Standing Counsel for Nagarjuna University; Sri T.S.N. Sudhakar, learned Standing Counsel for Krishna University; Sri M. Karibasaiah, learned Standing Counsel for Sri Krishna Devaraya University; Ms. Padmavathi Padnavis, learned Standing Counsel for Dravidian University, Sri M.V. Sai Kumar,</p>	
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	<p>learned Standing Counsel for Andhra University; Sri M.C. Reddy, learned Standing Counsel for Vikrama Simhapuri University, Smt. S. Parineeta, learned Standing Counsel for A.P State Council of Higher Education and Sri Hemanth Kumar, learned Standing Counsel for NCET, it appears to the Court that there is no clarity as regards the division of powers/functions to be exercised between the Universities and NCTE.</p> <p>18. <i>Prima-facie</i>, it has appeared to this Court that two Institutions are operating concurrently but independently in exercise of the provisions of the National Council for Teacher Education Act namely the NCTE and the respective Universities. It also transpires that there is no separate Code for the respective Universities to hold inspection independently because there is no separate set of Regulations which are prescribed for the respective Universities for their independent compliances.</p> <p>19. Section 17 of the NCTE Act also makes it clear that the essential function of grant of recognition for every College imparting B.Ed Course shall be the function of NCTE. It is submitted across the Bar that since the NCTE, being the Apex Regulatory Body at the National level, it would not be able to conduct Inspection in respect of each and every College across the Country, and that the NCTE would rely only on the Reports submitted by the Universities.</p> <p>20. It is submitted by Sri Hemanth Kumar, learned Standing Counsel for NCET that the NCTE</p>	
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	<p>conducts Inspection and if it is satisfied, it would grant recognition to the College at the initial stage. He also submits that the NCTE also has the power to conduct Inspection on its own at any time under the Statute.</p> <p>21. It is submitted at the Bar by various Counsel appearing for various Universities that when the Inspection Team from the University would visit the College, it is their obligation to verify whether the provisions of the NCTE Act are being complied with or not. It is also submitted that even in the event that the provisions of the NCTE Act are not being complied with by any College, it is not the province of the Universities to initiate any punitive measures like the Impugned Actions.</p> <p>22. On the query of this Court as regards the powers/statute under which the Universities are empowered to initiate the actions which are impugned in the present Proceedings namely the declaration of 'zero admission year' or reduction of intake of students, as the case may be, the respective Universities have not been able to point out any other Statute for tracing their authority. Whereas the punitive measures of this nature are not contemplated to be initiated by the Universities under the NCTE Act. It is commonly accepted that there is no other Statute that empowers the Universities to initiate such measures.</p> <p>23. Be that as it may be, this Court is required to delve into the issue as regards the</p>	
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	<p>division of functions/powers between the NCTE and the Universities for the purpose of deciding the contentions raised by the Writ Petitioners.</p> <p>24. It is submitted that the Statute namely the NCTE Act does not empower the NCTE as well as the University to exercise its functions and powers independently. The Court, then, has to see where the lines can be drawn by clearly bifurcating the functions of the NCTE and the University and whether the University has the power to declare a particular College to undergo the process of zero admission for the academic year or whether to reduce the intake of the students for a particular academic year, for, the power to de-recognize or to order for 'zero admission year' or reduction of intake of students, under the Statute, is only reserved to the NCTE.</p> <p>25. <i>Prima-facie</i>, the Universities have not been able to trace any power either under the present Statute or any other Statute.</p> <p>26. Having regard to the fact that lot of uncertainty exists as regards the exercise of powers by the stakeholders namely the NCTE and the University and having regard to the fact that this uncertainty finally has enured to the great disadvantage to the students through the respective Colleges. This Court deems it appropriate to examine these aspects in greater detail only to ensure that a proper academic schedule is followed commonly for all the Universities so that the such of those Colleges</p>	
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		<p>affiliated to the respective Universities shall be able to know their status well in advance. Such knowledge of their status well in advance would enable the respective Colleges to take necessary steps in mitigating the situation that arises at that point of time.</p> <p>27. In this view of the matter, this Court deems it appropriate to issue following directions:</p> <ol style="list-style-type: none"> i. The NCTE is directed to consider the above mentioned aspects and also directed to file an Affidavit to be sworn in and signed by the SRC (Southern Regional Committee), NCTE. ii. The APSCHE shall file an Affidavit tracing the power of Universities in declaring the 'zero academic year' or reduction of intake of students for a particular academic year. iii. The APSCHE and NCTE shall have a common meeting to arrive at a common schedule for the purpose as indicating in the Orders dated 17.03.2023 and 29.03.2023 and shall jointly arrive at a Draft Schedule. The Draft Schedule shall also be filed on the file of this Court on or before 26.04.2023. <p>28. Tag W.P.No.5872 of 2023.</p>	
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29. List the matters as 'Part-heard' on 26.04.2023.

GRKP,J

Note: Issue C.C by 13.04.2023.
B/O
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