

Supreme Court of India

Adarsh Shiksha Mahavidyalaya & ... vs Subhash Rahangdale & Ors on 6 January, 2012

Bench: G.S. Singhvi, Asok Kumar Ganguly

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REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 104 OF 2012

(arising out of SLP (C) No.14020 of 2009)

Adarsh Shiksha Mahavidyalaya and others ... Appellants

versus

Subhash Rahangdale and others ... Respondents

with

Civil Appeal No. 105 of 2012 (arising out of SLP(C) No. 13801 of 2009)

Civil Appeal No. 107 of 2012 (arising out of SLP(C) No. 14019 of 2009)

Civil Appeal No. 106 of 2012 (arising out of SLP(C) No. 13913 of 2009)

Civil Appeal No. 108 of 2012 (arising out of SLP(C) No. 11739 of 2009)

Civil Appeal No.109 of 2012 (arising out of SLP(C) No. 13615 of 2009)

Civil Appeal No. 110 of 2012 (arising out of SLP(C) No. 5485 of 2009)

Civil Appeal No. 111 of 2012 (arising out of SLP(C) No. 5486 of 2009)

Civil Appeal No. 114 of 2012 (arising out of SLP(C) No. 18345 of 2009)

Civil Appeal No. 115 of 2012 (arising out of SLP(C) No. 21277 of 2009)

Civil Appeal No. 116 of 2012 (arising out of SLP(C) No. 21015 of 2009)

Civil Appeal No. 118 of 2012 (arising out of SLP(C) No. 21012 of 2009)

Civil Appeal No. 119 of 2012 (arising out of SLP(C) No. 18985 of 2009)

Civil Appeal No. 120 of 2012 (arising out of SLP(C) No. 26526 of 2009)

Civil Appeal No. 121 of 2012 (arising out of SLP(C) No. 24088 of 2009)

Civil Appeal No. 122 of 2012 (arising out of SLP(C) No. 19604 of 2009)

Civil Appeal No. 123 of 2012 (arising out of SLP(C) No. 20674 of 2009)

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Civil Appeal No. 124 of 2012 (arising out of SLP(C) No. 35507 of 2009)

Civil Appeal No. 125 of 2012 (arising out of SLP(C) No. 35519 of 2009)

Civil Appeal No. 126 of 2012 (arising out of SLP(C) No. 23072 of 2009)

Civil Appeal No. 127 of 2012 (arising out of SLP(C) No. 23073 of 2009)

Civil Appeal No. 128 of 2012 (arising out of SLP(C) No. 23074 of 2009)

Civil Appeal No. 131 of 2012 (arising out of SLP(C) No. 23075 of 2009)

Civil Appeal No. 132 of 2012 (arising out of SLP(C) No. 23076 of 2009)

Civil Appeal No. 133 of 2012 (arising out of SLP(C) No. 23079 of 2009)

Civil Appeal No. 134 of 2012 (arising out of SLP(C) No. 23080 of 2009)

Civil Appeal No. 135 of 2012 (arising out of SLP(C) No. 23081 of 2009)

Civil Appeal No. 136 of 2012 (arising out of SLP(C) No. 23084 of 2009)

Civil Appeal No. 137 of 2012 (arising out of SLP(C) No. 23083 of 2009)

Civil Appeal No. 139 of 2012 (arising out of SLP(C) No. 18984 of 2009)

Civil Appeal No. 140 of 2012 (arising out of SLP(C) No. 21288 of 2009)

Civil Appeal No. 141 of 2012 (arising out of SLP(C) No. 27318 of 2009)

Civil Appeal No. 142 of 2012 (arising out of SLP(C) No. 27320 of 2009)

Civil Appeal No. 143 of 2012 (arising out of SLP(C) No. 28625 of 2009)

Civil Appeal No. 144 of 2012 (arising out of SLP(C) No. 31086 of 2009)

Civil Appeal No. 145 of 2012 (arising out of SLP(C) No. 20994 of 2009)

Civil Appeal No. 146 of 2012 (arising out of SLP(C) No. 24779 of 2009)

Civil Appeal No. 147 of 2012 (arising out of SLP(C) No. 9468 of 2010)

J U D G M E N T

G. S. Singhvi, J.

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1. Leave granted.

2. The importance of teachers and their training has been highlighted time and again by eminent educationists and leaders of society. The Courts have also laid considerable emphasis on the dire need of having qualified teachers in schools and colleges.

2.1 In Ahmedabad St. Xavier's College Society v. State of Gujarat (1974) 1 SCC 717, A.N. Ray, C.J., observed:

"Educational institutions are temples of learning. The virtues of human intelligence are mastered and harmonised by education. Where there is complete harmony between the teacher and the taught, where the teacher imparts and the student receives, where there is complete dedication of the teacher and the taught in learning, where there is discipline between the teacher and the taught, where both are worshippers of learning, no discord or challenge will arise. An educational institution runs smoothly when the teacher and the taught are engaged in the common ideal of pursuit of knowledge. It is, therefore, manifest that the appointment of teachers is an important part in educational institutions. The qualifications and the character of the teachers are really important. The minority institutions have the right to administer institutions. This right implies the obligation and duty of the minority institutions to render the very best to the students. In the right of administration, checks and balances in the shape of regulatory measures are required to ensure the 4 4 appointment of good teachers and their conditions of service. The right to administer is to be tempered with regulatory measures to facilitate smooth administration. The best administration will reveal no trace or colour of minority. A minority institution should shine in exemplary eclecticism in the administration of the institution. The best compliment that can be paid to a minority institution is that it does not rest on or proclaim its minority character. Regulations which will serve the interests of the students, regulations which will serve the interests of the teachers are of paramount importance in good administration. Regulations in the interest of efficiency of teachers, discipline and fairness in administration are necessary for preserving harmony among affiliated institutions. Education should be a great cohesive force in developing integrity of the nation. Education develops the ethos of the nation. Regulations are, therefore, necessary to see that there are no divisive or disintegrating forces in administration."

2.2 In Andhra Kesari Education Society v. Director of School Education (1989) 1 SCC 392, this Court observed:

"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 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 5 5 inspire and motivate into action the benefiter. 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 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."

2.3 In State of Maharashtra v. Vikas Sahebrao Roundale (1992) 4 SCC 435, the Court said:

"The teacher plays pivotal role in moulding the career, character and moral fibres and aptitude for educational excellence in impressive young children. Formal education needs proper equipping of the teachers to meet the challenges of the day to impart lessons with latest techniques to the students on secular, scientific and rational outlook. A well-equipped teacher could bring the needed skills and intellectual capabilities to the students in their pursuits. The teacher is adorned as Gurudevobhava, next after parents, as he is a principal instrument to awakening the child to the cultural ethos, intellectual excellence and discipline. The teachers, therefore, must keep abreast of ever- changing techniques, the needs of the society and to cope up with the psychological approach to the aptitudes of the children to perform that pivotal role. In short teachers need to be 6 6 endowed and energised with needed potential to serve the needs of the society. The qualitative training in the training colleges or schools would inspire and motivate them into action to the benefit of the students. For equipping such trainee students in a school or a college, all facilities and equipments are absolutely necessary and institutions bereft thereof have no place to exist nor entitled to recognition. In that behalf compliance of the statutory requirements is insisted upon. Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education."

2.4 In St. Johns' Teachers Training Institute (for Women), Madurai v. State of Tamil Nadu (1993) 3 SCC 595, the Court observed:

"The teacher-education programme has to be redesigned to bring in a system of education which can prepare the student-teacher to shoulder the responsibility of imparting education with a living dynamism. Education being closely interrelated to life the well trained teacher can instil an aesthetic excellence in the life of his pupil. The traditional, stereotyped, lifeless and dull pattern of "chalk, talk and teach" method has to be replaced by a more vibrant system with improved methods of teaching, to achieve qualitative excellence in teacher- education."

2.5 In N.M. Nageshwaramma v. State of Andhra Pradesh 1986 (Supp.) SCC 166, the Court observed:

"The Teachers Training Institutes are meant to teach children of impressionable age and we 7 7 cannot let loose on the innocent and unwary children, teachers who have not received proper and adequate training. True they will be required to pass the examination but that may not be enough. Training for a certain minimum period in a properly organised and equipped Training Institute is probably essential before a teacher may be duly launched."

3. We have prefaced disposal of these appeals, which are directed against interlocutory order dated 17.12.2008 and final order dated 13.03.2009 passed by the Division Bench of the Madhya Pradesh High Court in Writ Petition No. 6146 of 2008 and connected matters by highlighting the need for well-equipped and trained teachers because in the last three decades private institutions engaged in conducting teacher training courses / programmes have indulged in brazen and bizarre exploitation of the aspirants for admission to teacher training courses and ranked commercialisation and the regulatory bodies constituted under the laws enacted by Parliament and State Legislatures have failed to stem the rot. The cases filed by these institutions, many of whom have not been granted recognition due to non-fulfilment of the conditions specified in the National Council for Teacher Education Act, 1993 (for short, 'the 1993 Act') and the Regulations framed thereunder and by the students who have taken admission in such institutions with the hope that at the end of the day they will be able to get favourable order by invoking sympathy of the Court, have choked the dockets of various High Courts and even this Court. The enormity of litigation in this field gives an impression that implementation of the provisions contained in the 1993 Act and the Regulations framed thereunder has been acutely deficient and the objects sought to be achieved by enacting the special legislation, namely, 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 have not been fulfilled so far.

4. Before advertng to the appellants' grievance against the orders passed by the Madhya Pradesh High Court in Writ Petition No. 6146 of 2008 Subhash Rahangdale and connected cases, we consider it necessary to notice the scheme of the 1993 Act and the Regulations framed thereunder.

THE SCHEME OF THE 1993 ACT AND THE REGULATIONS 5.1 With a view to achieve the object of planned and coordinated development for the teacher education system throughout the country and for regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith, Parliament enacted the 1993 Act. The 1993 Act provides for the establishment of a Council to be called the National Council for Teacher Education (for short "the NCTE") with multifarious functions, powers and duties. Section 2(c) of the Act defines the term "council" to mean a council established under sub-section (1) of Section 3. Section 2(i) defines the term "recognised institution" to mean an institution recognised under Section

14. Section 2(j) defines the term "Regional Committee" to mean a committee established under Section 20. Section 3 provides for establishment of the Council which comprises of a Chairperson, a Vice-Chairperson, a Member-Secretary, various functionaries of the Government, thirteen persons possessing experience and knowledge in the field of education or teaching, nine members representing the States and the Union Territories administration, three members of Parliament, three members to be appointed from amongst teachers of primary and secondary education and teachers of recognised institutions. Section 12 of the Act enumerates functions of the Council. Section 14 provides for recognition of institutions offering course or training in teacher education. Section 15 lays down the procedure for obtaining permission by an existing institution for starting a new course or training. Section 16 contains a non obstante clause and lays down that an examining body shall not grant affiliation to any institution or hold examination for a course or training conducted by a recognised institution unless it has obtained recognition from the Regional

Committee concerned under Section 14 or permission for starting a new course or training under Section 15. The mechanism for dealing with the cases involving violation of the provisions of the Act or the Rules, Regulations, Orders made or issued thereunder or the conditions of recognition by a recognised institution finds place in Section 17. By an amendment made in July 2006, Section 17-A was added to the Act. It lays down that no institution shall admit any student to a course or training in teacher education unless it has obtained recognition under Section 14 or permission under Section

15. Section 31(1) empowers the Central Government to make rules for carrying out the provisions of the Act. Section 31(2) specifies the matters in respect of which the Central Government can make rules. Under Section 32(1) the Council can make regulations for implementation of the provisions of the Act subject to the rider that the regulations shall not be inconsistent with the provisions of the Act and the Rules made thereunder. Section 32(2) specifies the matters on which the Council can frame regulations. In terms of Section 33, the Rules framed under Section 31 and the Regulations framed under Section 32 are required to be laid before Parliament. By virtue of Section 34(1), the Central Government has been clothed with the power to issue an order to remove any difficulty arising in the implementation of the provisions of the Act.

5.2 The relevant portions of Sections 12, 14 to 16, 17, 17-A, 18, 20, 29 and 32 of the Act which have bearing on the decision of these appeals are reproduced below:

"12. Functions of the Council.--It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and coordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may--

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(a) undertake surveys and studies relating to various aspects of teacher education and publish the result thereof;

(b) make recommendations to the Central and State Governments, Universities, University Grants Commission and recognised institutions in the matter of preparation of suitable plans and programmes in the field of teacher education;

(c) coordinate and monitor teacher education and its development in the country;

(d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions;

(e) lay down norms for any specified category of courses or trainings in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

(f) lay down guidelines for compliance by recognised institutions, for starting new courses or training, and for providing physical and instructional facilities, staffing pattern and staff qualifications;

(g)-(i) * * *

(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council, and to suitably advise the recognised institutions;

(k)-(m) * * *

(n) perform such other functions as may be entrusted to it by the Central Government.

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14. Recognition of institutions offering course or training in teacher education.--(1) 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 under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations: Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee. (2) The fee to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall--

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause

(a), pass an order refusing recognition to such institution for reasons to be recorded in writing:

14 1 Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(4) * * * (5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3). (6) Every examining body shall, on receipt of the order under sub-section (4)--

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.

15. Permission for a new course or training by recognised institution. -- (1) Where any recognised institution intends to start any new course or training in teacher education, it may make an application to seek permission therefor to the Regional Committee concerned in such form and in such manner as may be determined by regulations.

(2) The fees to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application from an institution under sub-section (1), and after obtaining from the recognised institution such other particulars as may be considered necessary, the Regional Committee shall--

(a) if it is satisfied that such recognised institution has adequate financial resources, accommodation, 15 1 library, qualified staff, laboratory, and that it fulfils such other conditions required for proper conduct of the new course or training in teacher education, as may be determined by regulations, pass an order granting permission, subject to such conditions as may be determined by regulation; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause

(a), pass an order refusing permission to such institution, for reasons to be recorded in writing: Provided that before passing an order refusing permission under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the institution concerned for making a written representation.

(4) * * *

16. Affiliating 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.

* * * 17 - Contravention of provisions of the Act and consequences thereof 16 1 (1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of section 14 or permission under sub-section (3) of section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing;

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order. (2) A copy of every order passed by the Regional Committee under sub-section (1),-

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of 17 1 the academic session next following the date of communication of the said order.

(4) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (1), or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government.

17-A. No admission without recognition.--No institution shall admit any student to a course or training in teacher education, unless the institution concerned has obtained recognition under Section 14 or permission under Section 15, as the case may be.

18 - Appeals (1) Any person aggrieved by an order made under section 14 or section 15 or section 17 of the Act may prefer an appeal to the Council within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefore: Provided that an appeal may be admitted after the expiry of the period prescribed therefor, if the appellant satisfied the Council that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a 18 1 copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disallowing an appeal, the appellant shall be given a reasonable opportunity to represent its case.

(5) The Council may confirm or reverse the order appealed against.

20 - Regional Committees (1) The Council shall, by notification in the Official Gazette, establish the following Regional Committees, namely:--

(i) the Eastern Regional Committee;

(ii) the Western Regional Committee;

(iii) the Northern Regional Committee; and

(iv) the Southern Regional Committee. (2) The Council may, if it considers necessary, establish with the approval of the Central Government, such other Regional Committees as it may deem fit.

(3) ***

(4) ***

(5) ***

(6) The Regional Committee shall in addition to its functions under Sections 14, 15 and 17, perform such other functions, as may be assigned to it by the Council or as may be determined by regulations.

(7) The functions of, the procedure to be followed by, the territorial jurisdiction of and the manner of filling casual vacancies among members of, a 19 1 Regional Committee shall be such as may be

determined by regulations.

29 - Directions by the Central Government (1) The Council shall, in the discharge of its functions and duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

32 - Power to make regulations (1) The Council may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, generally to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the time and the place of the meetings of the Council and the procedure for conducting business thereat under sub-section (1) of section 7;

(b) the manner in which and the purposes for which persons may be co-opted by the Council under sub-section (1) of section 9;

(c) the appointment and terms and conditions of service of officers and other employees of the Council under sub-sections (1) and (2) respectively of section 19;

(d) the norms, guidelines and standards in respect of-

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(i) the minimum qualifications for a person to be employed as a teacher under clause (d) of section 12;

(ii) the specified category of courses or training in teacher education under clause(e) of section 12;

(iii) starting of new courses or training in recognised institutions under clause (f) of section 12;

(iv) standards in respect of examinations leading to teacher education qualifications referred to in clause (g) of section 12;

(v) the tuition fees and other fees chargeable by institutions under clause (h) of section 12;

(vi) the schemes for various levels of teachers education, and identification of institutions for offering teacher development programmes under clause (l) of section 12;

(e) the form and the manner in which an application for recognition is to be submitted under sub-section (1) of section 14;

(f) conditions required for the proper functioning of the institution and conditions for granting recognition under clause (a) of sub-section (3) of section 14;

(g) the form and the manner in which an application for permission is to be made under sub-section (1) of section 15;

(h) conditions required for the proper conduct of a new course or training and conditions for granting permission under clause (a) of sub-section (3) of section 15;

(i) the functions which may be assigned by the Council to the Executive Committee under sub-section (1) of section 19;

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(j) the procedure and the quorum necessary for transaction of business at the meetings of the Executive Committee under sub-section (5) of section 19;

(k) the manner in which and the purposes for which the Executive Committee may co-opt persons under sub-section (6) of section 19;

(l) the number of persons under clause (c) of sub-section (3) of section 20;

(m) the term of office and allowances payable to members under sub-section (5) of section 20;

(n) additional functions to be performed by the Regional Committee under sub-section (6) of section 20;

(o) the functions of the procedure to be followed by the territorial jurisdiction of, and the manner, of filling casual vacancies among members of a Regional Committee under sub-section (7) of section 20;

(p) any other matter in respect of which provision is to be, or may be, made by regulations."

6. In exercise of the power vested in it under Section 32, the National Council for Teacher Education (for short, 'the NCTE') has, from time to time, framed the regulations. Initially, the NCTE framed "the National Council for Teacher Education (Application for Recognition, the Manner for Submission, Determination of Conditions for Recognition of Institutions and Permissions to Start New Course or Training) Regulations, 1995". In 2002, the NCTE framed "the National Council for 22 2 Teacher Education (Form of Application for Recognition, the Time-Limit of Submission of Application, Determination of Norms and Standards for Recognition of Teacher Education Programmes and Permission to Start New Course or Training) Regulations, 2002". Between 2003

and 2005, 6 amendments were made in the 2002 Regulations, which were finally repealed with the enactment of "the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2005 (for short, 'the 2005 Regulations'). The relevant provisions of the 2005 Regulations are reproduced below:

"3. Applicability: These regulations shall be applicable to all matters relating to teacher education programmes covering norms and standards and procedures for recognition of institutions, commencement of new programmes and addition to sanctioned intake in existing programmes and other matters incidental thereto.

5. Manner of making application (1) An institution eligible under Regulation 4, desirous of running a teacher education programme may apply to the concerned Regional Committee of NCTE in the prescribed form in triplicate along with processing fee and requisite documents, for recognition.

(2) The form can be downloaded from the Council's website www.ncte-in.org, free of cost. The said form can also be obtained from the office of the Regional Committee concerned by payment of Rs.

1,000 by way of a demand draft of a Nationalised Bank drawn in favour of the Member Secretary, 23 NCTE payable at the city where the office of the Regional Committee is located.

(3) An application can be submitted conventionally or electronically on-line. In the latter case, the requisite documents in triplicate along with the processing fee shall be submitted separately to the office of the Regional Committee concerned. Those who apply on-line shall have the benefit of not to pay for the form.

7. Processing of applications (1) Applications which are complete in all respects shall be processed by the office of the Regional Committee concerned within 30 days of receipt of the such applications.

(2) The applications shall be processed as under: -

(i) The particulars of the institutions shall be hosted on the official website of the Regional Committee concerned of the National Council for Teacher Education.

(ii) This will serve as an electronic communication to the applicant and also the State Government/UT Administration concerned for necessary follow up action on their part.

(iii) A written communication in addition shall also follow to the applicant.

(iv) A written communication alongwith a copy of the application form submitted by the institution(s) of the concerned State/U.T. shall be sent to the State Government/U.T. Administration concerned.

(3) On receipt of the communication, the State Government/UT Administration concerned shall furnish its recommendations on the applications to the office of the Regional Committee concerned of the National Council for Teacher Education within 60 days from receipt. If the recommendation is negative, the State Government/UT Administration shall provide 24 2 detailed reasons/grounds thereof, which could be taken into consideration by the Regional Committee concerned while deciding the application. If no communication is received from the State Government/UT Administration within the stipulated 60 days, it shall be presumed that the State Government/UT Administration concerned has no recommendation to make. (4) Though normally the applicant institutions will ensure submission of applications complete in all respects, in order to cover the inadvertent omission of deficiencies in documents, the office of the Regional Committee shall point out the deficiencies within 30 days of receipt of the applications, which the applicants shall remove within 90 days. The date of receipt of the application after completion of deficiencies shall be treated as the date of receipt of the application complete in all respects within the meaning of Regulation 7(1).

(5) Ordinarily, the inspection of infrastructure, equipment, instructional facilities, etc., of an institution shall be conducted within 30 days of completion of processing of its application by the office of the Regional Committee with a view to assessing the level of preparedness of the institution to commence the course. Such inspection shall be in the chronological order of the date of receipt of the completed application in the office of the Regional Committee concerned. Among the applications received on the same day, alphabetical order shall be followed. (6) All the applicant institutions are expected to launch their own website simultaneously with the submission of their applications covering, inter alia, the details of the institutions, its location, name of the course applied for with intake, availability of physical infrastructure (land, building, office, classrooms, and other 25 2 facilities/amenities), instructional facilities (laboratories, library, etc.) and the particulars of their proposed teaching and non-teaching staff, etc. with photographs for information of all concerned.

(7) At the time of visit of the team of experts to an institution, the institution concerned shall arrange for the inspection to be videographed in a manner that all important facilities are videographed along with interaction with the management and the staff (if available). The visiting teams shall finalize and courier their reports alongwith the video tapes on the same day.

(8) The application and the report alongwith the video tapes of the Visiting Team shall be placed before the Regional Committee concerned for consideration of grant of recognition or permission to an institution in its next meeting. (9) The Regional Committee shall decide grant of recognition or permission to an institution only after satisfying itself that the institution fulfills all the conditions prescribed by the NCTE under the NCTE Act, Rules or Regulations, including, inter alia, the norms and standards laid down for the relevant teacher education programme/course. (10) In the matter of grant of recognition, the Regional Committees shall strictly act within the ambit of the National Council for Teacher Education, Act, 1993, the National Council for Teacher Education Rules, 1997 as amended from time to time and the regulations including the norms and standards for various teacher education programmes and shall not make any relaxation thereto. The Regional Directors shall be responsible for ensuring that the decisions of the Regional Committees are not in

contravention of the NCTE Act, NCTE Rules and regulations including the norms and standards.

26 2 (11) The institution concerned shall be informed of the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session.

(12) The institution, concerned, after appointing the requisite faculty/staff, shall put the information on its official website and also formally inform the Regional Committee concerned. The Regional Committee concerned shall then issue a formal unconditional recognition order.

(13)-(14) * * *

8. Conditions for grant of recognition: (1) An institution must fulfill all the prescribed conditions related to norms and standards as prescribed by the NCTE for conducting the course or training in teacher education. These norms, inter alia, cover conditions relating to financial resources, accommodation, library, laboratory, other physical infrastructure, qualified staff including teaching and non-teaching personnel, etc.

(2) In the first instance, an institution shall be considered for grant of recognition for the basic unit as prescribed in the norms & standards for the particular teacher education programme. (3) An institution shall be permitted to apply for enhancement of intake in a teacher education course already approved after completion of three academic sessions of running the course. (4) An institution shall be permitted to apply for enhancement of intake in Secondary Teacher Education Programme - B.Ed. & B.P.Ed.

27 2 Programme, if it has accredited itself with the National Assessment and Accreditation Council (NAAC) with a grade of B+ on a nine point scale developed by NAAC.

(5) No institution shall be granted recognition under these regulations unless it is in possession of required land on the date of application. The land free from all encumbrances could be either on ownership basis or on lease for a period of not less than 30 years. In cases where under relevant State/UT laws the maximum permissible lease period is less than 30 years, the State Government/UT Administration law shall prevail.

(6)-(9) * * * (10) An institution shall make admission only after it obtains unconditional letter of recognition from the Regional Committee concerned, and affiliation from the examining body.

(11) Whenever there are changes in the norms and standards for the course or training in teacher education, the institution shall comply with the requirements laid down in the revised norms and standards immediately but not later than the date of commencement of the next academic session, subject to conditions prescribed in the revised norms.

(12)-(14) * * *"

7. Appendix-1 of the Norms and Standards for Secondary Teacher Education Programme leading to Bachelor of Education (B.Ed.) Degree, which was notified with the 2002 Regulations and was retained in the 2005 Regulations was amended vide notification 28 2 dated 12.7.2006, paragraphs 1.0, 2.0, 3.0, 3.1, 3.2 and 3.3 of which are extracted below:

"1.0 Preamble Teacher preparation course for secondary education, generally known as B.Ed., is a professional course that prepares teachers for upper primary/middle level (classes VI-VIII), secondary (classes IX-X) and senior secondary (classes XI-XII) levels.

2.0 Duration and working days 2.1 Duration B.Ed. programme shall be of a duration of at least one academic year.

2.2 Working Days There shall be at least 200 working days exclusive of period of examination and admission etc., out of which at least 40 days shall be for practice-teaching in about ten schools at upper primary / secondary / senior secondary level. A working day shall be of a minimum of 6 hours in a six-day week, during which physical presence in the institution of teachers and student-teachers is necessary to ensure their availability for individual advice, guidance, dialogues and consultation as and when needed.

3.0 Intake, Eligibility and Admission Procedure 3.1 Intake There shall be a unit of 100 students divided into two sections of 50 each for general sessions and not more than 25 students per teacher for a school subject for methods courses and other practical activities of the programme to facilitate participatory teaching and learning.

3.2 Eligibility

3.2.1 Candidates with at least 50% marks either in the Bachelor's Degree and/or in the Master's degree or any other qualification equivalent thereto, are eligible for admission to the programme.

3.2.2 There shall be relaxation of marks/reservation of seats for candidates belonging to SC/ST/OBC communities and other categories as per the Rules of the Central/State Government/UT Administration concerned. 3.3 Admission Procedure Admission shall be made on merit on the basis of marks obtained in the qualifying examination and/or in the entrance examination or any other selection process as per the policy of the State Government/U.T. Administration and the University."

8. The 2005 Regulations were repealed by the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2007, the relevant provisions of which read as under:

"4. Eligibility.--The following categories of institutions are eligible for consideration of their applications under these Regulations: (1) Institutions established by or under the authority of the Central/State Government/UT administration;

(2) Institutions financed by the Central/State Government/UT administration;

(3) All universities, including institutions deemed to be universities, so recognised under the UGC Act, 1956.

30 3

(4) Self-financed educational institutions

established and operated by 'not for profit', Societies and Trusts registered under the appropriate law.

5. Manner of making application and time- limit.--(1) An institution eligible under Regulation 4, desirous of running a teacher education programme may apply to the concerned Regional Committee of NCTE for recognition in the prescribed form in triplicate along with processing fee and requisite documents.

(2) The form can be downloaded from the Council's website www.ncte-in.org, free of cost. The said form can also be obtained from the office of the Regional Committee concerned by payment of Rs. 1000 (Rupees one thousand only) by way of a demand draft of a nationalised bank drawn in favour of the Member-Secretary, NCTE payable at the city where the office of the Regional Committee is located.

(3) An application can be submitted conventionally or electronically online. In the latter case, the requisite documents in triplicate along with the processing fee shall be submitted separately to the office of the Regional Committee concerned. Those who apply online shall have the benefit of not to pay for the form.

(4) The cut-off date for submission of application to the Regional Committee concerned shall be 31st October of the preceding year to the academic session for which recognition has been sought. (5) All complete applications received on or before 31st October of the year shall be processed for the next academic session and final decision, either recognition granted or refused, shall be communicated by 15th May of the succeeding year.

* * *

7. Processing of applications.--(1) The applicant institutions shall ensure submission of applications complete in all respects. However, in order to cover the inadvertent omissions or deficiencies in documents, the office of the Regional Committee shall point out the deficiencies within 30 days of receipt of the applications, which the applicants shall remove within 90 days. No application shall be processed if the processing fees of Rs. 40,000 is not submitted and such applications would be returned to the applicant institutions. (2) Simultaneously, on receipt of application, a written communication along with a copy of the application form submitted by the institution(s) shall be sent by the office of the Regional Committees to the State Government/UT administration concerned.

(3) On receipt of the communication, the State Government/UT administration concerned shall furnish its recommendations on the applications to the office of the Regional Committee concerned of the National Council for Teacher Education within 60 days from receipt. If the recommendation is negative, the State Government/UT administration shall provide detailed reasons/grounds thereof with necessary statistics, which shall be taken into consideration by the Regional Committee concerned while deciding the application. If no communication is received from the State Government/UT administration within the stipulated 60 days, it shall be presumed that the State Government/UT administration concerned has no recommendation to make.

(4) After removal of all the deficiencies and to the satisfaction of the Regional Committee concerned, the inspection of infrastructure, equipments, instructional facilities, etc. of an institution shall be conducted by a team of experts called Visiting Team (VT) with a view to assessing the level of preparedness of the institution to commence the course. Inspection would be subject to the consent of the institution and submission of the self- attested copy of the completion certificate of the building. Such inspection, as far as administratively and logistically possible, shall be in the chronological order of the date of receipt of the consent of the institution. In case the consent from more than one institution is received on the same day, alphabetical order may be followed. The inspection shall be conducted within 30 days of receipt of the consent of the institution.

(5)-(8) * * * (9) The institution concerned shall be informed, through a letter, of the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session. The letter issued under this clause shall not be notified in the Gazette. The faculty shall be appointed on the recommendations of the Selection Committee duly constituted as per the policy of the State Government/Central Government/University/UGC or the affiliating body concerned, as the case may be. The applicant institution shall submit an affidavit in the prescribed form that the Selection Committee has been constituted as stated above. A separate staff list with the details would be submitted in the prescribed form. The Regional Committee would rely on the above affidavit and the staff list before processing the case for grant of formal recognition.

(10) All the applicant institutions shall launch their own website soon after the receipt of the letter from the Regional Committee under Regulation 7(9) covering, inter alia, the details of the institution, its location, name of the course applied for with intake, availability of physical 33 3 infrastructure (land, building, office, classrooms, and other facilities/amenities), instructional facilities (laboratory, library, etc.) and the particulars of their proposed teaching and non- teaching staff, etc. with photographs, for information of all concerned.

(11) The institution concerned, after appointing the requisite faculty/staff as per Regulation 7(9) above and fulfilling the conditions under Regulation 7(10) above shall formally inform the Regional Committee concerned along with the requisite affidavit and staff list. The Regional Committee concerned shall then issue a formal recognition order that shall be notified as per provision of the NCTE Act.

(12)-(13) * * *

8. Conditions for grant of recognition.--(1) An institution must fulfil all the prescribed conditions related to norms and standards as prescribed by NCTE for conducting the course or training in teacher education. These norms, inter alia, cover conditions relating to financial resources, accommodation, library, laboratory, other physical infrastructure, qualified staff including teaching and non-teaching personnel, etc. (2) In the first instance, an institution shall be considered for grant of recognition for only one course for the basic unit as prescribed in the norms and standards for the particular teacher education programme. An institution can apply for one basic unit of an additional course from the subsequent academic session. However, application for not more than one additional course can be made in a year.

(3) An institution shall be permitted to apply for enhancement of course wise intake in teacher education courses already approved, after 34 3 completion of three academic sessions of running the respective courses.

(4) An institution shall be permitted to apply for enhancement of intake in Secondary Teacher Education Programme -- BEd & BPed programme, if it has accredited itself with the National Assessment and Accreditation Council (NAAC) with a Letter Grade B developed by NAAC.

(5) An institution that has been granted additional intake in BEd and BPed teacher training courses after promulgation of the 2005 Regulations i.e. 13- 1-2006 shall have to be accredited itself with the National Assessment and Accreditation Council (NAAC) with a Letter Grade B under the new grading system developed by NAAC before 1-4- 2010 failing which the additional intake granted shall stand withdrawn w.e.f. the academic session 2010-2011.

(6) * * * (7) No institution shall be granted recognition under these regulations unless it is in possession of required land on the date of application. The land free from all encumbrances could be either on ownership basis or on lease from Government/government institutions for a period of not less than 30 years. In cases where under relevant State/UT laws the maximum permissible lease period is less than 30 years, the State Government/UT administration law shall prevail. However,

no building could be taken on lease for running any teacher training course.

(8)-(9) * * * (10) At the time of inspection, the building of the institution shall be complete in the form of a permanent structure on the land possessed by the institution in terms of Regulation 8(7), equipped with all necessary amenities and fulfilling all such requirements as prescribed in the norms and 35 3 standards. The applicant institution shall produce the original completion certificate, approved building plan in proof of the completion of building and built-up area and other documents to the visiting team for verification. No temporary structure/asbestos roofing shall be allowed.

(11) * * * (12) An institution shall make admission only after it obtains order of recognition from the Regional Committee concerned under Regulation 7(11), and affiliation from the examining body.

(13)-(16) * * *"

The details of the petitions filed in 2007 and 2008 and the orders passed by the High Court 9.1 One of the four Committees constituted by the Council under Section 20(1) of the 1993 Act is the Western Regional Committee, which is required to perform functions under Sections 14, 15 and 17 in relation to the States of Gujarat, Goa, Madhya Pradesh and Maharashtra. In the last about 15 years, the Western Regional Committee entertained thousands of applications made by private institutions for starting teacher training courses albeit without ensuring compliance of the mandatory provisions contained in the 1993 Act and the relevant regulations. Some of these institutions were started in commercial premises like marriage halls and shops, and in the existing school premises without the required infrastructure and staff. They admitted 36 3 students from different parts of the country, majority of whom did not even know the place from where the institutions were operating. This must have become possible because of the active or tacit connivance of those who were entrusted with the task of ensuring effective implementation of the provisions of the 1993 Act. When the Central Government was apprised of the irregularities committed by the Western Regional Committee in the matter of grant of recognition to the so-called teacher training institutions, it was decided to take necessary corrective measures. Therefore, the Central Government invoked the power vested in it under Section 29(1) of the 1993 Act and directed that henceforth no recognition be granted to any teacher training institution/courses/additional intake by the Western Regional Committee. The decision of the Central Government was communicated to the Chairperson of NCTE vide letter dated 20.8.2007, the relevant portions of which are extracted below:

"New Delhi 20th August, 2007 Government of India, Ministry of Human Resources Development Department of School Education & Literacy The Chairperson, National Council for Teacher Education, 37 3 I, Bahadur Shah Zafar Marg, New Delhi 110002 Subject: Directions under Section 29 of the NCTE Act, 1993 to withhold the grant of recognition in institutions Courses /Additional intake falling under Jurisdiction of Western Regional Committee of National Council for Teacher Education (NCTE).

Sir, It has come to notice of the department of school education & Literacy that there has been uneven and disproportionate growth in the number of recognitions granted to various courses and

institutions in the states falling under the Western Regional Committee of NCTE and that while granting recognition, the actual demand of teachers in particular states has been totally ignored.

2. In these circumstances, it is felt appropriate to undertake a comprehensive review of the situation for taking necessary corrective measures. Therefore, as directed by the competent authority, NCTE is hereby directed under section 29 of the NCTE Act, 1993 that recognition may henceforth not be granted to any teacher training institutions/courses/ Additional intake falling within the Jurisdiction of the Western Regional of NCTE till a comprehensive review is made or till further orders, whichever is earlier.

3. Necessary instruction to this order may accordingly be conveyed to the Western Regional Committee of NCTE. A compliance report may be sent to this Department at the earliest.

Your sincerely (Simmi Choudhary) Deputy Secretary to Government Govt. of India"

38 3

9.2 The NCTE sent letter dated 22.8.2007 to the Regional

Director, Western Regional Committee incorporating therein the direction issued by the Central Government. That letter reads as under:

"August 22, 2007 To, Dr. OVS Sikarwar, Regional Director Western Regional Committees Manas Bhawar (Near Air) Shyamala Hills, Bhopal : 162002 Subject: Directions under Section 29 of the NCTE Act, 1993 to withhold the grant of Recognition to institutions Courses /Additional intake falling under the Jurisdiction of Western Regional Committee of NCTE. Sir, I am directed to say that directions have been received from the competent authority under Section 29 of the NCTE Act, 1993 on August 21, 2007 that recognition may henceforth not be granted to any teacher training institutions Courses/Additional intake falling within the Jurisdiction of the Western Regional Committee of NCTE till a comprehensive service to be undertaken or till further orders, whichever is earlier.

2. In view of the above, you are directed to ensure that the above directions are complied with and immediate steps are taken to ensure that no action taken for grant of recognition and also no meeting of the Western Regional Committee is held. The Chairperson and members of the Western Regional Committee may immediately be suitably informed in this regard.

39 3

Yours Faithfully,

Sd/-

(V.C. Tewari)

Members Secretary"

9.3 The directions issued by the Central Government were

challenged by Amrit Vidyapeeth B.Ed. College, Siddhi in Writ Petition No. 14227 of 2007 filed before the Madhya Pradesh High Court. A large number of other private colleges and institutions (198) which were desirous of starting teacher training courses.

They pleaded that even though the applications filed by them for recognition were complete in all respects and they had already got 'No Objection Certificates' from the State Government and affiliation from the examining bodies, the Western Regional Committee was not entertaining their applications because of the restriction imposed by the Central Government. All the writ petitions were dismissed by the Division Bench of the High Court vide its order dated 29.11.2007. The Division Bench adverted to the scheme of the 1993 Act, referred to the judgments of this Court in Food Corporation of India v. Bhanu Lodh (2005) 3 SCC 618 and State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (2006) 9 SCC 1 and held that the Central Government has the power to issue the directions impugned in the writ petitions. The reasons assigned by the Division Bench for arriving at this conclusion are contained in paragraph 32 of order dated 29.11.2007, which is extracted below:

"32. Regard being had to the aforesaid pronouncements of law, if we look at the language employed under section 29 of the Act we have no scintilla of doubt that the Central Government could have issued such a direction as has been issued inasmuch as sub-section (1) of Section 29 makes it crystal clear that the Council is bound by such directions on questions of policy as the Central Government may give in writing from time to time and further sub-section (2) of section 29 lays a postulate that the decisions of the Central Government as to whether the question is one of the policy or shall be final. Be it noted in the letter dated 20.8.2007 there is mention of the fact that it has come to the notice of school education and Literacy that there has been uneven and disproportionate growth in the number of recognition granted to various

courses of the institutions in the State falling under the Western Regional Committee of NCTE and while granting recognition the actual demand of teaches in the particular State has been totally ignored. It is also perceivable from the letter that the Department has felt is appropriate to make comprehensive review of the situation for taking necessary corrective measures. The tenor of the letter and the grounds mentioned therein and keeping in view the language employed in section 29 of the Act there can be no trace of doubt that the Central Government has taken a decision which by no stretch of imagination can not be said to be a policy decision under the scheme of the Act. It is because the purpose of the Act is to provide for establishment of a National Council for Teacher Education with a view to achieve planned and co-ordinated development of the teacher education system throughout the country. That apart, Regulation 4 deals with eligibility and Regulation 8 deals with the conditions for grant of recognition. We have already referred to Section 12 of the Act. In view of the object and reasons and the role assigned to the Council and the power conferred on the Central Government we come to the irresistible conclusion that the direction issued by the Central Government is within the ambit and sweep of its powers and not de hors the statutory exercise of power."

The plea that the students who had taken admission should be permitted to appear in the examination was rejected by the Division Bench by making the following observations:

"36. Presently to the legitimate expectation and interest, it is submitted by the learned counsel for the petitioners that the institutions have given admission and if eventually the institutions are granted recognition the students should be permitted to appear in the examination. Learned Single Judge of this Court while passing the interim order had clearly stated that institutions may admit students provisionally at their own risk without accepting fees from them and if they accept fees from the students they would be ready to face the consequences if the petition is decided against them in view of the aforesaid order no equity can ever flow in favour of the institutions. We would like to place it on record that an institution which is desirous of imparting B.Ed. and M.Ed. education or introducing a course meant for teachers is under obligation to be aware of the provisions contained under the 1993 Act. The said Act has been engrafted with a sacrosanct purpose. Grant of recognition is the condition precedent before any institution proceeds in any other matter like affiliation from the examination body. Whether the affiliation has to be granted automatically or not we have already refrained from dwelling upon the said issue, but an onerous one, it is inconceivable how an institution without recognition can nurture the idea to admit students. A day dreamer can build a castle in the air or for that matter castle in Spain, but it is absolutely inapposite on the part of aspirants registered bodies or institutions to admit students and pyramid the foundation relying on the bedrock of legitimate expectation that the students would be treated as students who have been admitted in such institutions in such course which are valid in law. An educational institution has to conduct itself in an apple pie order. It has to maintain the sacredness of the concept behind imparting education. They are under

obligation to keep in mind that commercialization of course under 1993 Act is impermissible. Quite apart from the above it is totally imprudent and in a way quite audacious to build a superstructure without an infrastructure. If we allow ourselves to say so, perception has been blinded and in the ultimate eventuate a cataclysm has been unwarrantedly invited. We may say without any fear of contradiction that it is a perceptible deception and fraud on law Ergo. The stance that they have to be given the benefit of legitimate expectation and their interest should be protected, is devoid of any substance and we unhesitatingly repel the same."

9.4 Another batch of 18 writ petitions with the lead case Pitambra Peeth Shiksha Prasarani Samiti v. State of M.P. and others W.P. (C) No. 15276 of 2007, filed for quashing the decision of the State Government to hold common entrance examination for admission to B.Ed. courses was disposed of by the Division Bench of the High Court vide order dated 14.12.2007. The Division Bench referred to the provisions of the 1993 Act as well as the M.P. B.Ed. Examination Rules, 2007, order dated 29.11.2007 43 4 passed in Writ Petition No.14227 of 2007 and batch, took cognizance of the fact that some of the students had taken admissions in the unrecognized institutions and proceeded to observe:

"...Regard being had to the peculiar facts and circumstances of the case and the nature of litigation which had cropped up and the time consumed we think it appropriate to direct the students who have taken admission in the non- recognised colleges/institutions, if so desired, can take admission in the recognised institutions/colleges. The State Government and the University shall not cause any impediment in the same and make an endeavour to facilitate the same by allotting them to colleges which have recognition, if the students approach the Central Agency, the respondent No.3. The State Government is directed to publish the notification within a period of seven days fixing a date seven days thereafter so that they can be allotted colleges.

As far as the counseling of the candidates who have passed the entrance examination is concerned, a date should be notified within a period of seven days and counselling be done within a period of seven days thereafter and the candidates appearing in the counseling shall also be allotted recognised colleges/institutions."

The Division Bench rejected the petitioners' plea for permission to hold college level counseling and observed:

"The next facet that requires to be dealt with whether there should be permission for grant of 44 4 college level counselling. Submission of the learned counsel for the petitioners is that the seats should not lie vacant and college level counselling should be allowed. It is urged that the State Government has illegally introduced the centralized counselling. In this context we may refer to clause 3.2 of NCTE Norms which reads as under:

"3.2 Eligibility 3.2.1 Candidates with at least 50% marks either in the Bachelor's Degree and/or in the Master's Degree or any other qualification equivalent thereto, are eligible for admission to the programme.

3.2.2 There shall be relaxation of marks/reservation of seats for candidates belonging to SC/ST/OBC communities and other categories as per the Rules of the Central/State Government/UT Administration concerned. 3.3 Admission Procedure Admission shall be made on merit on the basis of marks obtained in the qualifying examination and/or in the entrance examination or any other selection process as per the policy of the State Government/U.T. Administration and the University."

As is demonstrable from clause 3.2 it deals with the eligibility of a candidate and clause 3.3 deals with the admission procedure. The State Government has taken mode of common entrance examination. This is a policy decision taken by the State Government. As is manifest, the NCTE has deliberately introduced norms and left it to the discretion of the State Government and hence, holding of the entrance test cannot be found fault with. Once the said mode has been taken recourse to the college level counselling 45 4 should not be allowed. Therefore, the aforesaid submission of the learned counsel for the petitioners leaves us unimpressed and we repel the same."

The conclusions recorded by the Division Bench of the High Court in the aforesaid batch of cases are extracted below:

"(a) The candidates who have taken admission in the non-recognised institutions should be called by the Central Agency as well as the State Government by notifying a date within a period of seven days fixing a date after 7 days so that the candidates can be allotted to the recognised colleges/institutions as per norms.

(b) The students who have qualified in the entrance examination but could not appear in the counselling should be called for counselling by a date which would be notified within a period of seven days and the said date would be after seven days as a result of which the counselling would become convenient.

(c) The allotment of seats should be made strictly on the basis of norms keeping in view the concept of proportionality so that the grievance is put to rest.

(d) The college level counselling is not permissible as the State Government has taken recourse to the mode of common entrance examination."

9.5 The State of Madhya Pradesh challenged the aforesaid order in SLP(C) No. 3269 of 2008, etc., which were disposed of by this Court on 18.2.2008 in the following terms:

46 4 "It has been stated that for taking admission in B.Ed. course within the State of Madhya Pradesh after exhausting the State quota, 8411 seats are lying vacant. According to the State, pursuant to the direction of the High Court in Paragraph 19 of the impugned order, 5142 seats would

be required to be filled up by admitting the students but 3269 seats in B.Ed. course would be still lying vacant. The State Government is directed to take steps for fresh centralized counselling for filling up all the unfilled seats in the recognized colleges for which steps must be taken within fifteen days from today."

9.6 One more batch of 55 writ petitions with the lead case Jan Seva Shiksha Samiti v. State of Madhya Pradesh and others W.P. No. 12133 of 2007 was filed questioning the alleged interference of the State Government in the matter of grant of recognition for establishing teacher training colleges. In those petitions, it was pleaded that the 1993 Act and the Regulations framed thereunder do not envisage any role for the State Government and, therefore, the grant of recognition cannot be made conditional on the production of 'No Objection Certificate' from the State Government. In the counter affidavit filed on behalf of the State Government, it was averred that in terms of Regulation 7(2)(iv) of the 2005 Regulations, it had a significant role in the matter of setting up of teachers training institutions and as 47 4 such the institutions seeking recognition were bound to obtain 'No Objection Certificate'. The NCTE supported the stand taken by the petitioners and pleaded that the State Government cannot interfere in the matter of recognition, which is the exclusive preserve of the Regional Committee. The High Court referred to the provisions of Sections 14 to 16, 20, 21, 29 and 32 of the 1993 Act and Regulations 3, 5, 6 and 7 of the 1995 Regulations, different types of orders passed by Western Regional Committee under Section 14(1) and (3) and 15(1) of the 1993 Act for grant of recognition to different institutions as also the directions given by the Central Government under Section 29 of the 1993 Act, report submitted by the Committee headed by Mrs. Anita Kaul and issued the following directions:

"(a) Though the letters of recognition issued by the NCTE are couched in different phraseology in various cases, yet the same lead to one inescapable conclusion that they are conditional recognitions.

(b) The conditional recognitions could have been ripened after satisfying certain statutory requirements like appointment of teaching and non-teaching staff and other conditions enumerated/provided in regulations 7 & 8 of the Regulations as they are conditions precedent and relate to fundamental realm of recognition.

(c) Certain conditions are relatable to the institutions after they become functional but on 48 4 that foundation it cannot be construed that the orders of recognition are totally unconditional.

(d) The State Government cannot refuse 'No Objection Certificate' relying on the M.P. Vishwavidyalaya Adhinyum, 1973 in view of the decision of the Apex Court rendered in the case of Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (Supra).

(e) The institutions are bound to follow the regulations of the NCTE and the Universities are required to respect regulations as they have overriding effect on the University statutes.

(f) As the Union of India has interfered with the pending applications and the present cases do constitute a hybrid category, it is apposite that the Apex body of the NCTE shall look into the matter

from all spectrums including calling for recommendation from the State Government within a specified span of time.

(g) If the Apex Body of NCTE grants unconditional recognition the University shall extend the benefit of affiliation and in case conditional recognition is granted by the NCTE the University shall grant affiliation on satisfaction of the conditions enumerated in the order itself and shall not entrench or encroach upon the filed by taking recourse to its Act or its statutes.

(h) The University shall be totally bound by the conditions imposed in the order and shall not travel beyond them.

(i) The institutions who have admitted students de hors the Act and the regulations and admitted students without proper recognition and affiliation cannot be extended the benefit of equity and the students who have been admitted 49 4 can be imparted education afresh after recognition and affiliation are granted.

(j) If the institutions are eventually granted recognition and affiliation fees collected from the students shall be adjust for fresh course which would commence after recognition and affiliation.

(k) If the students do not intend to prosecute studies in the institution they would entitled to claim refund of their fees and the institution shall be bound to refund the fees to the said students on receipt of proper application, as the institutions have admitted the students at their own risk."

9.7 S.R. College of Education filed Writ Petition No. 4016 of 2008 for quashing the decision of the university not to grant affiliation on the ground that it did not have NOC from the Higher Education Department of the State Government. The University took up the stand that the college cannot participate in the counseling because it did not have recognition or affiliation. The Division Bench of the High Court noticed the judgment in Jan Seva Shiksha Samiti's case and held:

"In view of the aforesaid the college could not have admitted the students without affiliation and recognition. The Apex Court by order dated 18.02.2008 directed the State Government to take steps for centralized counseling for filling up unfilled seats in the recognized colleges. By that day the petitioner college was not recognized. Quite apart from the above, the petitioner college 50 5 has not yet been affiliated. There can be no scintilla of doubt, as has been held by this Court, a college which does not have recognition and affiliation cannot admit the students. An attempt has been made to give admission to the students in respect of the academic session 2007-08. Their Lordships have stated to hold centralized counseling for recognized colleges. As the present institution had neither got recognition till 21.02.2008 nor does it have the affiliation at present, it cannot claim as a matter of right to admit the students and participate in the centralized counseling. The recognition granted has to be prospective. If affiliation is granted by the University as per the conditions enumerated in the order of recognition and the role ascribed to the Universities by the NCTE Regulations, 2005, then only the college can participate in the centralized

counseling. The institution cannot claim that it can admit students by participating in centralized counseling for the academic session 2007-08. It can do so after obtaining affiliation for the academic session 2008-09.

9.8 Akhil Bhartiya Shiksha Avam Prashikshan Mahavidhyalaya filed Writ Petition No. 4847 of 2008 questioning the direction given by the State Government to Barkatullah University that it shall seek guidance by sending details and documents in respect of those institutions which had obtained recognition from NCTE but did not have NOC. During the course of hearing, learned counsel appearing for the State conceded that in view of the order passed in Jan Seva Shiksha Samiti's case, the State was not entitled to insist upon production of the NOC from 51 5 the State Government. After taking note of his statement, the High Court held:

"16. We understand the anxiety of the petitioner that the State Government has issued a letter circular insisting upon the NOC. That part has already been dealt with in earlier decisions. The competent authority of the State Government should not have behaved in a callous, reckless and high-handed manner by incorporating the same. The University also could have been well advised to bring it to the notice of the State Government about the law in the field specially when both of them were parties to the earlier litigation instead of following the decision of the State Government in a mechanical manner. It is understandable had the institutions obtained recognition from the NCTE and faced difficulty in getting affiliation from the University because of insistence of the State Government for NOC in its whim and fancy, the matter would have been different. We reiterate the legal position that the State Government cannot insist for NOC as has been held in the earlier judgment, and we command the State Government to modify the letter circular in consonance with the judgments delivered by us in Jan Seva Shiksha Samiti (supra), S.R. College of Science and Technology (supra) and other connected matters.

17. Though we have so directed, the petitioner remains in the state where it was when it last approached this Court in the earlier writ petition.

We are really shocked how a prayer could have been made to allow the petitioner to participate in the re-counseling of B.Ed., without insisting for NOC by the State Government. The said stage has not yet come into existence. A litigant is supposed to know whether he has a real grievance or he has made an effort to build a 52 5 castle in the air. An educational institution which is supposed to impart, education in B.Ed., course has to have legal opinion in the field but as it seems all norms are thrown to the winds and the writ petition is filed by picking a straw either from here to there. This does not help. When the petitioner had approached this court and no relief was granted and it was clearly held that all the institutions would be governed by the directions contained in paragraph 42 of Jan Seva Shiksha Samiti (supra), it is really shocking that such an ambitious petition, is filed. It would not be out of place to say that the State Government has acted contrary to the judgments but the institutions which, could have been aggrieved by such action could have filed the writ petitions and that would have been a sanguine grievance. But the petitioner institutions do not fall in the said category. Under the circumstances, we are disposed to think an ingenious effort is made to build up

an edifice to have the relief which has already been etherized. Almost six decades back, it was said by Agnes E. Benedict, 'the only thing better than education is more education,' but the present case demonstrates a situation where one can say with certitude that it smells of foul play and drafts out a mephitic ambition. The institutions which are concerned with education should have ethicality, probity, propriety, parity, righteousness, ability, honesty, rectitude acclaimed virtues and not unnecessary and unwarranted excitement, glee to achieve glory in any manner, elation at the cost of legality, jubilation at the murder of all norms and rapture by chartering away all normative guidelines.

18. In view of our aforesaid analysis, while holding that the State Government could not have insisted for NOC as per the law laid down in the case of Jan Seva Shiksha Samiti (supra), we conclude and hold that the petitioner institutions in each case are not entitled to any relief and the 53 5 petitions are dismissed. We may further state here that we would have imposed exemplary costs as it was within the special knowledge of the petitioners that they could not have got the relief without further action being taken by the Apex Body of the NCTE and without the affiliation, yet we restrain from, doing so for the present as we treat this spate of litigations as a manifestation of unwarranted and uncalled for anxiety on the part of the persons who are in the management of the said institutions." 9.9 In Rajendra Katare Shiksha Mahavidyalaya v. State of M.P. and others W.P. No. 3679 of 2008 the High Court held that the petitioner cannot make admission without obtaining recognition from the competent authority and affiliation from the concerned University. The High Court also observed that recognition and affiliation will be prospective and any authority making an effort to take steps contrary to the directions given by it would be liable for contempt.

9.10 In Siddhi Vinayak College, Bhind v. State of M.P. and others W.P. No. 1558 of 2008, the Division Bench of the High Court referred to the interim directions issued by the learned Single Judge and observed:

"11. The submissions of Mr. Dinesh Upadhyay, learned counsel appearing for the petitioner are basically based on the order passed by the 54 5 learned Single Judge. It is vehemently contended by him that because of the interim order of this Court, the institution has admitted the students. The Division Bench of this Court had already dealt with the said facet. When in the final order the relief was denied the petitioner cannot claim any benefit on the basis of the interim order and more so, when this Court has expressed, the opinion that it was inconceivable how an institution without recognition can nurture the idea to admit students. The imperative guidelines for imparting of training for 180 days are not disputed before us. The examination is scheduled, to be held in May-June, 2008. Recognition has been granted on 28-12-2007/11-01-2008. By the principle of sheer arithmetics 180 days training is not possible and hence, the order passed by the respondent no. 2 cannot be faulted."

9.11 In Sheetla Shiksha Mahavidyalaya, Gwalior v. State of M.P. and others Writ Petition No. 6716 of 2008 the petitioner challenged the decision of the Board of Secondary Education not to grant affiliation. The Court noticed the affidavit filed on behalf of the NCTE and held that the recognition granted under the 1993 Act is prospective and no institution can admit students without having

recognition from the competent authority. 9.12 Vikramaditya Mahavidhyalaya, Jabalpur filed Writ Petition No. 6113 of 2008 impleading the Union of India, the NCTE, Western Regional Committee of NCTE, the State of M.P.

55 5 and six universities of Madhya Pradesh as party respondents and prayed for issue of direction to the universities to withdraw the affiliation granted to non-deserving colleges and to restrain them from declaring the result of the students admitted in such colleges. It was further prayed that the universities be directed not to conduct the examination for the students of non-deserving colleges. That petition was disposed of by the Division Bench of the High Court vide order dated 31.7.2008. While disapproving the actions of the universities to grant affiliation by overlooking the fact that the institutions had not complied with the mandate of Regulation 7(9), (11) and (12), the Division Bench gave several directions, some of which are reproduced below:

"(a) The State Government cannot refuse `No Objection Certificate' relying on the M.P. Vishwavidyalaya Adhiniyam, 1973 in view of the decision of the Apex Court rendered in the case of Sant Dnyaneshwar Shikshan Shastro Mahavidyalaya (supra).

(b) The institutions are bound to follow the Regulations of the NCTE and the Universities are required to respect the Regulations and act accordingly.

(c) The Institutions/Colleges can give admissions only after they obtain the order of recognition from the Regional Committee concerned under Regulation 7(I) and affiliation from the concerned examining body.

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(d) The order of recognition is always prospective.

(e) On the basis of the order of recognition, the institution is entitled to obtain affiliation from the examining body after fulfilling the criteria mentioned in the NCTE Act and Regulations and thereafter admit the students.

(f) The NCTE cannot pass an order of recognition retrospectively.

(g) The order of recognition itself does not enable the institution to treat the recognition as a blanket order and violate other requirements that may be prescribed by the affiliating examining body which is in accord with the 1993 Act and Regulations.

(i) The State Government shall positively reply to the Apex Body of the NCTE within a week hence, failing which it would be presumed that it has no recommendation to make.

(j) The universities shall forward the documents received by them to the NCTE for verification with regard to the status of recognition and their queries within a week hence by special messengers.

(k) The Apex Body shall scrutinize the recognition order and the documents brought on file and take a decision whether those institutions are recognized or not. The said decision shall be taken within a period of seven days therefrom, i.e., seven days from the receipt of the documents from the universities. The Apex Body shall also scrutinize the recognitions which were not the subject matter of the litigation before this Court to find out whether the said recognitions were valid as per the NCTE Act and the Regulations framed thereunder.

(l) The Apex Body shall communicate to the universities and the State Government about the 57 5 recognition facet positively within a week therefrom.

(m) The universities shall scrutinize the norms for the purpose of grant of affiliation in terms of the order of recognition and the provisions contained in the Regulations, regard being had to the decisions of this Court within seven days and issue letters of affiliation wherever justified.

(p) If any admission has already been given, the same shall be kept in abeyance.

(q) The case of the petitioner-college shall also be scrutinized by the Apex Body of the NCTE as well as by the concerned university."

The details of the orders passed in Writ Petition No. 6146 of 2008 and connected cases 10.1 Subhash Rahangdale filed Writ Petition No.6146 of 2008 by way of Public Interest Litigation and prayed for issue of direction to the NCTE, State of M.P., Barkatullah University and others for ensuring proper maintenance of norms and standards in the teacher education system in various colleges run by different educational societies / entities or the institutions financed by Central / State Government or Union Territory Administration or the universities including the deemed universities and self-financed educational institutions established and operated by non-profit making societies and trusts registered within the State. He prayed for appointment of an expert team of 58 5 NCTE for conducting inspection of all the recognized institutions under Section 13 and 17 of the 1993 Act and also for issue of a direction to Western Regional Committee to take action in light of the report of the expert team. Another prayer made by him was for directing the universities and examining bodies not to take examination of the students who did not satisfy the conditions of eligibility.

10.2 The Division Bench of the High Court passed interim orders dated 14.10.2008; 23.10.2008 and 15.12.2008 and directed the NCTE to prepare exhaustive lists of recognized colleges and re-scrutinize those lists and verify whether norms and procedures were followed at the time of appointment of faculty members and whether they were still continuing in the colleges. On 17.12.2008 the High Court passed a detailed order, paragraph 54 of which is extracted below:

"54. Regard being had to the aforesaid factual scenario we proceed to enumerate our directions in seriatim:

a) The students who have prosecuted studies in the colleges which have been cleared by the NCTE are entitled to appear in the examination for the academic session 2007-08.

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- b) The University Teaching Department and the Colleges which have been cleared and have held the examinations, the results shall be published.
- c) The Colleges which have been cleared and where we have stated that affiliation should not have been discontinued and where a fresh affiliation is necessary because all formalities were completed if any other formalities remain to be complied with as required by the University, the same shall be complied with within a period of 15 days from the date of intimation by the concerned University.
- d) As far as other colleges in respect of which inspection have carried out by the NCTE and have not been cleared, the inspection shall be completed on University-wise basis by 20.01.2009.
- e) The NCTE shall make a college-wise report and behave like a statutory body with responsibility by enclosing the documents so that it will be properly appreciated.
- f) The students who have prosecuted studies in the colleges which have been cleared must have completed the period of study as per the norms of Regulations, 2007, i.e., 180 days. If the period of study is found to be inadequate, the students would not be allowed to appear in the examination.
- g) The students who have prosecuted their studies in UDT and Government colleges would be entitled to appear subject to compliance of norms of Regulation 2007.
- h) The examination in respect of aforesaid students shall be held in the last week of February, 2009.

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10.3 Swavittiya Ashaskiya Mahavidyalaya Vikas Sangh

challenged the order dated 17.12.2008 in SLP (C) No. 5485 of 2009. Vidyavati College and others also challenged that order in SLP(C) Nos. 5486 of 2009. Initially, this Court passed an order of stay on 14.01.2009 but the same was modified on 19.01.2009 in the following terms:

"Adjourned by two weeks.

Interim order dated 14.01.2009 is vacated. As regards the direction for conducting of examination is stayed until the High Court consider the matter and pass further orders."

10.4 Thereafter, the High Court considered report dated 27.1.2009 prepared by the Committee of the NCTE which had undertaken detailed scrutiny of the status of various institutions engaged in

conducting teacher training courses. The Committee divided the institutions in the following four categories:

Category 01 Clearly recognized institutions who are recognized and their recognition is to continue (This includes some cases where inspection of the new building constructed is pending despite application/ depositing of fee to WRC).

Category 02 Cases recognized upto 2007-08 and they are subjected to proceedings to withdraw the recognition from 2008-09 onwards.

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Category 03

Cases which are to be recognized from 2008-09 onwards and Universities are required to affiliate, if not already done.

Category 04 Institutions which are not recognized during 2007- 08 due to not having staff during sessions or due to decisions of Hon'ble Court in Amrit Vidyapeeth Case.

10.5 After noticing the categorization done by the Committee, the High Court issued the following directions:

"(i) The colleges which have been cleared by the NCTE as they have recognition and affiliation, the students of said colleges are entitled to undertake the examination for the academic session 2007-08.

(ii) The colleges which have been granted recognition and affiliation after the said academic session they shall be prospective and would not have any retrospective applicability.

(iii) The colleges which were the parties in Amrit Vidya Peeth (supra) and claimed to impart B.Ed, education will be entitled to be considered for participating in the examination for the academic session 2007-08.

(iv) The colleges/ institutions which were eligible for imparting B.Ed. Course but not M.Ed. Course and were parties in Amrit Vidya Peeth (supra) and are not presently cleared by the NCTE for the said reason shall be scrutinized by the NCTE for B.Ed. course and a report in that regard be submitted on the next date of hearing.

(v) Submission of Mr. Naman Nagrath, learned counsel for interveners, to the effect that the students 62 6 who had prosecuted their studies in the colleges on the basis of certain orders issued by the NCTE would also be entitled to appear in the examination sans substance inasmuch as the cases of said colleges were rejected in Amrit Vidya Peeth (supra) as there was actually no recognition.

(vi) The colleges which have been cleared after scrutiny as per the direction in Jan Seva Shiksha Samiti (supra) and in this case are eligible to undertake the examination.

(vii) The NCTE shall not extend the benefit to any college by granting recognition in a retrospective manner.

(viii) The institutions which have intervened and have not been visited with the order of rejection may make representation to the NCTE for inspection or scrutiny within a period of one week and the same shall be done as undertaken by Mr. BD Silve, learned senior counsel.

(ix) The colleges whose cases have been rejected for recognition may prefer an appeal under Section 18 of the Act within a period of three weeks. Their appeals shall be disposed of on merits ascribing cogent and germane reasons.

(x) The rest of the colleges in respect of which the inspection is in progress shall be completed as undertaken by Mr. BD Silva in quite promptitude. The inspection shall be carried out university-wise and the report be submitted to this Court so that this Court can be apprised of the colleges which have been recognized and affiliated.

(xi) While carrying out the inspection it needs no special emphasis to state the NCTE shall keep in view the norms and standards as also the provisions enshrined under the Act and Regulations. It 63 6 should be kept in mind that education cannot be crucified, or guillotined at the alter of fancy, whim or the propensity of a demagogue."

10.6 Clause (3) of the above noted directions was substituted on 30.1.2009 with the following:

"The colleges which were parties in Amrit Vidya Peet (supra) and claimed to impart B.Ed. education shall not be entitled to be considered for participation in the examination for the academic session 2007-08."

10.7 In furtherance of the directions given by the High Court, the Committee of the NCTE conducted inspection of majority of the 364 institutions of which the details were furnished by 7 universities of the State and found that the students of 221 institutions were eligible to take the examinations for academic session 2007-08 and more than 55 institutions were covered by the directions given in Amrit Vidyapeeth and Jan Seva Shikshan Samiti cases. The High Court also noted that the Committee had prepared a separate list of 17 colleges in respect of which some doubts were expressed and another list of 22 colleges which were not scrutinized earlier and proceeded to observe:

"In the ordinary course of things, the clearance given by the NCTE after due inspection should have put the controversy to rest, but unfortunately it is not so 64 6 inasmuch as the NCTE while submitting the list has not taken care of the earlier decisions rendered by this Court, despite categorical conclusions and the said position was conceded to by Mr. Brian Da' Silva, learned senior counsel on earlier date of hearing. We think it apt to clarify the position. In the case of Amrit Vidya Peeth (supra), the institutions did not have recognition and affiliation. The Institution availed an interim order to admit students but the Division Bench while dealing with it had not accepted the plea of legitimate expectation. A submission was put forth while hearing the present writ petitions that in Amrit Vidya Peeth (supra), certain Institutions had recognition for B.Ed. and affiliation for the said course by the University but had no recognition and affiliation for M.Ed. Course. In view of the same, a recognition and affiliation in respect of B.Ed. course should be cleared and the Institutions which do not have recognition and affiliation should not be extended the benefit at all. The NCTE, as it appears, has scrutinized the same taking into consideration the parameters on that score in respect of Institutions.

We have already referred to in detail the facts of Jan Seva Shiksha Samiti (supra). The institutions had admitted the students though they had not been given affiliation by the University. Affiliation had not been given because they did not have unconditional recognition and they not appointed the faculty members. Keeping that in view, this Court had issued directions which we have reproduced hereinbefore. On a plain reading of the same, it will be clear as a noon day that the grant of recognition and affiliation would be prospective. Thus, the cases which are covered under the Jan Seva Shiksha Samiti (supra) and similar cases cannot be conceived of having recognition and affiliation. In Jan Seva Shiksha Samiti (supra), this Court had clearly held that an Institution which does not have unconditional recognition, which includes the faculty members and does not have 65 6 affiliation, could not have admitted the students. As it appears, the NCTE has cleared certain Colleges for the academic session 2007-08 by mis-interpreting Jan Seva Shiksha Samiti (supra). An institution or a college which is covered by Jan Seva Shiksha Samiti (supra), in our considered opinion, cannot be treated to be recognized and affiliated institution for the academic session 2007-08."

10.8 The Division Bench of the High Court observed that the recognition granted after scrutiny by the NCTE and the universities in the light of the directions given in the earlier cases including Vikramaditya Mahavidhyalaya's case should be treated as prospective, i.e., for the year 2008-2009. The High Court then referred to the schemes of Sections 14, 15 and 17 of the 1993 Act, Regulations 7(9), (11) and (12), 8(1), (5), (8), (10) and (11) of the 1995 Regulations, Regulations 7(7), (9) and (11) and 8 of the 2007 Regulations and recorded its conclusions and directions in para 60, which are extracted hereunder:

"(a) Section 14 (3) of the Act lays down postulates with regard to certain parameters for grant of recognition and stipulates certain conditions which are pre-conditions and since qua non for grant of recognition and also deal with certain conditions which are futuristic in nature.

(b) Unless the requirement as provided under Section 14 (3) of the Act are fulfilled the Western Regional Committee cannot confer the benefit of recognition.

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(c) There cannot be any kind of compromise or

relaxation with regard to imperative conditions as prescribed under sub-section 14 (3) of the Act.

(d) No examining body can grant affiliation unless there is recognition by the NCTE as contemplated under Section 16 of the Act.

(e) If an educational institution is aggrieved by the order of refusal of recognition by the Regional Committee it can submit a representation to the said Committee.

(f) If a decision is taken against the affected institution by the Committee, an appeal can be preferred under Section 18 of the Act to the Council, and said remedies are alternative and efficacious.

(g) The grant of recognition and benefit of extension of affiliation are always prospective. Neither the NCTE nor the University can make it retrospective in nature.

(h) Section 14 (5) is relatable only to the institutions which were offering a course or training in teacher education at the commencement of the Act.

(i) Section 17 (1) of the Act basically and fundamentally deals with the withdrawal of recognition of such recognized institutions.

(j) As far as the withdrawal is concerned the same shall come into force only with effect from the end of the academic session inasmuch as the withdrawal relates to an already recognized institutions and hence, statutory protection has been granted.

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(k) The terms "refusing recognition" used in

second proviso to Section 17 (1) can alone relate to sub-section (1) and (5) of Section 14 to give a purposeful meaning to the same and regard being had to the scheme of provisions occurring the said

chapter.

(l) The contention that students could have been admitted without proper recognition and affiliation by the educational institution is sans substratum.

(m) The list of colleges which have been cleared by the NCTE are treated as recognized institutions under the Act but the institution which are covered on the principle of Jan Seva Shika Samit (supra) cannot be allowed to undertake the examination for the academic session 2007-08 since at the time of admitting the students they did not have recognition in terms of Section 14 (3) of the Act and affiliation from the concerned Universities.

(n) The students who had admitted in the said colleges, if the said Colleges have been cleared by the NCTE in its list, can prosecute the studies as per the norms of the NCTE and thereafter appear in the examination.

(o) The claim put forth by the students that they should be equitably dealt with and be permitted to appear in the examination keeping in view the prosecution of their studies in such colleges is negative since their studying in the unrecognized colleges/institutions cannot be regarded as prosecution of studies as per the norms laid down by the NCTE and such an order would tantamount to grant of premium to the educational institutors.

(p) If any student has felt betrayed or deceived by educational institution it is open to him to take appropriate steps claiming compensation.

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(q) The institutions which had collected fees

from the students for the academic Session 2007- 08 and the students are not in a position to avail the benefit of such studies, the Colleges are under an obligation to refund the fees and the amount which had been collected from the students, if the students so desired. This is without prejudice to the claim of the students who put forth their stand and stance for claiming compensation.

(r) The NCTE shall bifurcate the recognized colleges on the parameter of Jan Sevan Shiksa Samit (supra) which are fit to undertake 2007-08 examination on the basis of education imparted and other colleges which are to be recognized for the subsequent academic session.

(s) The institution which are aggrieved by the action of refusal or recognition or withdrawal of recognition shall be communicated by the order by the competent authority of the NCTE, if not done so far, within three weeks and it would be open to said institutions to take statutory remedy as contemplated under Sections 14 and 18 of the Act.

(t) It would be open to the institutions to put forth their stand from all spectrums and the authorities concerned would be under an obligation to pass cogent and speaking order. (u) The educational institutions in respect of which withdrawal of recognition is sought for, the same has to be in accord with Section 17 (1) of the Act and that would be as per the second proviso to the said section.

(v) The Colleges in respect of which results have been published shall reap the benefit of such declaration."

The grounds of challenge 69 6

11. The appellants have challenged the impugned orders on the following grounds:

(i) The High Court committed grave error by entertaining Writ Petition No. 6146 of 2008 filed in the name of public interest litigation without making an inquiry into the background of the petitioner and his special interest in the field of teacher education.

(ii) The directions given by the High Court are vitiated due to violation of the rules of natural justice because none of the appellants was impleaded as party to Writ Petition No. 6146 of 2008 and they did not get opportunity to show that they were duly recognized by the Western Regional Committee and they had also obtained affiliation from the examining body or that they were eligible and entitled to get recognition and affiliation.

(iii) The High Court has usurped the powers vested in the NCTE under the 1993 Act and the Regulations framed thereunder and has issued directions in disregard of the observations made by this Court in State of 70 7 Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (supra) that the NCTE is the sole guardian and custodian of maintaining and sustaining the standard of teacher education.

(iv) That the High Court misinterpreted the provisions of Sections 14 and 17 of the 1993 Act and the Regulations framed thereunder and erroneously assumed that an order refusing recognition would operate with retrospective effect. The withdrawal of recognition by the Regional Committee in the light of the directions given by the High Court in Jan Seva Shiksha Samiti v. State of Madhya Pradesh (supra) should be treated as prospective and the students admitted before withdrawal of recognition should be held entitled to appear in the examination conducted by the examining body.

(v) Since the Government failed to fill up the vacant seats through the centralised counselling, the appellants did not commit any illegality 71 7 by admitting the students on the basis of institutional counselling.

(vi) The 2007 Regulations are not retrospective and the same cannot be relied upon for refusing recognition to the institutions which had applied prior to the coming into force of those regulations.

(vii) The students who had been admitted prior to the decisions of the cases referred to in the impugned order cannot be denied the right to appear in the examination to be conducted by the competent body and the respondents are duty bound to declare the result of those who have already appeared in the examination.

12. In furtherance of the liberty given by the Court the counsel for the appellants filed written submissions on behalf of self- financed private B.Ed. institutions, the salient features of the written submissions are:

(i.) The State Government had failed to fill up the vacant seats and only very few students had been admitted through centralized counselling. It had also not prescribed a cut off mark for the pre-B.Ed. examination for 2007-08. Even the 727 students who secured zero marks were allotted to the colleges through centralised counselling. In view of this, the appellants made provisional admissions for the approved intake and in light of the minimum eligibility prescribed by the NCTE norms. It was very difficult for private unaided institutions to maintain the infrastructure, staff and other requirement as stated by the NCTE without the students.

(ii.) The State Government failed to fill up vacant seats for 2007-08 even though it was directed to do so by the Supreme Court vide order dated 18.2.2008 in SLP (C) No. 3269/2008 "State of MP v. PP Prasarsarni Samiti & rs." and order dated 7.3.2008 passed in IA No. 5 in SLP (C) No. 17093 of 2007.

(iii.) The respondents should be directed to declare the result of the students who were provisionally admitted and were allowed to take part in the examination pursuant to the interim orders passed by the High Court and the Supreme Court.

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(iv.) In its affidavit dated 24.7.2010 the NCTE has treated as

valid the recognition granted to various institutions for the session 2007-08 and has also stated that the withdrawal of recognition under Section 17 of the 1993 Act would operate prospectively and would not affect the students already admitted.

(v.) Some of the petitioners have not been granted affiliations by their respective Universities for academic session 2007- 08, although requisite fee has been accepted for this academic session. The practice in some of the Universities have been that once the affiliation order is granted for a particular session, then the requisite fee has been asked to pay but without issuing any affiliation order. In fact, this situation is beyond the control of the institutions seeking affiliations.

13. In paragraph 8 of the written submissions, it has been stated that the self-financed private B.Ed. colleges undertake not to admit any student in future except through centralised counselling for any of the academic session.

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14. In the counter affidavit filed on behalf of the State of Madhya Pradesh in SLP(C) No. 14020/2009 and other SLPs, the following significant averments have been made: (i.) The controversy before the High Court was only in relation to the academic session 2007-2008 and not for the academic sessions 2005-2006, 2006-2007 or 2008-2009 and all the universities had already conducted examinations for the academic sessions 2005-2006 and 2006-2007.

(ii.) The appellants have deliberately flouted all the rules and regulations and admitted students for the academic session 2007-2008 at their own level and not through the centralized counseling and even those students who did not pass Pre-B.Ed. Examination 2007 were admitted by the institutions on their own by taking advantage of the conditional interim order dated 13.9.2007 passed in Writ Petition No. 12889 of 2007.

(iii.) The appellants cannot seek a direction in the matter of students admitted for the Sessions 2005-06, 2006-07 and 2008-09 and no direction may be issued for declaring the 75 7 result of the students admitted for the Sessions 2005-06 and 2006-07. More so because the admissions were made by the private institutions for the Session 2008-09 in total disregard of the orders passed by the High Court.

15. In the counter affidavits filed by Rani Durgawati University, Jabalpur, Barkatullah University, Bhopal and Dr. Hari Singh Gour University, Sagar in SLP(C) No. 35300/2009, it has been pleaded that the appellants deliberately flouted the rules relating to admission and admitted the students de hors the procedure contained in Annexure 1 appended to the Regulations and the interim order passed by the High Court on 13.9.2007. A large number of students were admitted without passing the entrance examination conducted in 2007 and without appearing for centralized counselling. Barkatullah University had allotted 25256 students to different institutions through centralized counseling held for the Session 2007-08 but 28106 appeared in the examinations in furtherance of the interim orders passed by the Courts.

CONSIDERATION

16. In the light of the above, we shall first consider whether the High Court committed an error by entertaining the writ petition 76 7 filed by Subhash Rahangdale as public interest litigation. This Court has, time and again, laid down guiding principles for entertaining petitions filed in public interest. However, for the purpose of deciding the appellants' objection it is not necessary to advert to the plethora of precedents on the subject because in State of Uttaranchal v. Balwant Singh Chauhal (2010) 3 SCC 402, a two-Judge Bench discussed the development of law relating to public interest litigation and reiterated that before entertaining such petitions, the Court must feel satisfied that the petitioner has genuinely come forward to espouse public cause and his litigious venture is

not guided by any ulterior motive or is not a publicity gimmick. In paragraphs 96 to 104, the Bench discussed Phase-III of the public interest litigation in the context of transparency and probity in governance, referred to the judgments in Vineet Narain v. Union of India (1998) 1 SCC 226, Centre for Public Interest Litigation v. Union of India (2003) 7 SCC 532, Rajiv Ranjan Singh "Lalan" (VIII) v. Union of India (2006) 6 SCC 613, M.C. Mehta v. Union of India (2007) 1 SCC 110, M.C. Mehta v. Union of India (2008) 1 SCC 407 and observed:

77 7 "These are some of the cases where the Supreme Court and the High Courts broadened the scope of public interest litigation and also entertained petitions to ensure that in governance of the State, there is transparency and no extraneous considerations are taken into consideration except the public interest. These cases regarding probity in governance or corruption in public life dealt with by the courts can be placed in the third phase of public interest litigation."

17. Reference also deserves to be made to the judgment of the three-Judge Bench in Shivajirao Nilangekar Patil v. Dr. Mahesh Madhav Gosavi (1987) 1 SCC 227 in which a new dimension was given to the power of the Superior Courts to make investigation into the issues of public importance even though the petitioner may have moved the Court for vindication of a private interest. In that case the High Court had entertained a writ petition filed by Assistant Medical Officer of K.E.M. Hospital, Bombay questioning the assessment of answer sheets of the Post Graduate Medical Examinations held by the Bombay University in October 1985. He alleged malpractices in the evaluation of the answer sheets of the daughter of the appellant who, at the relevant time, was Chief Minister of the State. The learned Single Judge held that altering and tampering of the grade sheets was done by Dr. Rawal at the behest of the Chief 78 7 Minister. The Division Bench affirmed the order of the learned Single Judge with some modification. While rejecting the objection raised on behalf of the appellant that the writ petition filed by the respondent cannot be treated as a petition filed in public interest, this Court observed: "The allegations made in the petition disclose a lamentable state of affairs in one of the premier universities of India. The petitioner might have moved in his private interest but enquiry into the conduct of the examiners of the Bombay University in one of the highest medical degrees was a matter of public interest. Such state of affairs having been brought to the notice of the Court, it was the duty of the Court to the public that the truth and the validity of the allegations made be inquired into. It was in furtherance of public interest that an enquiry into the state of affairs of public institution becomes necessary and private litigation assumes the character of public interest litigation and such an enquiry cannot be avoided if it is necessary and essential for the administration of justice."

(emphasis supplied)

18. What the respondent had done by filing the writ petition was to highlight grave irregularities committed by the Western Regional Committee of NCTE in granting recognition to private institutions who did not fulfill the mandatory conditions relating to financial resources, accommodation, library, laboratory and other physical infrastructure and qualified staff 79 7 and admitted students who had either not passed the entrance test or had not appeared for the centralised counselling conducted under the directions issued by the State Government. The respondent derived support from the orders passed by the High Court in various cases. The

statement made by Shri Hasib Ahmad, Member Secretary, NCTE, who appeared before this Court on 21.7.2010, that effective steps have been taken after discovery of irregularities in the grant of recognition to various private colleges in the State of Madhya Pradesh and other States falling within the Western Region also gives credence to the respondents' assertion that all was not well with the Western Regional Committee. In the pleadings filed before this Court, the appellants have not suggested that the respondents had filed the writ petition to settle score with any institution or with some ulterior motive. Learned counsel for the appellants also did not make any such argument. Therefore, it cannot be said that the High Court committed error by entertaining the writ petition and ordering an inquiry into the allegations of irregularities committed in the matter of recognition and affiliation of self-financed private institutions and admission of the students by such institutions. If the High Court had not ordered re-scrutiny of the recognition/affiliation granted to the private institutions, the irregularities committed by Western Regional Committee may never have seen the light of the day and we do not see any reason to nullify the exercise undertaken by the High Court to ensure that the provisions of the 1993 Act and the Regulations thereunder are strictly followed by the authorities entrusted with the task of granting recognition and affiliation to the institutions and colleges engaged in conducting teacher training courses.

19. The next question, which merits consideration is whether the impugned order is contrary to the rules of natural justice, i.e., audi alteram partem. In this context, it is apposite to note that in the impugned order, the High Court has not discussed eligibility or entitlement of any particular institution to get recognition or affiliation. What High Court has done is to interpret the relevant statutory provisions in light of the judgments of this Court and orders passed by it in other writ petitions. After examining the provisions of the 1993 Act and the Regulations, the High Court held that sub-section (3) of Section 14 and clauses of Regulations 7 and 8 of the Regulations are mandatory and that recognition can be granted to an institution intending to undertake teacher training course only if the mandatory conditions are fulfilled. The High Court also held that the examining body cannot grant affiliation to any institution unless it is recognized by the NCTE. The High Court highlighted the distinction between refusal to grant recognition under Section 14(3)(b) and withdrawal of the recognition under Section 17 and held that any person aggrieved by the decision of the competent authority refusing to grant recognition or to withdraw the recognition already granted is entitled to avail remedy of appeal. In our view, the conclusions recorded by the High Court and the directions contained in the impugned order are of general application and do not target any particular college or institution. Therefore, the appellants cannot be heard to make a grievance that the impugned order is violative of the rules of natural justice.

20. We shall now examine whether the State Government has any say in the matter of grant of recognition to the private institutions desirous of conducting teacher training courses. In this context, it will be appropriate to notice Regulation 7(2) and (3) of the 2005 and 2007 Regulations, which lay down that a copy of the application form submitted by the institution(s) shall be sent by the office of the Regional Committee to the State Government/Union Territory Administration concerned and the latter shall furnish its recommendations within 60 days from receipt of the copy of the application. If the State Government/Union Territory Administration does not make favourable recommendations, then it is required to provide detailed reasons/grounds with necessary statistics. While deciding the application made for recognition, the Regional Committee is

duty bound to consider the recommendations of the State Government / UT Administration. The last portion of Regulation 7(3) contains a deeming provision and lays down that if no communication is received from the State Government/Union Territory Administration within 60 days, then it shall be presumed that the concerned State Government/Union Territory Administration has no recommendation to make. The rationale of these provisions is discernable from the guidelines issued by the NCTE vide letter dated 2.2.1996, the relevant portions of which are extracted below:

"1. The establishment of teachers' training institutions by Government, private managements or any other agencies should largely be determined by 83 8 assessed need for trained teachers. This need should take into consideration the supply of trained teachers from existing institutions, the requirement of such teachers in relation to enrolment projections at various stages, the attrition rates among trained teachers due to superannuation, change of occupation, death, etc. and the number of trained teachers on the live register of the employment exchanges seeking employment and the possibility of their deployment. The States having more than the required number of trained teachers may not encourage opening of new institutions for teacher education or to increase the intake.

2. The States having shortage of trained teachers may encourage establishment of new institutions for teacher education and to increase intake capacity for various levels of teacher education institutions keeping in view the requirements of teachers estimated for the next 10-15 years.

3. Preference might be given to institutions which tend to emphasise the preparation of teachers for subjects (such as Science, Mathematics, English, etc.) for which trained teachers have been in short supply in relation to requirement of schools.

4. Apart from the usual courses for teacher preparation, institutions which propose to concern themselves with new emerging specialities (e.g. computer education, use of electronic media, guidance and counselling, etc.) should receive priority. Provisions for these should, however, be made only after ensuring that requisite manpower, equipment and infrastructure are available. These considerations will also be kept in view by the institution intending to provide for optional subjects to be chosen by students such as guidance and counselling, special education, etc.

5. With a view to ensuring supply of qualified and trained teachers for such specialities such as 84 8 education of the disabled, non-formal education, education of adults, pre-school education, vocational education, etc. special efforts and incentives may be provided to motivate private managements/voluntary organisations for establishment of institutions, which lay emphasis on these areas.

6. With a view to promoting professional commitment among prospective teachers, institutions which can ensure adequate residential facilities for the Principal and staff of the institutions as well as hostel facilities for a substantial proportion of its enrolment should be encouraged.

7. Considering that certain areas (tribal, hilly regions, etc.) have found it difficult to attain qualified and trained teachers, it would be desirable to encourage establishment of training institutions in those areas.

8. Institutions should be allowed to come into existence only if the sponsors are able to ensure that they have adequate material and manpower resources in terms, for instance, of qualified teachers and other staff, adequate buildings and other infrastructure (laboratory, library, etc.), a reserve fund and operating funds to meet the day-to-day requirements of the institutions, including payment of salaries, provision of equipment, etc. Laboratories, teaching science methodologies and practicals should have adequate gas plants, proper fittings and regular supply of water, electricity, etc. They should also have adequate arrangements. Capabilities of the institution for fulfilling norms prepared by NCTE may be kept in view.

9. In the establishment of an institution preference needs to be given to locations which have a large catchment area in terms of schools of different levels where student teachers can be exposed to demonstration lessons and undertake practice teaching. A training institution which has a 85 8 demonstration school where innovative and experimental approaches can be demonstrated could be given preference."

21. The question whether the State Government has any role in the matter of grant of recognition to the private institutions who want to conduct teacher training course was considered in St. Johns Teachers Training Institute v. Regional Director, NCTE (2003) 3 SCC 321. The Court noticed Section 14(3) of the 1993 Act and Regulation 5(e) and (f) of the 2002 Regulations and observed:

"Sub-section (3) of Section 14 casts a duty upon the Regional Committee to be satisfied with regard to a large number of matters before passing an order granting recognition to an institution which has moved an application for the said purpose. The factors mentioned in sub-section (3) are that the institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education as may be laid down in the Regulations. As mentioned earlier, there are only four Regional Committees in the whole country and, therefore, each Regional Committee has to deal with applications for grant of recognition from several States. It is therefore obvious that it will not only be difficult but almost impossible for the Regional Committee to itself obtain complete particulars and details of financial resources, accommodation, library, qualified staff, laboratory and other conditions of the institution which has moved an application for grant of recognition. The institution may be located in the interior of the district in a 86 8 faraway State. The Regional Committee cannot perform such Herculean task and it has to necessarily depend upon some other agency or body for obtaining necessary information. It is for this reason that the assistance of the State Government or Union Territory in which that institution is located is taken by the Regional Committee and this is achieved by making a pr ovision in Regulations 5(e) and (f) that the application made by the institution for grant of recognition has to be

accompanied with an NOC from the State or Union Territory concerned. The impugned Regulations in fact facilitate the job of the Regional Committees in discharging their responsibilities."

(emphasis supplied) While rejecting the plea that no guidelines had been laid down for the State Government to make recommendations in terms of the relevant Regulations, the Court referred to guidelines dated 2.2.1996 issued by the NCTE to the State Governments and observed:

"A perusal of the guidelines would show that while considering an application for grant of an NOC the State Government or the Union Territory has to confine itself to the matters enumerated therein like assessed need for trained teachers, preference to such institutions which lay emphasis on preparation of teachers for subjects like Science, Mathematics, English etc. for which trained teachers are in short supply and institutions which propose to concern themselves with new and emerging specialities like computer education, use of electronic media etc. and also for speciality education for the disabled and vocational education etc. It also lays emphasis on establishment of institutions in tribal and hilly regions 87 8 which find it difficult to get qualified and trained teachers and locations which have catchment area in terms of schools of different levels where student teachers can be exposed to demonstration lessons and can undertake practice teaching. Para 8 of the guidelines deals with financial resources, accommodation, library and other infrastructure of the institution which is desirous of starting a course of training and teacher education. The guidelines clearly pertain to the matters enumerated in sub-section (3) of Section 14 of the Act which have to be taken into consideration by the Regional Committee while considering the application for granting recognition to an institution which wants to start a course for training in teacher education. The guidelines have also direct nexus to the object of the Act, namely, planned and coordinated development of teacher education system and proper maintenance of norms and standards. It cannot, therefore, be urged that the power conferred on the State Government or Union Territory, while considering an application for grant of an NOC, is an arbitrary or unchannelled power. The State Government or the Union Territory has to necessarily confine itself to the guidelines issued by the Council while considering the application for grant of an NOC. In case the State Government does not take into consideration the relevant factors enumerated in sub-section (3) of Section 14 of the Act and the guidelines issued by the Council or takes into consideration factors which are not relevant and rejects the application for grant of an NOC, it will be open to the institution concerned to challenge the same in accordance with law. But, that by itself, cannot be a ground to hold that the Regulations which require an NOC from the State Government or the Union Territory are ultra vires or invalid."

22. In Government of Andhra Pradesh v. J.B. Educational Society (2005) 3 SCC 212, this Court considered the question whether 88 8 the provision contained in Section 20(3)(a)(i) of the Andhra Pradesh Education Act, 1982 under which obtaining of

permission of the State Government was made sine qua non for establishing an institution for technical education was ultra vires the provisions of the All India Council for Technical Education Act, 1987 and the Regulations framed thereunder.

While rejecting the challenge, this Court referred to Articles 245, 246 and 254(2) and Entries 66 of List I and 25 of List III of the Seventh Schedule to the Constitution and observed: "The provisions of the AICTE Act are intended to improve technical education and the various authorities under the Act have been given exclusive responsibility to coordinate and determine the standards of higher education. It is a general power given to evaluate, harmonise and secure proper relationship to any project of national importance. Such a coordinate action in higher education with proper standard is of paramount importance to national progress. Section 20 of the A.P. Act does not in any way encroach upon the powers of the authorities under the Central Act. Section 20 says that the competent authority shall, from time to time, conduct a survey to identify the educational needs of the locality under its jurisdiction notified through the local newspapers calling for applications from the educational agencies. Section 20(3)(a)(i) says that before permission is granted, the authority concerned must be satisfied that there is need for providing educational facilities to the people in the locality. The State authorities alone can decide about the educational facilities and needs of the locality. If there are more colleges in a particular area, the State would not be justified in granting permission to one more college in that locality. Entry 25 of the Concurrent List gives power to the State Legislature to make laws regarding education, including technical education. Of course, this is subject to the provisions of Entries 63, 64, 65 and 66 of List I. Entry 66 of List I to which the legislative source is traced for the AICTE Act, deals with the general power of Parliament for coordination, determination of standards in institutions for higher education or research and scientific and technical educational institutions and Entry 65 deals with the union agencies and institutions for professional, vocational and technical training, including the training of police officers, etc. The State has certainly the legislative competence to pass the legislation in respect of education including technical education and Section 20 of the Act is intended for general welfare of the citizens of the State and also in discharge of the constitutional duty enumerated under Article 41 of the Constitution. The general survey in various fields of technical education contemplated under Section 10(1)(a) of the AICTE Act is not pertaining to the educational needs of any particular area in a State. It is a general supervisory survey to be conducted by the AICTE Council, for example, if any IIT is to be established in a particular region, a general survey could be conducted and the Council can very much conduct a survey regarding the location of that institution and collect data of all related matters. But as regards whether a particular educational institution is to be established in a particular area in a State, the State alone would be competent to say as to where that institution should be established. Section 20 of the A.P. Act and Section 10 of the Central Act operate in different fields and we do not see any repugnancy between the two provisions."

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23. In State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya (supra), this Court considered the provisions of the 1993 Act and the 2002 Regulations and held: "In the instant case, admittedly, Parliament has enacted the 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. With a view to achieving that object, the 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 I 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 the State Government to refuse permission relying on a State Act or on "policy consideration".

The Court also observed that it is for the NCTE to deal with applications for establishing new B.Ed. colleges or allowing any increase in intake capacity keeping in view the 1993 Act and it is neither open to the State Government nor to a university to consider the local conditions or apply State policy for refusing such permission. The Court also referred to the earlier judgment in St. Johns Teachers Training Institute v. Regional Director, 91 9 NCTE (supra) and observed that once the decision is taken by NCTE, it has to be implemented by all authorities in the light of the provisions of the 1993 Act and the law declared by this Court.

24. Recently, the same question was considered in National Council for Teacher Education v. Shri Shyam Shiksha Prashikshan Sansthan (2011) 3 SCC 238. After noticing the guidelines issued by the NCTE on 2.2.2006 and various judgments including those referred to hereinabove, this Court observed:

"The consultation with the State Government/Union Territory Administration and consideration of the recommendations/suggestions made by them are of considerable importance. The Court can take judicial notice of the fact that majority of the candidates who complete BEd and similar courses aspire for appointment as teachers in the government and government-aided educational institutions. Some of them do get appointment against the available vacant posts, but a large number of them do not succeed in this venture because of non-availability of posts. The State Government/Union Territory Administration sanctions the posts keeping in view the requirement of trained teachers and budgetary provisions made for that purpose. They cannot appoint all those who successfully pass BEd and like courses every year. Therefore, by incorporating the provision for sending the applications to the State Government/Union Territory Administration and consideration of the recommendations/suggestions, if any made by them, the Council has made an attempt to ensure that as a result of grant of recognition to unlimited number of 92 9 institutions to start BEd and like courses, candidates far in excess of the requirement of trained teachers do not become available and they cannot be appointed as teachers. If, in a given year, it is found that adequate numbers of suitable candidates possessing the requisite qualifications are already available to meet the requirement of trained teachers, the State Government/Union Territory Administration can suggest to the Regional Committee concerned not to grant recognition to new institutions or increase intake in the existing institutions. If the Regional Committee

finds that the recommendation made by the State Government/Union Territory Administration is based on valid grounds, it can refuse to grant recognition to any new institution or entertain an application made by an existing institution for increase of intake and it cannot be said that such decision is ultra vires the provisions of the Act or the Rules."

25. The above survey of precedents makes it clear that under Regulation 7(2) and (3), the State Government/Union Territory Administration is entitled to make recommendations on the application made for grant of recognition and the same are required to be considered by the concerned Regional Committee before taking a final decision on the application.

26. Learned counsel for the appellants did not seriously contest the position that the provisions contained in Sections 14(3) and 15(3) read with Regulation 7(2), (3),(4), (5) and (9) are mandatory and the Regional Committee cannot grant recognition unless it is satisfied that the applicant has fulfilled 93 9 the mandatory conditions prescribed in the 1993 Act and the Regulations. They also did not dispute that in view of Section 16, examining body cannot grant affiliation, whether provisional or permanent to any institution or hold examination for the courses of training conducted by a recognized institution unless the institution concerned has obtained recognition under Section 14 or permission for a course or training under Section

15. What needs to be emphasised is that no recognition/permission can be granted to any institution desirous of conducting teacher training course unless the mandatory conditions enshrined in Sections 14(3) or 15(3) read with the relevant clauses of Regulations 7 and 8 are fulfilled and that in view of the negative mandate contained in Section 17A read with Regulation 8(10), no institution can admit any student unless it has obtained unconditional recognition from the Regional Committee and affiliation from the examining body.

27. The next issue which requires examination is, whether the private institutions could have made admissions de hors the entrance examination conducted by the State Government. The High Court has answered this question in the negative by 94 9 relying upon the admission procedure contained in para 3.3 of Appendix-I, which contains the Norms and Standards for Secondary Teachers Education Programme. The appellants have not questioned the vires of the admission procedure. Therefore, they cannot contend that they were entitled to admit students de hors the list prepared on the basis of entrance examination conducted under the directions of the State Government.

28. The question which remains to be considered is, whether the students who had taken admission in unrecognized institutions or the institutions which had not been granted affiliation by the examining body have the right to appear in the examination and whether the Court can issue a mandamus for declaration of the result of such students simply because they were allowed to provisionally appear in the examination in compliance of the interim orders passed by the High Court and/or this Court. An ancillary question, which would require consideration is, whether the students who had not completed the requirement of minimum teaching days were entitled to appear in the examination and a direction can be given for declaration of their result.

29. A somewhat similar question was considered in A.P. Christians Medical Educational Society v. Government of Andhra Pradesh (1986) 2 SCC 667. In that case, one Professor C.A. Adams, who was signatory to the Memorandum of Association of the appellant-society created fake documents for starting a medical college for Christian students at Vikarabad in Rangareddy district of Andhra Pradesh. When the appellant sought affiliation with Osmania University, the latter made some queries and asked for certain documents. The appellant did not furnish the requisite information and documents. In the meanwhile, 60 students were admitted in the first year MBBS course. In July 1985, the Government of Andhra Pradesh informed the appellant that permission to start a private medical college was not granted in view of the policy of the Government of India and Medical Council of India. The appellant then filed a writ petition before the High Court, which was dismissed in limine by a speaking order. Before this Court, it was contended that the appellant was a minority institution and, as such, it was not required to take permission for starting a medical college. This Court negated the appellant's plea and confirmed the order passed by the High Court. While dealing 96 9 with the question, whether the students who had already been admitted by the appellant should be allowed to participate in the examination conducted by the University, this Court observed:

"We do not think that we can possibly accede to the request made by Shri Venugopal on behalf of the students. Any direction of the nature sought by Shri Venugopal would be in clear transgression of the provisions of the University Act and the regulations of the University. We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the court to disobey the laws."

(emphasis supplied)

30. In N.M. Nageshwaramma v. State of Andhra Pradesh, (1986) Supp. SCC 166, this Court considered the question whether the students admitted by the private teacher training institutes which had not been granted permission and recognition under the Andhra Pradesh Education Act, 1982 were entitled to appear in the examination and answered the same in the following words:

"One of the writ petitions before us (Writ Petition 12697 of 1985) was filed by a student claiming to have undergone training in one of the privately 97 9 managed institutes. It was argued that the students of the institute in which she had undergone training were permitted in previous years to appear at the Government examination and as in previous years she may be allowed to appear at the examination this year. A similar request was made by Shri Garg that the students who have undergone training for the one year course in these private institutions may be allowed to appear at the examination notwithstanding the fact that permission might not be accorded to them. We are unable to accede to these requests. These institutions were established and the students were admitted into these institutes despite a series of press notes issued by the Government. If by a fiat of the court we direct the Government to permit them to appear at the examination we will practically be encouraging and condoning the establishment of unauthorised institutions. It is not appropriate

that the jurisdiction of the court either under Article 32 of the Constitution or Article 226 should be frittered away for such a purpose."

(emphasis supplied)

31. In State of Maharashtra v. Vikas Sahebrao Roundale (supra), this Court noted that there was mushroom growth of ill- equipped, under-staffed and unrecognised educational institutions in Andhra Pradesh, Bihar, Tamil Nadu and Maharashtra and that an interim order was passed by the High Court for allowing the students to appear in the examination and proceeded to observe:

"Slackening the standard and judicial fiat to control the mode of education and examining 98 9 system are detrimental to the efficient management of the education. The directions to the appellants to disobey the law is subversive of the rule of law, a breeding ground for corruption and feeding source for indiscipline. The High Court, therefore, committed manifest error in law, in exercising its prerogative power conferred under Article 226 of the Constitution, directing the appellants to permit the students to appear for the examination etc.

32. In St. Johns' Teachers Training Institute (for Women), Madurai v. State of Tamil Nadu (supra), this Court adversely commented upon the practice of passing interim orders like the one passed by the learned Single Judge of the Madhya Pradesh High Court in some of these cases, referred to the judgment in Christians Medical Educational Society v. Government of Andhra Pradesh (supra) and observed:

"In view of the aforesaid pronouncement of this Court, the High Court should not have passed, interim order directing the respondents to allow the teachers of unrecognised institutions to appear at the examinations in question. Such teachers cannot derive any benefit on basis of such interim orders, when ultimately the main writ applications have been dismissed by the High Court, which order is being affirmed by this Court. The same view has been expressed by this Court, in connection with the minority unrecognised Teachers Training Institutions in the State of Tamil Nadu itself, in the case of State of T.N. v. St. Joseph Teachers Training Institute 99 9 (1991) 3 SCC 87. As such no equity or legal right can be pleaded on behalf of the teachers admitted for training by such minority institutions, for publication of their results, because they were allowed to appear at the examinations concerned, during the pendency of the writ applications before the High Court, on the basis of interim orders passed by the High Court; which were in conflict with the view expressed by this Court in the aforesaid cases."

33. As a sequel to the above discussion, we hold that the impugned orders do not suffer from any legal infirmity warranting interference by this Court. We also reiterate that:

(i) The Regional Committees established under Section 20 of the 1993 Act are duty bound to ensure that no private institution offering or intending to offer a course or training in teacher education is granted recognition unless it satisfies the conditions specified in Section 14(3)(a) of the 1993 Act and Regulations 7 and 8 of the Regulations. Likewise, no recognised institution intending to start any

new course or training in teacher education shall be granted permission unless it satisfies the conditions specified in Section 15(3)(a) of the 1993 Act and the relevant Regulations.

(ii) The State Government / UT Administration, to whom a copy of the application made by an institution for grant of recognition is sent in terms of Regulation 7(2) of the Regulations, is under an obligation to make its 100 1 recommendations within the time specified in Regulation 7(3) of the Regulations.

(iii) While granting recognition, the Regional Committees are required to give due weightage to the recommendations made by the State Government/UT Administration and keep in view the observations made by this Court in St. Johns Teachers Training Institute v. Regional Director, NCTE (2003) 3 SCC 321 and National Council for Teacher Education v. Shri Shyam Shiksha Prashikshan Sansthan, which have been extracted in the earlier part of this judgment.

(iv) The recognition granted by the Regional Committees under Section 14(3)(a) of the 1993 Act read with Regulations 7 and 8 of the Regulations and permission granted under Section 15(3)(a) read with the relevant Regulations shall operate prospectively, i.e., from the date of communication of the order of recognition or permission, as the case may be.

(v) The recognition can be refused by the Regional Committee under Section 14(3)(b), in the first instance, when an application for recognition is made by an institution. Likewise, permission can be refused under Section 15(3)

(b).

(vi) If the recognition is refused under Section 14(3)(b) after affording reasonable opportunity to the applicant to make a written representation, the concerned 101 1 institution is required to discontinue the course or training from the end of the academic session next following the date of receipt of the order.

(vii) Once the recognition is granted, the same can be withdrawn only under Section 17(1) if there is a contravention of the provisions of the Act or the Rules, or the Regulations, or orders made therein, or any condition subject to which recognition was granted under Section 14(3)(a) or permission was granted under Section 15(3)(a).

(viii) The withdrawal of recognition becomes effective from the end of the academic session next following the date of communication of the order of withdrawal.

(ix) Once the recognition is withdrawn under Section 17(1), the concerned institution is required to discontinue the course or training in teacher education and the examining body is obliged to cancel the affiliation. The effect of withdrawal of the recognition is that the qualification in teacher education obtained pursuant to the course or training undertaken at such institution is not to be treated as valid qualification for the purpose of employment under the Central Government, any State Government or University or in any educational body aided by the Central or the State

Government.

(x) In view of the mandate of Section 16, no examining body, as defined in Section 2(d) of the 1993 Act, shall grant 102 1 affiliation unless the applicant has obtained recognition from the Regional Committee under Section 14 or permission for starting a new course or training under Section 15.

(xi) While granting affiliation, the examining body shall be free to demand rigorous compliance of the conditions contained in the statute like the University Act or the State Education Board Act under which it was established or the guidelines / norms which may have been laid down by the concerned examining body.

(xii) No institution shall admit any student to a teacher training course or programme unless it has obtained recognition under Section 14 or permission under Section 15, as the case may be.

(xiii) While making admissions, every recognised institution is duty bound to strictly adhere to para 3.1 to 3.3 of the Norms and Standards for Secondary/Pre-School Teacher Education Programme contained in Appendix-1 to the Regulations.

(xiv) If any institution admits any student in violation of the Norms and Standards laid down by the NCTE, then the Regional Committee shall initiate action for withdrawal of the recognition of such institution and pass appropriate order after complying with the rules of natural justice.

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(xv) The students admitted by unrecognised institution and

institutions which are not affiliated to any examining body are not entitled to appear in the examination conducted by the examining body or any other authorised agency.

(xvi) The students admitted by the recognised institutions otherwise than through the entrance/eligibility test conducted in accordance with the admission procedure contained in para 3.3 of Appendix-1 of the Regulations are also not entitled to appear in the examination conducted by the examining body or any other authorised agency.

(xvii) The NCTE shall issue direction for mandatory inspection of recognised institutions on periodical basis and all the Regional Committees are duty bound to take action in accordance with those directions. (xviii) In future, the High Courts shall not entertain prayer for interim relief by unrecognised institutions and the institutions which have not been granted affiliation by the examining body and/or the students admitted by such institutions for permission to appear in the examination or for declaration of the result of examination. This would also apply to the recognised institutions if they admit students otherwise than in accordance with the procedure contained in

Appendix-1 of the Regulations.

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34. So far as these appeals are concerned, we deem it proper to give the following directions:

(i) Within one month from today, the concerned examining body shall declare the result of the students who were admitted for the session 2007-2008 keeping in view the directions contained in the impugned orders. This would mean that result of the students admitted for the session 2007-2008 by the institutions whose cases were scrutinised by the NCTE pursuant to the directions given by the High Court and who were found to have been validly recognised after compliance with the mandatory conditions specified in Section 14(3)(a) of 1993 Act and Regulations 7 and 8 of the Regulations shall be declared.

(ii) The result of the students admitted by an unrecognized institution or by an institution which had not been granted affiliation by the examining body shall not be declared. The result of the students who were admitted without qualifying the entrance examination shall also not be declared. In other words, the students admitted by the private institutions on their own shall not be entitled to declaration of their result. If any private institution had not complied with the requirements of completing the prescribed training, then the result of students of such institution shall also not be declared.

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(iii) The directions contained in the preceding clause shall

not be used for dealing with the admissions made for the sessions 2005-2006, 2006-2007 or 2008-2009. The admissions made for those years shall be dealt with by the Western Regional Committee and the concerned examining body in accordance with the relevant statutory provisions.

(iv) Any institution aggrieved by the decision of the Western Regional Committee to reject the application for recognition or for permission to start a new course or training or withdrawal of recognition under Section 17 shall be free to avail remedy of appeal under Section 18 of the 1993 Act. If any such appeal is filed by the aggrieved party within 30 days from today, then the Appellate Authority shall entertain and decide the same on merits.

(v) If the Western Regional Committee has taken any action in furtherance of the directions given by the High Court, then the aggrieved person shall be entitled to challenge the same by availing remedy of appeal under Section 18 of the 1993 Act.

35. Subject to the above observations and directions, the appeals are dismissed. The parties are left

to bear their own costs.

.....J.

[G.S. Singhvi]

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.....J. [Asok Kumar Ganguly] New Delhi, January 6, 2012.