
(2007) 4 ADJ 170 : (2007) 7 AWC 7565 : (2007) 3 UPLBEC 2855

Allahabad High Court

Case No: None

Rajiv Kumar and
Others

APPELLANT

Vs

State of U.P. and
Others

RESPONDENT

Date of Decision: March 26, 2007

Acts Referred:

- Constitution of India, 1950 - Article 226
- National Council for Teacher Education Act, 1993 - Section 12, 14, 15, 16, 17
- University Grants Commission Act, 1956 - Section 2, 3

Citation: (2007) 4 ADJ 170 : (2007) 7 AWC 7565 : (2007) 3 UPLBEC 2855

Hon'ble Judges: V.K. Shukla, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

V.K. Shukla, J.

Brief background of the case, as disclosed in this bunch of writ petition, is that in the district of Mainpuri, there is an institution known as Shri Chitragupta Mahavidyalaya, Mainpuri. Said institution is affiliated to Dr. B.R. Ambedkar University, Agra, and affairs of the same are to be run and managed strictly in consonance with the provisions as contained under the U.P. State Universities Act, 1973 and the First Statute of the aforementioned University.

2. The National Council of Teachers' Education Act 1993 (in short the NCTE Act 1993) was enacted by the Parliament in reference to Entry-66 of List-1 of VIIIth Schedule appended to Constitution of India for achieving the planned and coordinated development of teachers' education and for regulating and maintaining proper norms and standards in the teachers' education. The said Act received assent of the President on 19.12.1993 and came into force on 01.07.1995. The National Council of Teachers Education was

established on 17.08.1995 and the Regional Committees were constituted u/s 20(i)(iii) of the National Council for Teacher Education Act, 1993 on 06.01.1996. Prior to same Regulations prescribing the standard for granting recognition in exercise of power vested under Clause (f) and (g) of Sub-section (2) of Section 32 read with Sections 14 and 15 of the National Council for Teacher Education Act, 1993 were made on 29.12.1995. Regulation 7 dealt with time limit for making applications. Clear cut distinction has been made, in between institution, which has been offering course or training in teacher education, immediately before the appointed date i. e. 17.08.1995, by giving them liberty to make an application, so as to reach concerned Regional Committee within period of six months and qua the institutions who were intending to offer a course of training in teacher education, were required to move application so as to reach concerned Regional Committee by 31st of December every year for commencement of course or training from next academic session. Regulation 8 dealt with condition of recognition, as per which Regional Committee has to satisfy itself on the basis of scrutiny and verification of facts, that the institution has adequate financial resources, accommodation, library, qualified staff, laboratory and such other conditions required for proper functioning of the institution for the course or training which are being offered or intending to be offered. Regulation 9 obliges Regional Committee to ensure that conditions prescribed for grant of permission to recognize institution, to start new course or training is fulfilled.

3. The institution in question, at no point of time, on or before the appointed day i. e. 17.08.1995 provided under National Council for Teacher Education Act, 1993 ever run B. Ed. course. In this background, College submitted application to Dr. B.R. Ambedkar University, Agra for according permission to start B. Ed. Course from 1996-97 as provided for under Statute 12.11 of the First Statute of Dr. B.R. Ambedkar University, Agra. The institution was provided "No Objection certificate" by the State Government on 26.04.1996 and Chancellor of the University on 06.09.1996 accorded temporary affiliation u/s 37 (2) of the UP. State Universities Act, 1973 with effect from 01.07.1996. The University on 14.10.1996 intimated the institution in question that permission had been accorded for admitting 90 students. The list of students on the basis of entrance test was sent. Said ninety students undertook examination conducted by University and their results of academic session 1996-97 had been declared. For the first time Principal of the institution on 14.11.1996, requested Regional Director, Northern Regional Committee, Jaipur for supplying copy of application form. Pursuant to the same letter dated 23.12.1996 was sent, along with application form, mentioning therein, that duly filled up form should reach in triplicate on or before 31.12.1996, for recognition with effect from session 1997-98, along with documents mentioned. Institution in question applied for recognition in the required format on 29.03.1997 which was received in Regional Office on 05.04.1997. On 01.05.1997 from Northern Regional Committee, letter was sent to Registrar of the University, clearly taking stand therein to the effect that University has no authority to accord affiliation until and unless recognition is accorded under National Council for Teacher Education Act, 1993, and further no student be allotted, till recognition is not accorded, as every action taken shall be void and illegal, and said

degree would be of no consequence in terms of Section 17 of the National Council for Teacher Education Act, 1993. On 23.07.1997, Regional Committee send communication to institution, mentioning therein that no admission be made for academic session 1997-98, and for academic session 1998-99 requisite documents be transmitted. University, for academic session 1997-98 conducted entrance test, result of which was declared in Newspaper "Amar Ujala on 17.08.1997, and ninety students were declared selected for the institution in question, in B. Ed course." Request was made for sending students for 1997-98 session, and as institution in question was not recognized in terms of Section 14 of the National Council for Teacher Education Act, 1993, the management of the institution preferred writ petition No. 29728 of 1997 before this Court. In the said writ petition prayer was made for issuing a writ in the nature of mandamus directing the respondent No. 4 to consider the application of petitioner"s institution for recognition u/s 14 of the National Council for Teacher Education Act, 1993 and to accord admission to students. On writ petition No. 29728 of 1997 being filed this Court on 12.09.1997 passed following order:

Shri Pankaj Mittal has accepted notice for respondent 1 and 2 and Shri S.N. Upadhyaya has accepted notice for respondent 3. Both the learned Counsel pray and are granted four weeks time to file counter affidavit. Petitioner will have three week thereafter to file a rejoinder affidavit.

Petitioner shall take steps to serve respondent 4 within three days personally in addition to normal mode of service. Office shall issue notice returnable within a month. Affidavit of service may be filed by the next date of listing.

List this petition after expiry of the aforesaid period along with Civil Misc. Writ Petition No. 26023 of 1997.

Meanwhile, it is directed that respondent 4 shall decide the application filed by the petitioner on 20th March, 1997 for recognition of the institution u/s 14 of the National Council for Teacher Education Act, 1993 in accordance with law. During this period 90 students allotted to petitioner"s institution shall be allowed to be continued, which shall be subject to further orders of the Court.

4. Thereafter, application preferred on behalf of institution had been rejected on 15.02.1999. Against the said order, appeal had been preferred u/s 18 of the National Council for Teacher Education Act, 1993. The said appeal has also been dismissed on 19.10.2002. Refusal to recognize institution in question u/s 14 of the National Council for Teacher Education Act, 1993 has not at all been questioned by the Management and the said order has attained finality. Students in between have been admitted in academic sessions 1996-97, 1997-98 and 1998-99 and have pursued their B. Ed. course, examinations had been conducted by the University and respective degrees have been awarded. The State Government vide order dated 14.01.2004 made provisions for B. Ed./L.T. Degree holders eligible for applying for Special B.T.C. Course-2004, and

thereafter pursuant to same advertisement was made on 22.02.2004, The students who were awarded B. Ed. Degree from the institution in question also applied for consideration of their claim, and they were declared selected on the basis of merit as per quality point marks and were called for counselling. They were, thereafter, sent for practical training. Student-petitioners have contended that after completing training, they were performing and discharging duties in respective schools assigned to them, but their candidature has been withheld on the ground that degree of B. Ed. was not recognized by the National Council for Teacher Education.

5. Stand taken by the National Council for Teacher Education in the counter affidavit is to the effect that at no point of time instructions in B. Ed. Course were being imparted at the institution in question i. e. Chitragupta Mahavidyalaya, Mainpuri prior to the appointed day and after the appointed day, at no point of time institution has ever been recognized, as such no relief, whatsoever, can be granted to the incumbents, who have obtained B. Ed. Degree from an unrecognized institution. Stand to the similar effect has been taken by learned Standing Counsel as well.

6. After pleadings have been exchanged, present bunch of writ petition has been taken up for final hearing and disposal with the consent of the parties.

7. From the side of petitioners, it has been sought to be contended that students are not at all at fault as due permission was accorded by the State Government; due affiliation was also accorded by the Chancellor, and once the student-petitioners had been validly admitted on the basis of entrance examination conducted by University and they have pursued their courses and valid degree has been awarded to them, which has not been cancelled till date, as such student-petitioners cannot be treated as ineligible, as such the order which has been passed is liable to be quashed, and student-petitioners are liable to be treated as eligible for Special B.T.C. Course-2004. From the side of respondents, it has been contended that until and unless institution in question is recognized by the National Council for Teacher Education, incumbents who have pursued their B. Ed. course from an unrecognized institution, qua them no relief can be granted, and writ petitions, as they have been framed and drawn, are liable to be dismissed.

8. Before proceeding to consider the respective arguments, which have been advanced on behalf of parties, relevant provisions of National Council for Teacher Education Act, 1993 are to be looked into. The provisions Sections 2(a), 2(c), 2(d), 2(e), 2(i), 2(j), 2(m), 2(n), 12, 14, 15, 16 and 17 of the said Act being quoted below:

2. Definition.- In this Act unless the context otherwise requires-

(a) "appointed day" means the date of establishment of the National Council for Teacher Education under Sub-section (1) of Section 3;

(b)...

(c) "Council" means the National Council for Teacher Education established under Sub-section (1) of Section 3;

(d) "examining body" means a University, agency or authority to which an institution is affiliated for conducting examinations in teacher education qualification;

(e) "institution" means an institution which offers course or training in teacher education;

(i) "recognized institution" means an institution recognized by the Council u/s 14;

(1) "teacher education" means programmes of education, research or training of persons for equipping them to teach a pre-primary, primary, secondary and senior secondary stage in schools, and includes non-formal education, part time education, adult education and correspondence education;

(m) "teacher education qualification" means a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance of provisions of this Act;

(n) "University" means a University defined under Clause (f) of Section 2 of the University Grant Commission, 1956 and includes an institution deemed to be a University u/s 3 of the Act

12. Functions of the Council.-It shall be 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 purpose of performing its functions under this Act, the Council may-

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

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

(c) co-ordinate 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 recognized institutions;

(e) lay down norms for any specified category of courses or training 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 recognized institutions, for starting new courses or training, and for providing physical and instructional facilities, staffing pattern and staff

qualifications;

(g) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;

(h) lay down guidelines regarding tuition fees and other fees chargeable by recognized institutions;

(i) promote and conduct innovation and research in various areas of teacher education and disseminate the result thereof;

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

(k) evolved suitable performance appraisal systems, norms and mechanism for enforcing accountability on recognized institutions;

(l) formulate schemes for various levels of teacher education and identify recognized institutions and set up new institutions for teacher development programme;

(m) take all necessary steps to prevent commercialization of teacher education; and

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

14. Recognition of institutions offering course or training in teacher education.- (1) Every institutions offering or intending to offer a course of 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;

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) Every order granting or refusing recognition to an institution for a course or training in teacher education under Sub-section (3) shall be published in Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(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 recognized institution.- (1) Where any recognized institution intends to start Any new course or training in teacher education, it may make an application to seek permission thereof to the Regional committee concerned in such form and in such manner as maybe 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 recognized institution such other particulars as may be considered necessary, the Regional Committee shall,-

(a) if it is satisfied that such recognized institution has adequate financial resources, accommodation 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;

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) Every order granting or refusing recognition to an institution for a course or training in teacher education under Sub-section (3) shall be published in Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

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 provisionally or otherwise, for a course or training conducted by a recognized institution.

Unless the institution concerned has obtained recognition from the Regional Committee concerned u/s 14 or permission for a course or training u/s 15.

17. Contravention of provisions of the Act and consequences thereof. (1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognized 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 recognized institution for reasons to be recorded in writing.

Provided that no such order against the recognized institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognized 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 recognized 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 canceling affiliation; and

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

(3) Once the recognition of a recognized 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 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.

9. At the very outset, it would be relevant to note here that National Council for Teacher Education established under the National Council for Teacher Education Act, 1993 is competent to lay down norms and guidelines for achieving the planned and coordinated development of teachers' education and for regulating and maintaining proper norms and standards in the teachers' education and training. The validity of National Council for Teacher Education Act, 1993 had been subject matter of challenge before Hon'ble Apex Court in case of [Union of India \(UOI\) and Others Vs. Shah Goverdhan L. Kabra Teachers College](#), and the validity of the same has been upheld. A bare perusal of Act would go to show that "appointed day" has been defined u/s 2(a) of the Act as the date when National Council for Teacher Education is established u/s 3(i) i. e. 17.08.1995, which is the appointed day. Section 2(d) defines "examining body" as a University, agency or authority to which an institution is affiliated for conducting examinations in teacher education qualification. Section 2(e) defines "institution" as an institution which offers course or training in teacher education. Section 2(i) defines "recognized institution" as an institution recognized by the Council u/s 14. Section 2(j) defines "teacher education" as programmes of education, research or training of persons for equipping them to teach a pre-primary, primary, secondary and senior secondary stage in schools, and includes non-formal education, part time education, adult education and correspondence education. Section 2(m) defines "teacher education qualification" as a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance of provisions of this Act. Section 2(n) defines "University" as a University defined under Clause (f) of Section 2 of the University Grant Commission, 1956 and includes an

institution deemed to be a University u/s 3 of the Act. Section 12 deals with the Functions of the Council, which obligates the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purpose of performing its functions under this Act. Section 14 deals with Recognition of institutions offering course or training in teacher education. Said section obligates that every institutions offering or intending to offer a course of 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. The Proviso attached said Section 14 provides that the institution, who was 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. Sub-section (2) of Section 14 prescribes fee which is to be paid along with the application under Sub-section (1) of Section 14. Sub-section (3) of Section 14 provides that Regional Committee on receipt, 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. If every pre-requisite terms and conditions are fulfilled, then an order of recognition is to be passed, subject to such conditions as may be determined by regulations. In the event of not fulfilling the requirements recognition has to be refused by recording reasons. Obligation is further cast upon Regional Committee, before proceeding to refuse recognition, to provide a reasonable opportunity to the concerned institution for making a written representation. Sub-section (4) of Section 14 thereafter provides that every order granting or refusing recognition to an institution for a course or training in teacher education has to be published in Official Gazette and has to be communicated in writing to such institution and to the concerned examining body, the local authority or the State Government and the Central Government. Sub-section (5) of Section 14 provides that 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). Sub-section (6) of Section 14 obligates that every examining body shall, on receipt of the order under Sub-section (4), grant affiliation to the institution, where recognition has been granted; or cancel the affiliation of the institution, where recognition has been refused. Section 15 of the Act deals with permission for a new course or training by recognized institution. Said Section provides that where any recognized institution intends to start any new course or training in teacher education, it may make an application to seek permission thereof to the Regional committee in such manner as may be determined by regulations. Said Section further provides that said application is to be dealt with by the Regional Committee. Section 16 of the Act deals with by mentioning that affiliating body is to grant affiliation after recognition or permission by the Council. It mandates that on or after the appointed day no affiliation

shall be accorded, whether provisional or otherwise, to any institution and said institution shall not be accorded permission to hold examination, whether provisionally or otherwise, unless the institution concerned has obtained recognition from the University. Section 17 of the Act deals with Contravention of provisions of the Act. Sub-section (4) of Section 17 provides that where an institution has offered a course or training in teacher education without there being any recognition, said teachers training is not to 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.

10. Now on the touchstone of the provisions quoted above, the facts of the present case are to be adverted to. The institution in question applied for grant of recognition on 29.03.1997. Said application was received on 05.04.1997 in the Regional Office. Said application for grant of recognition was rejected on 15.02.1999. Against the said order Management in question preferred appeal as provided u/s 18 of the National Council for Teacher Education Act, 1993. Said appeal was also dismissed on 19.10.2002. On this factual front, it is clear that at no point of time, any recognition had been accorded to the institution in question i.e. Chitragupta Mahavidyalaya, Mainpuri, for running of B. Ed courses after the appointed day i. e. 17.08.1995. Petitioners claim that University in question invited applications for making admission in affiliated colleges and pursuant to the same petitioners had applied and had been selected. In this connection, application which had been invited, along with the same list of institutions wherein admissions were to be accorded had been clearly provided for and Chitragupta Mahavidyalaya, Mainpuri was one of the institutions mentioned therein. However, categorical mention was made therein that admission would be made to this Chitragupta Mahavidyalaya, Mainpuri only if permission was accorded by the National Council for Teacher Education. Thus, the University, at the point of time when it invited applications and the students who had been accorded admission pursuant to said invitation, were conscious of this fact that, as far as this particular institution is concerned, it was an unrecognized institution under the parameters of the National Council for Teacher Education, and admission to this institution can only be made when permission is accorded by the National Council for Teacher Education. The provisions of National Council for Teacher Education Act, 1993 by virtue of being special law, have overriding effect, as such any admission, which had been made in unrecognized institution, qua the same, as far as National Council for Teacher Education is concerned, it is not at all bound by the same.

11. Much stress has been laid on the fact that Sir Chitragupta Mahavidyalaya, Mainpuri does not offer any course of training, and in fact the said course is offered by the University and as such unnecessarily much stress has been laid on the question of recognition of institution, and alternatively, it has been sought to be contended that here, in the present case by the time application had been rejected and communication had been sent, the courses were already over, as such it should be presumed to be valid degree obtained on the basis of instructions received from recognized institution.

Undisputed position is that at Chitragupta Post Graduate College, Mainpuri, at no point of time B. Ed. course was being run before the appointed day i. e. 17.08.1995 and after the National Council for Teacher Education Act, 1993 came into force then the aforementioned institution intended to run B. Ed. Course and accordingly applied to the University for the said purpose. Under the provisions of the National Council for Teacher Education Act, 1993, it was obligatory on the part of the said institution to take permission from National Council for Teacher Education for running course or training in teachers education. Hon"ble Apex Court in the case of State of Maharashtra v. Sant Dayaneshwar Shrikrishna Sansthan Mahavidyalaya and Ors. 2006 AIR SCW 2048, has taken the view that National Council for Teacher Education is to deal with applications for establishing new B. Ed. College or allowing increase in intake capacity under 1993 Act for planned and co-ordinated development of Teacher education system in the country, and it is not at all open to State Government or to University to consider local conditions or apply "State Policy to refuse such permission. Ultimate authority for grant of recognition is NCTE. Paragraph 72 of the said judgment is being quoted below:

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

12. Under Regulations known as National Council for Teacher Education (Application for Recognition, the manner of submission, determination of conditions of recognition of institution and permission to start new course or training) Regulation, 1995, institution in question which intends to offer course or training in teacher education, has to make an application for recognition u/s 14 of the Act, in the form given in Appendix I to the Regulations. On said application being made, Regional Committee has to satisfy itself that institution has adequate financial resources, accommodation, library, qualified staff, laboratory and such other conditions required for proper functioning of the institution for the course or training which are being offered or intending to be offered. Only after satisfaction is recorded, that such institution has such infrastructure provided for, then only institution in question which is intending to offer course for training in teacher education, is accorded recognition. Inevitable conclusion is, that it is the institution which offers B. Ed. Course, and not the University. University is an examining body, to which institution in question is affiliated for conducting teacher education qualification and such

affiliation has to be accorded, only when recognition has been accorded, in terms of Section 14 of the National Council for Teacher Education Act, 1993, and not prior to the same. Division Bench of this Court in the case of R.N. College, Meerut v. Chancellor B.R. Ambedkar University, Lucknow 2006 (1) ESC 809 (D.B.) (L.B.) has taken the view that "Recognition" and "affiliation" are two different and independent connotations. Relevant extract of said judgment is being quoted below:

There is no provision under the Act by means of which an inference could be drawn that once the recognition is granted, the affiliation has to follow automatically. In the instant case, the Recognition was granted subject to affiliating university ensuring the appointment of the teachers as per norms of National Council for Teacher Education Act, 1993 UGC/Affiliating University amongst other things. Thus, according to recognition order itself the matter for affiliation of the college with the university was to be examined by Chancellor/Vice Chancellor before grant of affiliation. The affiliation of a college is for the purpose of holding examination of the candidates while the recognition of an institution is for other purpose. When matter of affiliation has to be considered by university, it cannot be expected to act in mechanical manner without application of mind "Recognition" and "affiliation" are two different and independent things.

13. It is true that in the present case, on the basis of entrance test conducted by Dr. B.R. Ambedkar University, Agra, name of incumbents had been recommended, they had pursued their course from Sri Chitragupta Post Graduate College, and have been issued degree from Dr. B.R. Ambedkar University, Agra. "Institution" has been defined u/s 2(e) of the said Act as institution which offers course or training in teacher education.

"Recognized institution" has been defined u/s 2(j) as institution recognized by the Council u/s 14 of the National Council for Teacher Education Act, 1993. After enforcement of National Council for Teacher Education Act, 1993, the institution, which intends to offer course or training in teacher education can be treated as recognized institution only when it has received recognition in terms of Section 14 of the National Council for Teacher Education Act, 1993. Here, in the present case, as provided under the National Council for Teacher Education Act, 1993, at no point of time, any recognition had been accorded to Chitragupta Post Graduate College, Mainpuri, as such said institution in question cannot be presumed to be recognized institution. Degree obtained pursuant to such course or training from unrecognized institution, has its own repercussions, in terms of Section 17(4) of National Council for Teacher Education Act, 1993, which provides for contravention and consequences. Consequence provided for is that same shall not be treated as valid qualification for purposes of employment under Central Government/ State Government/ University/ School, College, Educational Body aided by Central Government or State Government. This is the mandate of law, and no direction can be issued to violate the law. Section 16 of the National Council for Teacher Education Act, 1993 starts with non-obstante clause and has overriding effect on other laws, and clearly provides that Examining body, shall not hold examination, whether provisionally or otherwise, after the appointed day, for a course or training, unless and until recognition is

accorded. Dr. B.R. Ambedkar University, Agra, was thus, not at all entitled to hold examinations, and any examination held in violation of Section 16 of the National Council for Teacher Education Act, 1993 cannot be subscribed. As B. Ed. Course had been pursued from unrecognized institution, it has its own repercussions, and based on the same, incumbents cannot get employment in specified category of institutions.

14. Much emphasis has been laid on the fact that institution in question had applied before the prescribed date and the said application in question was rejected on 15.02.1999, as such in between degree which had been obtained, the same has to be held valid qualification for Special B.T.C.-course-2004 in view of the Division Bench judgment of this Court in the case of Ekta Shukla and Ors. v. State of U.P. and Ors. 2006 (1) ESC 531 (DB). The said judgment will not come to rescue of petitioners, inasmuch therein affiliated college in question even before the appointed day had been running course in question and subsequent to the same in the year 2000, they were again accorded recognition by the National Council for Teacher Education, as such view was taken that applications made even before August, 1997 by University on behalf of the affiliated colleges were also substantially valid, as such degrees were declared to be valid.

15. Here, in the present case before the appointed day, at no point of time at the institution in question B. Ed. Course was being offered, and for the first time said course was to be offered in the said institution from academic session 1996-97 and onwards. Merely because the State Government had issued no objection and order had been passed u/s 37 (2) of the U.P. State Universities Act, 1973, the provisions of National Council for Teacher Education Act, 1993 can not be permitted to be diluted. Proviso to Section 14 of National Council for Teacher Education Act, 1993 gave liberty to only those institutions to conduct such courses or training for a period of six months, which had made application for recognition within the said period until disposal of the said application by the Regional Committee. Said proviso at no point of time covered the case wherein applications were moved after the appointed day for the first time by the institution intending to offer teacher education. Said institution could have run the course only after valid order was passed under Clause (a) of Sub-section (3) of Section 14 of the Act. Annexure to writ petition has to be seen in the context of Section 14 and the proviso, and same is not at all in reference to the institutions, who were applying for the first time after appointed date. Further the period which had been extended up to 31.03.1999 was not at all in reference to the said institution who were intending to run the course after the appointed day and such extended period was only with regard to those institutions who were running the courses before the appointed day and could not move application. Language of the said notification is explicit. For the first time, application for grant of recognition was made on 29.03.1997, and same was received in the office of Regional Committee on 05.04.1997. On 01.05.1997 Registrar of the University was already asked by Regional Committee not to proceed further. On 23.07.1997, Regional Committee, communicated, that last date for moving application was 31.12.1996 for academic

session 1997-98, and as application had been received after last date, as such it is not feasible to consider application for academic session 1996-97 and 1997-98 and for academic session 1998-99. Management will have to furnish, before 31.12.1997, draft of Rs. 4000/-, N.O.C. from State Government. This Court on 12.09.1997, allowed students to continue and further directed for consideration of application u/s 14. At this juncture the view point of Hon"ble Apex Court, is being looked into, wherein Hon"ble Apex Court in the case of National Council for Teacher Education v. Committee of Management 2006 (2) ESC. 2185.C., has taken the view that when NOC has been submitted, after the last date of application, then according recognition from the next session, cannot be said to be illegal, arbitrary or otherwise unreasonable. Relevant extract of the said judgment is being quoted below:

18. We may notice that a Division Bench of this Court in [Krishnasamy Reddiar Educational Trust Vs. Member Secretary, National Council for Teachers Education and Another](#), opined that:

It was submitted that in the present matters, all the appellants were applying for the first time and as such they were required to follow the Regulations in force, operative and applicable to fresh applications. In such cases Notes (1) and (2) to Appendix 1-B (list of essential documents) will apply. Notes (1) and (2) read thus:

(1) If the application is found incomplete i. e. with all the essential documents, the institution may be asked to make good deficiencies in the application on or before the last date prescribed in the Regulations.

(2) in the event when deficiencies in an application get removed only after the last date, the application of the institution shall be carried forward by the Regional committee for consideration for the subsequent academic year i. e. for the course that would be offered one year later.

In our view, the respondents are right in submitting that there was delay on the part of the appellants. In all these cases, applications were submitted without NOC from the State government. It has come on record that NOC was applied for belatedly. The State Government could not be blamed for not taking a decision on the applications of the appellants as under Regulation 6 as amended in 2003, it was required to dispose of such applications within six months of the last date of receipt of applications. Even prior to the amended Regulation 6, it was expected to take decision within "reasonable time" (four months) as held in S. Johns Teachers Training Institute. As the appellants applied for NOC in the last week of October, 2003, they cannot make complaint that the State Government delayed the matter. Admittedly, NOCs were submitted to the respondent after the last date of application. If in the above facts and circumstances, recognition has been granted by the respondent on 28-10-2004 by imposing a condition that it would be operative from academic year 2005-2006, it cannot be said that the respondent had acted illegally, arbitrarily or otherwise unreasonably.

21. Before parting with this case, we may place on record that it is categorically stated before us by Mr. Raju Ramchandran that the Council carried forward the application of the Institution for consideration of the subsequent academic year. An inspection has already been carried out and the eligibility of the first respondent to obtain such recognition shall be determined within a period of eight weeks from date, we place on record the aforementioned submission of the learned Senior counsel appearing on behalf of the appellant.

16. Here for academic session 1996-97 and 1997-98 application had not at all been moved in time, as such Regional Committee acted well within its right, by mentioning that same cannot be considered for said academic session, however, for academic session 1998-99, after fulfilling the formalities, application be moved before 31.12.1997. For academic session 1998-99, application for recognition has been considered. Said application has been rejected on 15.02.199 by Regional Committee, and thereafter Appeal preferred against the same, has also been dismissed on 09.10.2002. Said orders have attained finality.

17. Thus, in the facts and circumstances of the present case as student-petitioners have obtained instructions from an unrecognized institution under the provisions of National Council for Teacher Education Act, 1993, and the Government Order which covers field of Special B.T.C. Course-2004 is clear and categorical, that only those B. Ed. Degrees would be treated as eligible, wherein incumbents have obtained instructions from institutions recognized by the National Council for Teacher Education, and said directive being in consonance with Section 17(4) of the National Council for Teacher Education Act, 1993, no fault can be found in the action of Respondents.

18. Plea of equity has been claimed by mentioning that under combined entrance test, it was their sheer luck, that they had been assigned present institution, as such student-petitioners were not at all fault, and they should not be made to suffer, at this juncture of life. As already discussed above, petitioners have obtained their B. Ed. Degree from unrecognized institution. The Hon"ble Apex Court has repeatedly held that the courts shall not dilute the provisions of the Act and the standards of education. In [State of Maharashtra Vs. Vikas Sahebrao Roundale and others](#), followed in [State of Punjab and others Vs. Renuka Singla and others](#), the Supreme court held as follows:

10. In Students of Dattatraya Adhyapak Vidyalaya v. State of Maharashtra this Court held thus:

We are coming across cases of this type very often where allegations are made that innocent students are admitted into unrecognised schools and are made to suffer. Some courts out of compassion occasionally interfere to relieve the hardships. We find that the result of this situation is total indiscipline in the field of regulation.

12... The teacher is adorned as Gurudevabhava, 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 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. 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.

19. The Courts cannot issue directions to the authorities to violate their own statutory Rules or Regulations in respect of admissions of students. The compassions should not be a ground to disobey the law.

20. Consequently, in view of the discussions made above all the writ petitions are dismissed.