

SUPREME COURT OF INDIA

N. M. Nageshwaramma

Vs.

State of A.P.

Writ Petition No. 12697 of 1985

(O. Chinnappa Reddy, K. N. Singh JJ)

07.05.1986

JUDGMENT

CHINNAPPA REDDY, J.:-

1. It appears, since 1982, there has been a rash of unauthorised educational institutions in Andhra Pradesh. The particular institutions are "Teacher Training Institutes". These institutions are meant to train teachers. They are run by private managements. Prior to 1969, there were State-managed Basic Training Institutions in the State of Andhra Pradesh. As a result of the large surplus of teachers produced by these institutions and the consequent unemployment, it was decided by the government to close down the Basic Training Institutions. However, in 1975, the syllabus for the Teacher Training Course was revised and eleven Teacher Training Institutes with an intake-capacity of 150 students were started in districts where there was demand for teachers. GOMS No. 169 Education dated February 19, 1975 elaborated the scheme and also provided for permission to be granted by the government to private managements to establish "Teacher Training Institutes". Various conditions were stipulated by the GO for the grant of permission by the government.

It appears that in 1978-79 a society by name Vivekananda Educational Society, Shadnagar applied to the Director of School Education to permit them to open a Teacher Training Institute. But without awaiting the grant of permission they admitted students. The government decided not to grant permission to the society to establish the institutions as the conditions stipulated by GO No. 169 were not fulfilled. However, taking note of the circumstance that students had already been admitted by the institute, the government allowed those students to appear at the examination but directed that the institute should not run thereafter. Encouraged by the sympathetic attitude taken by the government in permitting the students of an unauthorised institution to appear at the government examination, a few other private management started unauthorised institutions. The unauthorised institutions had no facilities to train teachers in the manner prescribed by GOMS No. 169 Education. They had not the financial wherewithal, the necessary qualified staff, library, laboratory and other equipment. They had no model schools, for their pupils to practise teaching. In the circumstances the government was forced to enunciate a policy decision not to permit any privately managed Teacher Training Institutes. In order to prevent unwary individuals from being trapped into joining unauthorised institutes, the government issued press notes from time to time warning the public that candidates seeking admission into privately managed unauthorised Teacher Training Institutes would be doing so at their own risk. In some of the press notes the names of some of such unauthorised institutes were also mentioned. We may mention here that all the petitioners are such

unauthorised privately managed Teacher Training Institutes established despite the warning issued by the government from time to time and in defiance of GOMS No. 169 dated February 19, 1975 and the provision of the Andhra Pradesh Education Act, 1982 to which we shall refer presently.

These petitioners initially filed writ petitions in the High Court questioning the policy decision of the government and seeking directions to the government to grant permission to them to run their institutes during the year 1983-84 and the following years. The High Court of Andhra Pradesh allowed the writ petitions to the limited extent of issuing directions to the government to consider the applications of the several petitioners. When the government took up the matters for consideration, it was found that while some of the petitioners had submitted applications, quite a few of them had never even cared to submit applications. Even so the government obtained reports from the Education Officers and on the basis of the information so obtained they declined to grant permission to the petitioners. Thereupon some of the present petitioners filed writ petitions in the High Court questioning the orders refusing to grant them permission. They and some others who have joined them have filed the writ petitions now before us purporting to challenge the vires of Sections 20 and 21 of the Andhra Pradesh Education Act of 1982 and seeking writs to quash the several orders by which the government declined to grant them permission.

2. Shri R. K. Garg, learned counsel for the petitioners did not seriously urge any ground touching upon the vires of Sections 20 and 21 of the Andhra Pradesh Education Act, 1982. He was right in not pursuing the question of the constitutional validity of Sections 20 and 21 since we are unable to find any justifiably reasonable ground upon which they could be so questioned. Shri Garg, however, submitted that while Section 20(1) of the Act provided that no private institution shall, after the establishment of the Act, be established except in accordance with the provisions of the Act or the rules made there under, no rules were made under the Act until August, 1984. Similarly although Section 20(2) (c) required that an application had to be made within such period, in such manner and to such authority as may be prescribed, for the grant of permission neither the manner nor the authority nor the period contemplated was prescribed, the expression "prescribed" being defined by Section 2(33) to mean "Prescribed by rules made by the government under the Act". Again despite Section 21 authorising the competent authority to grant permission subject to such conditions as may be prescribed in regard to accommodation equipments etc. the rules prescribing these conditions were made in August, 1984 only. The result, according to Shri Garg, was that from the date of the commencement of the Act until the date of the making of the rules there was a statutorily created administrative vacuum which prevented the private managements from applying for permission and recognition. According to Shri Garg, this meant that institutes which were established during that interregnum could not be denied permission and recognition.

3. We are unable to agree with the submission of Shri Garg. The position before the enactment of the Andhra Pradesh Education Act, 1982 was that the executive instructions contained in GOMS No. 169 dated February 19, 1975 held the field and governed the situation. True, after the commencement of the Act no private institution could be established except in accordance with the provisions of the Act and the rules made thereunder. Permission had to be granted and recognition accorded in the manner prescribed by the rules. When rules were not made, there certainly was a void. But we are not in this case really concerned with the question as to what the way out was for those who wanted to obtain the necessary permission to establish an institute and were forced to face a blank wall. We are, here, concerned with the case of those persons who established Teacher Training Institutes without obtaining the permission of the government and then sought the permission of the government. Their application proceeded as if GOMS No. 169 was applicable.

They invited the government to consider the applications submitted by them and also obtained a rule of the High Court that their applications should be considered by the government. Having obtained a rule from the High Court that their applications for the grant of permission should be considered by the government, they cannot now be allowed to turn round and say that it was not open to the government to reject their applications for permission after consideration. In the case of those who never submitted any application, the government was under no obligation to consider the question whether they should be granted permission to establish the institutions, and if in obedience to the directions of the High Court, the government considered the question whether they should be granted permission, the government cannot be found fault with for refusing to grant permission after such consideration. In either case we are unable to hold that the government acted illegally in refusing to grant permission. Shri E. Manohar, learned Additional Advocate-General invited our attention to the orders of the Government refusing to grant permission. A perusal of the several orders placed before us shows that in every case the government bore in mind the principles mentioned in Section 20(3) (a), (b), (c), (d) and (e) of the Andhra Pradesh Education Act, 1982. In all the cases reports were obtained from the District Education Officers and the orders of the government were based on these reports. In some cases there were earlier reports by some Deputy Education Officers who recommended the grant of permission to some of the institutions. But on further scrutiny it was found that the information contained in the reports was not altogether and in some cases far from correct. In some of those cases fresh reports were obtained from the District Education Officers and those reports revealed the true but disheartening situation that the private institutions unauthorisedly established were invariably ill-housed, ill-staffed and ill-equipped. We are satisfied that the orders of the government refusing permission to the several petitioners to establish Teacher Training Institutes are not tainted by any illegality. 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 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. The Teachers Training Institutes are meant to teach children of impressionable age and we 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. We have no hesitation in dismissing the writ petitions with costs.

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