

Vidharbha Sikshan Vyawasthapak Mahasangh

Vs

State of Maharashtra and Others

Civil Appeal No. 4005 of 1985

(O. Chinnappa Reddy M. M. Dutt JJ)

22.09.1986

JUDGMENT

DUTT, J. -

1. This appeal by special leave has been preferred by the appellant, a society registered under the Societies Registration Act, assailing the judgment of the Bombay High Court (Nagpur Bench) whereby the High Court dismissed the writ petition of the appellant challenging the order of the Government of Maharashtra dated May 31, 1985 refusing to grant permission to the member institutions of the appellant to hold the first year classes in Diploma in Education (D. Ed) in the academic year 1985-86.
2. Considering that in course of time there would be acute need of trained primary teachers, the Government of Maharashtra invited applications from educational institutions for conducting D. Ed. course classes on "no grant basis" in the academic year 1984-85. A large number of applications were received by the government from different institutions of the districts of the State. It appears that by an order dated September 9, 1984 of the Education and Employment Department of the Maharashtra Government, permission was granted to 47 institutions in Nagpur District and to the 17 institutions in Bhandara District. These 47 institutions of the Nagpur District are members of the appellant-Society. The permission was granted on certain conditions and it was made clear that the order granting permission would be applicable only for the academic year 1984-85. The Director of Education, State of Maharashtra by his letter dated May 21, 1985 instructed the institutions that they should be prepared to admit students for the academic year 1985-86 and also prepare a programme for facilitating admission. It is the case of the appellant that while the institutions had been going on with the preparation for admission of students for the next academic year, the members of the appellant-Society received an order from the Education Officer, Zillah Parishad, Nagpur, dated June 14, 1985 that the government had not granted permission to 36 member institutions of the appellant-Society to hold first year classes for the year 1985-86 except that they would be entitled to hold the second year classes. In other words, as per the said order these 36 institutions have been directed not to admit students in the academic year 1985-86. This order was made by the Education Officer, Zillah Parishad, Nagpur, pursuant to the policy decision of the government dated May 31, 1985.
3. Being aggrieved by the said order, the appellant moved the Bombay High Court (Nagpur Bench) under Article 226 of the Constitution challenging the propriety and validity of the same. The High Court, as stated already, dismissed the writ petition and hence this appeal by special leave.
4. Mr Lalit, learned counsel appearing on behalf of the appellant, submits that the impugned order is

arbitrary and unreasonable and interferes with the right to education of citizens.

5. In order to consider the said contention of the appellant it is necessary to refer to the case of the respondents. In the counter-affidavit of the respondents affirmed by Mr H.P. Horner, Education Officer, Z.P., Nagpur, and filed in the High Court, it has been stated that in Nagpur and Bhandara Districts, a large number of applicants applied for starting new D. Ed. colleges from time to time during the year 1984-85. 47 new applicants have been granted permission to start new D. Ed. colleges in Nagpur District and 17 new applicants were granted permission to start new D. Ed. colleges in Bhandara District during the year 1984-85. In addition to this, 5 new D. Ed colleges in Nagpur District and 10 D. Ed. colleges in Bhandara District were started unauthorisedly in 1984-85. A scrutiny of a large number of colleges pre-existing up to 1984 and the new D. Ed. colleges started during 1984-85, discloses that the number of new D. Ed. colleges started in all the districts except Nagpur and Bhandara Districts, is approximately equal to the additional need of the districts, while the number of the new D. Ed. colleges started in Nagpur and Bhandara Districts is proportionately much larger, about five times more than the estimated increased need of the two districts. Further, it is stated that it is not desirable and feasible to permit all the 47 D. Ed. colleges to hold first year classes during the year 1985-86. The total capacity of these 47 colleges with 73 divisions, namely, about 3000 students every year. To permit admission of 3000 students every year will result in a serious consequence of a large scale unemployment. It is pointed out in the affidavit that the maximum age of eligibility of a primary school teacher is 28 years. After completion of 28 years of age, a D. Ed. trained teacher, if unemployed, can never join the all the service of a primary teacher. Accordingly, it is submitted that it is all the more necessary to plan the opening of the D. Ed. Colleges in such a manner that it will not result in large scale unmanageable unemployment among the D. Ed. candidates. It is also pointed out that the whole of their training for two years will go to waste in the event they are employed after completing the age of 28 years.

6. In view of the averments made in the affidavit of the respondents, it is difficult to accept the contention of the appellant that the impugned order or the policy decision of the government is arbitrary and unreasonable. There is also no question of interference with the right to education of any citizen, as contended on behalf of the appellant. On the contrary, the government, in our opinion, has taken the right decision so as to save the young men from being exploited. There is no substance in the contention of the appellant that the refusal to grant permission to hold D. Ed. classes for the year 1985-86 will result in unemployment. As pointed out in the affidavit of the respondents, if the permission is granted, there will be a large scale unemployment inasmuch as 3000 students will be admitted in the first year classes as against the requirement of 616 students.

7. It is complained on behalf of the appellant that by granting permission to the 11 institutions to hold first year classes in the academic year 1985-86, the respondents have made a discrimination between the said 11 institutions and the remaining 36 institutions, who are similarly situated, without any reasonable basis therefor. This argument is not available to the appellant. In the first place, the appellant did not make the said 11 institutions parties in the writ petition in the High Court nor in the appeal before us. We agree with the High Court that these 11 institutions have been selected on the basis of need-cum-performance and, accordingly, there is no question of any discrimination or of violation of the provision of Article 14 of the Constitution of India. The contentions of the appellants are rejected.

8. No other point has been urged in this appeal. The appeal being Civil Appeal No. 4005 of 1985 is dismissed. There will, however, be no order for costs.

9. The disposal of Civil Appeal No. 4005 of 1985 results in the disposal of Writ Petitions No. 11258-62, 12285, 12070, 12078, 12079, 12132 of 1985, Civil Appeals Nos. 5444-46 of 1985 and Special Leave Petitions (Civil) No. 12446, 12465-66 of 1985, as they involve the same facts and points. Accordingly, these civil appeals, writ petitions and special leave petitions are all dismissed without any order as to costs.

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