

State of Tamil Nadu and Others

Vs

St. Joseph Teachers Training Institute and Another

With

State of Tamil Nadu and Others

Vs

Dr. Arupappa Teachers Training Institute and Others

Civil Appeal Nos. 1761-62

(K. Ramaswamy, K. N. Singh JJ)

08.04.1991

ORDER

1. Leave granted.

2. In the State of Tamil Nadu a number of educational institutions were set up for running courses for teachers training. The respondent institutions and certain other institutions sought recognition from the Director and the Joint Director of Education of the State of Tamil Nadu for running the teachers training courses. In some cases the recognition was not accorded as institutions did not fulfil the conditions required for setting up the Teachers Training Institution while in other cases the application for recognition was pending consideration. Indisputably none of the respondent institutions had been accorded but they admitted students to the course of study for conferring the Diploma in Teachers Training. Since, the Education Department of the State Government was not willing to allow the students of such institutions to appear at the public examination held by the government, the affected institutions filed writ petitions before the High Court claiming relief for issuance of mandamus directing the government to recognise the institutions and also for a direction permitting the students to appear at the public examination with a further direction for declaring the result of the examination. A learned Single Judge of the High Court referred the matter to Full Bench.

3. The Full Bench considered the question : "Whether the students of unrecognised educational institutions can be permitted to write the public examinations held by the government." The Full bench on an elaborate discussion held that in the absence of recognition accorded to an educational institution, the students of such institutions were not entitled to appear at the public examination held by the government. In this view of the Full Bench the students were not entitled to any relief but the Full Bench adopted a peculiar course to grant relief. The Full Bench on account of the "persistent and persuasive stand of the petitioners" issued directions to the State Government and the Education Department on humanitarian grounds directing them to hold supplementary examination for enabling the students of the concerned unrecognised institutions to appear at the examination with a condition that the declaration of their result will be subject to the ultimate settlement of the

question of recognition. With these directions the Full Bench disposed of the writ petitions before it by its order dated July 24, 1990.

4. The writ petitions out of which the present appeals have arisen were filed by the unrecognised educational institutions. These petitions were heard by a Division Bench of the High Court. The Division Bench following the decision of the Full Bench in W.P. No. 2712 of 1990 and other connected matters (*Fathima Secondary Grade Teachers Training Institute v. Commissioner and Secretary to Government, Education Department*) issued similar directions permitting the students to appear at the examination and directing the State Government to arrange for supplementary examination to enable the students to appear at that examination. These appeals are directed against the order of the Division Bench.

5. After hearing learned counsel for the parties, we are of the opinion that these appeals must succeed. There is no dispute that the respondent educational institutions were established for imparting education in Teachers Training Course without obtaining recognition from the Education Department of the State Government. In the absence of recognition from the Education Department the students pursuing their studies in these institutions could not appear at the public examination held by the Education Department. The Full Bench rightly held that students of unrecognised educational institutions could not be permitted to appear at the public examination held by the government. On its own findings, the Full Bench should have refused relief to the petitioners, but it was persuaded to issue directions on humanitarian ground which were in effect destructive of its own findings, and the law laid down by it. The Full Bench issued directions permitting the students to appear at the examination and directing the appellant authorities to make a special provision for supplementary examination. These directions in our opinion were unauthorised and wholly unjustified.

6. The practice of admitting students by unauthorised educational institutions and then seeking permission for permitting the students to appear at the examination has been looked with disfavour by this Court. In *N. M. Nageshwaramma v. State of A.P.* (1986 Supp SCC 166) this Court observed that if permission was granted to the students of an unrecognised institution to appear at the examination, it would amount to encouraging and condoning the establishment of unauthorised institutions. The Court declared that the jurisdiction of this Court under Article 32 or of the High Court under Article 226 of the Constitution should not be frittered away for such a purpose. In *A. P. Christians Medical Educational Society v. Government of A.P.* ((1986) 2 SCC 667) a similar request made on behalf of the institution and the students for permitting them to appear at the examination even though affiliation had not been granted, was rejected by this Court. The court observed that any direction of the nature sought for permitting the students to appear at the examination without the institution being affiliated or recognised would be in clear transgression of the provision of the Act and the regulations. The court cannot be a party to direct the students to disobey the statute as that would be destructive of the rule of law. The Full Bench noted these decisions and observations and yet it granted relief to the students on humanitarian grounds. Courts cannot grant relief to a party on humanitarian grounds contrary to law. Since the students of unrecognised institutions were legally not entitled to appear at the examination held by the Education Department of the government, the High Court acted in violation of law in granting permission to such students for appearing at the public examination. The directions issued by the Full Bench are destructive of the rule of law. Since the Division Bench issued the impugned orders following the judgment of the Full Bench, the impugned orders are not sustainable in law.

7. *Smt. Nalini Chidambaram* contended that under Section 9 of the Tamil Nadu Act a minority

community is entitled to establish an educational institution without obtaining permission from the government and the students of such institution are entitled to appear at the public examinations. We find no merit in the submission. Under Article 30 of the constitution minorities based on religion or language, have fundamental freedom to establish educational institutions of their own choice, but the State has right to prescribe regulatory provisions for ensuring educational excellence. Minority institutions which do not seek recognition are free to function according to their own choice, but if such an institution seeks recognition from the State, it has to comply with the prescribed conditions for granting recognition, and in that event the minority institution has to follow prescribed syllabus for examination, courses of study and other allied matters. These conditions are necessary to be followed to ensure efficiency and educational standard in minority institutions. See : All Bihar Christian Schools Association v. State of Bihar ((1988) 1 SCC 206). We are, therefore, of the opinion that even if a minority community has fundamental right to establish and administer educational institution, it has no right to insist upon the State to allow students to appear at the public examinations without recognition or without complying with the conditions prescribed for such recognition.

8. We, accordingly, allow the appeals and set aside the order of the High Court and dismiss the writ petitions filed by the respondents. There will be no order as to costs.

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