

Court No. - 38

Case :- WRIT - C No. - 18212 of 2020

Petitioner :- Association Of Minorities
Educational Institutions

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Syed Fahim
Ahmed, Sudhir Kumar Malviya

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

Petitioner claims to be Association of Minorities Institutions running about 30 colleges and have approached this Court challenging the order dated 8.10.2020 whereby a committee has been constituted by the State and has been empowered to conduct and verify the enquiry with regard to the items specified in Paragraph 4 of the order dated 8.10.2020.

The contention of the counsel for the petitioner, in brief, is that the State Government has taken a policy decision for imparting education to the students belonging to the Scheduled Castes/Scheduled Tribes on the basis of zero fee and fee in respect of such students is to be borne by the State Government and to be paid to the institution in question. The said decision is reflected in the Government Order dated 11.10.2020 (Annexure No. 5). It is further stated in furtherance of the said decision, the State Government has framed Rules as Uttar Pradesh Anusuchit Jati/Anusuchit Zanjati Dasmottar Chhatravritt Yojna Rules, 2012 in the year 2012.

Counsel for the petitioner states that the

association of the colleges associated with the petitioner have been admitting the students on 'zero' fee scheme and there is no dispute because of the said issue in between the petitioner-institutions and the State. It is also stated that institutions in question is running after obtaining the requisite affiliation by the National Council for Teacher Education (in short 'NCTE') as well as the State University.

The present writ petition is being confined in respect of challenge to the Government Order dated 8.10.2020 whereby it is recorded that the Finance Minister chaired a meeting on 30.9.2020 and it was decided in the said meeting that the private institutions imparting B.ED & BTC education were required to be investigated/verified in terms of the said decision. It was further recorded that the colleges providing B.ED & BTC Education are charging fees above the standard fees prescribed and the matter requires to be investigated and thus, a Committee was constituted comprising of three persons namely the Director, Social Welfare Department, State of UP as its President, Deputy Director Social Welfare Department, State of UP as its Member and Assistant Director Social Welfare, State of UP as Member.

In the said Government Order, it was further recorded that enquiries be conducted in respect of the institutions in various districts and the persons were duly specified for conducting the investigation in the districts so specified against their name. Vide Clause 4 of the said Government Order, the following was provided:

"उक्त जाँच समिति निम्नलिखित बिन्दुओं पर जाँच /सत्यापन करेगी:-

1- वर्ष 2019-20 एवं 2020-21 में बी0 एड 0 एवं बी0 टी0 सी0 पाठ्यक्रम में प्रवेश हेतु आयोजित राज्य स्तरीय प्रवेश परीक्षा में निर्धारित नीति, छात्रों के प्रवेश हेतु न्यूनतम कटऑफ अंक, सीटों के सापेक्ष अनुसूचित जाति, अनुसूचित जनजाति छात्रों हेतु आरक्षण नियमों के अनुसार सीटों पर प्रवेशित छात्र।

2- संस्थानों की मान्यता, पाठ्यक्रम की मान्यता, पाठ्यक्रम में स्वीकृत सीट, निर्धारित शुल्क आदि का परीक्षण।

3- बी0 एड 0 एवं बी0 टी0 सी0 पाठ्यक्रमों के अध्यापन कार्य करने वाले अध्यापकों की मानक के अनुसार न्यूनतम अर्हता तथा सत्यापन के दौरान संस्थानों में कार्यरत अध्यापकों की शैक्षिक अर्हता आदि का परीक्षण।

4- संस्थानों में अध्ययन/अध्यापन कार्य हेतु कक्ष की संख्या एवं आवश्यक आधारभूत ढांचा आदि का परीक्षण/सत्यापन।

5- संस्थान, जिस भूमि पर चल रहा है, उस भूमि पर अन्य प्रकार के संस्थानों का परीक्षण/सत्यापन।”

The sole submission of the counsel for the petitioner is that the directions as contained in the Clause 4 are beyond the powers conferred upon the State inasmuch as the institution in question are governed by the NCTE Act as well as affiliation granted to the institution of the respective universities and as such the State Government does not have any jurisdiction. He further submits that the institution do not have any grievances if the enquiry is confined to verification of the scholarships being granted to the students of SC/ST community.

In view of the said submission, this Court had directed the Standing Counsel to file a counter affidavit. He filed counter affidavit wherein in Paragraph 13 following has been accepted. Paragraph 13 of the counter affidavit is quoted hereinbelow:

"13. That in reply to the contents of paragraph nos. 56 and 57 of the writ petition it is stated that the answering respondents only verify the strength of the genuine students as provided under the Rules. The Department has no intention to check the validity of affiliation as granted by the NCTE. The Department only checks and verifies the number of genuine students and whether the benefit of the Scheme is being given to the eligible students or not. Only upto this extent and to

achieve the aforesaid object, the impugned order has been issued."

In view of the fact that the State Government itself has confined its investigation to the genuine students as provided under the Rules pertaining to the grant of scholarship to the SC/ST students and once it is categorically accepted that the State has no intention to check the validity of the affiliation granted by the NCTE, no issue remains under the present writ petition as the parties agree that the State Government is fully empowered to verify and check the issue of scholarships and the eligibility of the students, who are entitled to the said scholarships.

In view of the fact that no dispute remains in between the parties, the Government Order dated 8.10.2020 is set aside to the extent that the committee constituted under the said Government Order would not be carrying out the investigation with regard to entire Clause 4 of the notification dated 8.10.2020.

It is further clarified that the committee so constituted would be duly empowered to carry out investigation with regard to number of students of SC/ST community, who are registered for scholarships and requisite scholarships being rightly given to the eligible students.

The petitioner-institutions shall co-operate with the committee so constituted for the investigation as directed above.

It is also clarified that the authority so constituted would not be empowered to call for any information with regard to the items specified in Clause 4 of the Government Order dated

8.10.2020.

The petition is disposed off.

Order Date :- 15.12.2020

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