

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 15443 of 2011(O&M)
Date of decision: 24.01.2020

Self Financed B.Ed. Colleges Association

.....Petitioner

V/s.

Panjab University and another

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Arjun Pratap Atma Ram, Advocate,
for the petitioner.

Mr. Suvir Sidhu, Advocate,
for respondent No.1.

None for respondent No.2.

Sanjay Kumar, J.

The petitioner is the Self Financed B.Ed. Colleges Association, a registered body, having its office at Moga in the State of Punjab. Its grievance is with the proceedings dated 13.12.2000 (Annexure P-4) of the Panjab University. Thereby, the University informed the Principals of all non-Government affiliated Arts and Science colleges, including colleges of Education, that the Syndicate of the University had resolved to approve the constitution of Selection Committees in the manner described therein. The

constitution of Selection Committees for making appointments to the posts of Principals and Lecturers in such colleges was detailed. The complaint of the petitioner Association is that the Selection Committees so constituted practically denuded the colleges of having an effective say in the selections. It pointed out that the Selection Committee for appointing a Principal was to comprise seven members but only the Chairperson and one member from the Governing Body of the college were to participate while three nominees therein were to be named by the Vice-Chancellor of the University and two nominees were of the Director of Public Information (Colleges). On similar lines, the Selection Committee for appointing Lecturers was to consist of seven members - the Chairperson of the Governing Body of the college; the Principal of the college; two nominees of the Director of Public Information (Colleges) and three nominees of the Vice-Chancellor of the University. The petitioner Association would contend that the aforesaid constitution would effectively deprive the management of private colleges from having a proper say in the appointment of Principals and Lecturers in such colleges.

Mr. Arjun Pratap Atma Ram, learned counsel for the petitioner Association, would assert that sufficient safeguards have already been put in place by the University to ensure that private affiliated colleges adhere to the requisite standards while making such appointments. Reference in this regard is made to the 'Conditions for grant of affiliation to Colleges' and more particularly, Clause 4(a) thereof, which mandates that the teaching staff initially appointed in such colleges should be gotten approved by the University and all subsequent changes in the teaching staff should be

reported to the Registrar of the University within two weeks for approval. These conditions applied to colleges offering B. Ed. course also.

Learned counsel would also point out that in terms of the 'Conditions of service and conduct of teachers in non-Government affiliated colleges' prescribed in the University's Regulations, the Governing Body of a non-Government college was entitled to determine the engagement of a permanent employee for sufficient cause, after giving him three months notice in writing or on payment of three months salary in lieu thereof, and contend that when termination of services of a permanent employee, including a Teacher/Principal, did not require participation of the University or the State or their nominees, insistence upon such participation at the time of their selection and appointment is unjustified. He would further contend that the impugned proceedings would lead to unnecessary wastage of time and resources as such diverse constitution of Selection Committees would result in prolonging the process of selection, leading to avoidable delay and litigation. Lastly, he would state that the interference contemplated by the impugned proceedings in the functioning of private colleges would violate the law laid down by the Supreme Court in ***T.M.A Pai Foundation and others V/s. State of Karnataka and others, [(2002) 8 SCC 481]***

Per contra, Mr. Suvir Sidhu, learned counsel for the University, would submit that the impugned proceedings were issued only to ensure that affiliated colleges adhered to the required standards while recruiting personnel. He would point out that the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014, issued by

the National Council for Teacher Education mandated that new Teacher Education Institutions should function as stand alone institutions and that there should be 16 full-time faculty members for a total student strength of 200. He would further point out that the regulations prescribed the qualifications that should be possessed by the faculty members and therefore, it was necessary that Selection Committees should include the nominees of the University and the State to ensure that these guidelines were strictly implemented. Learned counsel however has no answer as to how he can justify such inference in the functioning of private unaided B.Ed. colleges, given the law laid down by the Supreme Court.

In *T.M.A Pai Foundation*, the Supreme Court observed that the right to establish and administer private unaided non-minority educational institutions also comprised the right to appoint staff (teaching and non-teaching). Elaborating on this aspect, the Supreme Court further observed that nomination of teachers in such colleges, either directly by the Department or through a Service Commission, would be an unreasonable inroad and restriction on the autonomy of private unaided educational institutions. Pointing out that the Government would have a greater say in the administration of Government-aided Institutions, the Supreme Court clarified that in the case of private unaided institutions, maximum autonomy in day-to-day administration would be with the said institution itself. The Supreme Court categorically held that one of the essential ingredients of the management of a private institution would include the recruitment of students and staff.

In the light of the above decision of the Supreme Court, it is not open to the University to divest private colleges of their right to choose and select Teachers and Principals as per their choice. As rightly pointed out by Mr. Arjun Pratap Atma Ram, learned counsel, sufficient safeguards are already in place to ensure that these colleges do so in accordance with the prescribed requirements, inasmuch as all such appointments would have to be approved by the University. The University would therefore have an opportunity to examine whether candidates selected by the colleges satisfy the requisite norms. The move of the University to pre-empt such independent selection by the colleges by introducing its own nominees and also providing for State participation therefore cannot be countenanced.

The writ petition is accordingly allowed setting aside the proceedings dated 13.12.2000 issued by the Panjab University, providing for the constitution of Selection Committees for appointments to be made by non-Government affiliated colleges of Education to the posts of Principals/Lecturers. This order shall however not preclude the University from exercising its power of supervision in terms of the relevant Regulations after such selection is made, at the time of granting approval.

Pending miscellaneous applications shall stand closed in the light of this final order.

No order as to costs.

(SANJAY KUMAR)
JUDGE

24. 01.2020

rakesh

whether speaking/non speaking : Yes/no

whether reportable/non reportable : Yes/no