

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.23589 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA

Sd/-

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	NO
5	Whether it is to be circulated to the civil judge ?	NO

SHRI SHIKSHAN SADHANA STRI ADHYAPAN MANDIR & 1-Petitioner(s)

Versus

THE STATE OF GUJARAT & 4 - Respondent(s)

Appearance :

MR ASHISH H SHAH for Petitioner(s) : 1 - 2.

MR KAMAL B TRIVEDI, LEARNED ADVOCATE GENERAL, with
MS SANGEETA K VISHAN, AGP for Respondent(s) : 1-5

CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 30/10/2007

ORAL JUDGMENT

(1) RULE. Learned advocate appearing for the respondents is directed to waive service of rule. Considering the scope of the controversy between the parties the petition is taken up for final hearing and disposal today.

- (2) The petition challenges order dated 07.09.2007 made by respondent No.2 authority in the following circumstances.
- (3) The petitioner is running a Grant-in-Aid Government recognized PTC College since last 27 years. Admittedly, the college is an exclusive college for girl students having hostel facility. It is not necessary to record the history of the recognition granted to the petitioner-College. Suffice it to state that even NCTE has granted recognition. It appears that respondent No.2 issued a show cause notice to the petitioner as to why the No Objection Certificate granted to the petitioner should not be cancelled and why the State Government should not recommend cancellation of the recognition of the petitioner to NCTE on the grounds stated in the show cause notice. The petitioner replied to the said show cause notice and also took remedial steps in relation to the complaint regarding collection of excess hostel fees

having been recovered.

(4) It appears that not being satisfied with the steps taken by the petitioner-College, the respondent authorities, vide letter dated 28.02.2005 recommended cancellation of recognition to NCTE, but, vide communication dated 23.04.2005 (Annexure-K) NCTE has stated that the reasons given by the authority do not warrant the cancellation of recognition granted to the petitioner. Subsequently, NCTE also issued a show cause notice but, after considering the reply submitted by the petitioner, decided that circumstances did not warrant withdrawal of recognition already granted.

(5) Ultimately on 08.09.2006 respondent No.3-Director, Primary Education, called upon the petitioner-College to show cause why the grant should not be stopped in light of Clause 119 of the Grant-in-Aid Code. The reply submitted by the petitioner was not found to be satisfactory and vide order dated 06.06.2007 the grant was

directed to be stopped.

(6) The petitioner preferred Revision Application before the revisional authority on 14.06.2007. The revision was heard on 12.07.2007 but as no order was made, the petitioner approached this Court by way of Special Civil Application No.22150 of 2007. On the basis of statement made by the learned Assistant Government Pleader, the petition was disposed of by order dated 29.07.2007. Pursuant thereto the impugned order dated 07.09.2007 came to be made by the respondent authority.

(7) As can be seen from the impugned order respondent No.2 authority has stated that considering the complaints received in earlier years, in absence of requisite facilities being available in the hostel, instead of granting admission to girls only boys must be admitted in the petitioner-College. Thereafter two more conditions have been mentioned and lastly it is mentioned that only after the

admission process is completed the grant shall be resumed.

- (8) The learned advocate for the petitioner has submitted that the petitioner-College is established only for girls and in the guise of resumption of grant which has been stopped the authority cannot direct the petitioner-College to admit boys. On behalf of the State, learned Advocate General appears and has submitted that considering the condition of the hostel premises the respondent authority has decided to allot boy students instead of girl students. It was submitted that in the circumstances, the petitioner should not have grievance whether the petitioner is allotted girl students or boy students.

- (9) Alternatively, it was submitted that in the event the Court was inclined to modify the order made by the respondent authority and direct allotment of girl students the petitioner must be put to terms to ensure that

the hostel premises are fit for residence of girl students and the security angle was also required to be taken care of.

(10) The impugned order dated 07.09.2007 cannot be allowed to operate for the simple reason that the revision application was primarily against the stoppage of grant. The aspect of non-allotment of students *per se* cannot be permitted for the simple reason that the reasons advanced by the authority for non-allotment of students has repeatedly been found to be not germane for cancellation of recognition by NCTE. Therefore, in principle, the respondent authority was only required to decide as to whether grant should be resumed or not after girl students are allotted to the petitioner-College.

(11) The reason that the hostel building is not fit for residence of girl students could be a factor for calling upon the petitioner-College to remove the deficiencies within a time bound

schedule but cannot be a ground for substituting girl students by allotment of boy students. Once the college itself has been established for girls it was not open to the respondent authority to change the nature of the college *suo motu*.

- (12) However, the anxiety voiced by the learned Advocate General also requires to be addressed. Learned advocate for the petitioner has stated that the petitioner-College has already undertaken renovation of the hostel building and the said work shall be completed within a period of 30 (thirty) days. In the circumstances, it would be proper and just to direct the respondent authority to request the Executive Engineer, Roads & Buildings, Public Works Department, Ahmedabad to undertake inspection of the premises in 1st week of December 2007 and report to the respondent authority. After such report is received the respondent authority shall undertake the exercise of release of grant, which is due.

(13) In so far as allotment of students is concerned, considering the period that has elapsed for the current academic year, it would be in the fitness of things if the respondent authority is directed to allot girl students for Academic Year 2008-2009 onwards.

(14) The petitioner is directed to file an undertaking before this Court, through the Managing Trustee of the petitioner-Trust, that the petitioner shall take all necessary steps to ensure that the hostel premises are put in shape so as to ensure that adequate facilities are available to girl students on and from June 2008. The undertaking shall also state that adequate security measures shall be put in place to ensure the safety of girl students. Such undertaking shall be filed on or before 23.11.2007.

(15) The petition is allowed accordingly in the aforesaid terms. Rule made absolute. There

shall be no order as to costs.

Sd/-
[D.A. MEHTA, J]

Bhavesb*