

**HIGH COURT OF JAMMU AND KASHMIR AT
JAMMU**

OWP No.1107/2010 CMP No.1509/2010
OWP No.1123/2010 CMP No.1524/2010
OWP No.1124/2010 CMP No.1525/2010
OWP No.1100/2010 CMP No.1502/2010
OWP No.1113/2010 CMP No.1515/2010
OWP No.1110/2010 CMP No.1512/2010
OWP No.1108/2010 CMP No.1510/2010
OWP No.1094/2010 CMP No.1496/2010
OWP No.1101/2010 CMP No.1503/2010
OWP No.1248/2010 CMP No.1696/2010
OWP No.1106/2010 CMP No.1508/2010
OWP No.1105/2010 CMP No.1507/2010
OWP No.1201/2010 CMP No.1626/2010
OWP No.1194/2010 CMP No.1618/2010
OWP No.1208/2010 CMP No.1636/2010
OWP No.1204/2010 CMP No.1629/2010
OWP No.1252/2010 CMP No.1700/2010
OWP No.1314/2010 CMP No.1777/2010
OWP No.1249/2010 CMP No.1697/2010
OWP No.1121/2010 CMP No.1522/2010
OWP No.1112/2010 CMP No.1514/2010
OWP No.1104/2010 CMP No.1506/2010
OWP No.1109/2010 CMP No.1511/2010
OWP No.D-1129/2010 CMP No.1533/2010
OWP No.1118/2010 CMP No.1520/2010
OWP No.1122/2010 CMP No.1523/2010
OWP No.1126/2010 CMP No.1527/2010
OWP No.1125/2010 CMP No.1526/2010
OWP No.1007/2010 CMP Nos. 1458/2010 & 1367/2010
OWP No.927/2010 CMP No.1262/2010
OWP No.725/2010 CMP No.982/2010
OWP No.1116/2010 CMP No.1518/2010
OWP No.1062/2010 CMP No.1455/2010
OWP No.1361/2010 CMP No.1839/2010
OWP No.1091/2010 CMP No.1492/2010
OWP No.1055/2010 CMP No.1447/2010
OWP No.1076/2010 CMP No.1478/2010
OWP No.1087/2010 CMP No.1488/2010
OWP No.1461/2010 CMP No.1956/2010
OWP No.1502/2010 CMP No.2003/2010

Date of Decision: 27.12.2010

Pardeep ETT College of Education & ors.	Vs.	State of J&K & ors.
Om Sai Institute of ETT	Vs.	State of J&K & ors.
Sindhu Teacher Trgn. Instt. Kathua & Ors.	Vs.	State of J&K & ors.
Airawati ETT and RI Nagri Parole & Ors.	Vs.	State of J&K & ors.
Minerva ETT Institute & Ors.	Vs.	State of J&K & ors.
Baba Budhan Ali Shah ETT Institute	Vs.	State of J&K & ors.
Modern Sharma ETT Institute	Vs.	State of J&K & ors.
Sant Mela Singh ETT College & Ors.	Vs.	State of J&K & ors.
Saimal Singh Memorial ETT Instt. & anr.	Vs.	State of J&K & ors.
Priyadarshani Instt. of Teahcer Training	Vs.	State of J&K & ors.
AL-ASRARIA ETT College	Vs.	State of J&K & ors.
Swastik ETT Institute & Ors.	Vs.	State of J&K & ors.
Kawa Institute of Teachers Training	Vs.	State of J&K & ors.
Shikha Educational Res. & Trng. Trust	Vs.	State of J&K & ors.
Saraswati College of Education	Vs.	State of J&K & ors.
Baba Dharam Chand Instt. of ETT & ors.	Vs.	State of J&K & ors.
Paras Instt. Of ETT Kathua & Ors.	Vs.	State of J&K & ors.
New Swastik ETT & anr.	Vs.	State of J&K & ors.
Rajinder ETT College, Kathua & anr.	Vs.	State of J&K & ors.
Kohinoor Edu. Trust & ors.	Vs.	State of J&K & ors.
Saraswati Niketan ETT Institute & anr.	Vs.	State of J&K & ors.
Trikuta Institute of Teachers Training	Vs.	State of J&K & ors.
Baba Sadho ETT Institute, Kathua	Vs.	State of J&K & ors.

MLP College of Education & Ors.	Vs.	State of J&K & ors.
Isher Institute of ETT, Kathua & Ors.	Vs.	State of J&K & ors.
Taleem Ghar ETT Institute	Vs.	State of J&K & ors.
K.C.Gurukul ETT Instt. Udhampur & anr.	Vs.	State of J&K & ors.
Baba Teachers Training Institute	Vs.	State of J&K & ors.
Bhagwati Haqiqat Memorial ETT & Ors.	Vs.	State of J&K & ors.
Sarvodhya ETT College & ors.	Vs.	State of J&K & ors.
Uma Teacher Training Institute & Ors.	Vs.	State of J&K & ors.
Divey Jyoti Educational Trust	Vs.	State of J&K & ors.
Bahu Teacher Trgng. Institute & ors.	Vs.	State of J&K & ors.
Kalra Institute of ETT & anr.	Vs.	State of J&K & ors.
Tariq ETT Institute & ors.	Vs.	State of J&K & ors.
Royal Institute of Teachers Trgng. & anr.	Vs.	State of J&K & ors.
GHO Brahmana ETT Institute, Samba	Vs.	State of J&K & ors.
Sarvodya Instt. of Teachers Trgn. & Ors.	Vs.	State of J&K & ors.
New Generation Educational Instt. & ors.	Vs.	State of J&K & ors.
S.M.Shishu Niketan College of ETT & Ors.	Vs.	State of J&K & ors.

Coram:

Mr. Justice J.P.Singh, Judge.

Appearing Counsel:

For the Petitioner(s) : M/s M.K.Bhardwaj, Sr. Advocate with Mr. Ajay Abrol, Advocate and Nitin Bhasin, Vikas Mangotra & Sachin Sharma, Advocates.

For the Respondent(s) : M/s Neeru Goswami, Dy.A.G, D. S. Thakur & Aruna Thakur, Advocates.

i)	Whether approved for reporting in Press/Journal/Media	:	Yes
ii)	Whether to be reported in Digest/Journal	:	

The petitioners-Institutes, imparting instructions in the Elementary Teachers Training Course, ‘ETT’ for short, have filed these Petitions seeking directions against the Jammu and Kashmir State Board of School Education, Jammu to accept the Registration Returns, Admission and Examination Forms, besides requisite fee of the students admitted by them in their respective Institutes and grant them temporary affiliation.

Their grievance is that the Jammu and Kashmir State Board of School Education, Jammu, the ‘Board’ for short, had, without any justifiable reason refused to

accept the Registration Returns, Admission and Examination Forms of the students admitted by them to impart instructions in the ETT Course for the Session 2009-2011, thereby affecting their right to carry on their profession of imparting instructions in Elementary Teachers Training Course.

The Board has filed its Response to some of the Writ Petitions whereas similar stand was projected by the learned counsel appearing for the Board, to contest the Writ Petitions where no written Response was filed.

According to the Board, it had issued Academic Calendar for the first year of Elementary Teachers Training Course in the non-government recognized/affiliated Institutions for the Session 2009-2011 of Jammu Division and Admission Forms of only those students were not accepted by the Board who were admitted after the last date of the admission stipulated in the Notification issued by the Board in this behalf.

As similar issues arise in all these Petitions, these, were taken up for joint consideration on the request of the learned counsel for the parties.

Perused the pleadings and considered the submissions made at the Bar by the learned counsel for the parties.

The documents placed on records by some of the petitioners-Institutes running ETT Courses reveal that “No Objection Certificates” for running ETT Course for the Session 2009-2011 were issued to the Institutes, after 08.05.2010, the last date of Admission of students notified as such by the Board.

In the Notification dated 21.08.2010, issued by the Board of School Education, a copy whereof has been placed on records by the Board, the last date of admission is shown as 08.05.2010, the date of Classification is 10.05.2010, the date of submission of Registration Returns along with other documents of eligibility is from September 15, 2010 to September 29, 2010, whereas date of collection of computerized Examination Forms is from October 15, 2010 to October 29, 2010.

The plea of the learned counsel for the Board that the late admissions made by the petitioners-Institutes, violating the Notification of the Board, would not entitle them to seek directions against the Board to accept their Registration Returns and other documents, needs to be considered in the light of the facts appearing from the documents placed on records.

These documents demonstrate that the late admission of the students in the petitioners-Institutes,

cannot be attributed wholly to the petitioners-Institutes, for the inaction of the State Government in processing the applications of the Institutes seeking issuance of 'No Objection Certificates' for running Elementary Teachers Training Course for the Session 2009-2011 and taking appropriate decision thereon, for a long time, too has contributed to the late admission of students in the Colleges.

The State Government was required to pass final orders on the request of the Institutes to issue 'No Objection Certificates' for running ETT Course well before the date notified for admission of students in these Colleges by the Board. In any case if the Government had no intention of permitting the Institutes to run ETT course for the Session 2009-2011, it would not have issued 'No Objection Certificates' after the last date of admissions for the Session, notified by the Board.

The 'No Objection Certificates' placed on records by some of the petitioners-Institutes reveal that the State Government had been issuing 'No Objection Certificates' even up to September 2010.

The State thus appears to have permitted the Institutes to run the ETT Course for the Session 2009-2011, despite the last date of admissions of students in

the Colleges for the Session 2009-2011.

Pursuant to the grant of permission to run the ETT Course, after the last date of admission of students, the petitioners appear to have admitted students for the Session 2009-2011.

The Board too, does not appear to have intended strict adherence to the last date of admission of students in the ETT Institutes, in that, no general notification prior to the Notification of August 21, 2010 where the last date of admission is indicated three months prior thereto, appears to have been issued. The Board, therefore, appears to have been accepting the admission of students by the Institutes even after 08.05.2010.

In these circumstances, the Board was required to consider the request of the Institutions for acceptance of their Registration Returns, Admission Forms, fee etc. in the background of the belated issuance of 'No Objection Certificates' by the State Government, for the ETT Institutes, which had admitted students pursuant to the permission granted to them by the State Government, can not be put to a disadvantageous position which may render the State Government permission to them to run the ETT Courses for the Session 2009-2011, ineffective.

The refusal of the Board to accept the Registration

Returns and Admission Forms of the students admitted by the Institutes solely on the ground that they had not complied with its Academic Calendar for admission of students and submission of Registration Returns, without considering the circumstances, projected individually by them, that had led to the late admission of the students, may not therefore be justified.

During the pendency of the Petitions and subject to the final orders in the Writ Petitions, the Board was directed to accept the Registration Returns, Admission Forms and other requisites from the Institutes in terms of the interim orders passed in some of these Writ Petitions.

In some of the Writ Petitions, the petitioners have indicated other reasons as well which are stated to have contributed for late submission of the Registration Returns of some of the students admitted in their Institutes.

Looking to the totality of the circumstances of these cases and keeping in view the interests of the large number of students, who are stated to include students from other States of the Country as well, the Board is required to consider the request of the petitioners-Institutes, for accepting their Registration Returns, Examination Forms and other requisites, in the light of

the admitted fact that the delay in admission of the students had occasioned, *inter alia*, because of the delayed issuance of 'No Objection Certificates' by the State Government and late filling up of the seats which had become available because of the non-joining/abandoning of the course by some of the students of these Colleges.

In the circumstances, all these Petitions are, therefore, disposed of with a direction to the State Board of School Education to consider the request of the petitioners-Institutes for acceptance of their Registration Returns, Admission Forms and other requisites, fee etc., exercising its discretion to regularize the late admission of the students, taking a pragmatic view on the cause so projected by the petitioners-Institutes individually, for passing appropriate orders in this respect, within a period of ten days of the petitioners-Institutes' making Representations with it. A week's time is allowed to the petitioners-Institutes to make Representations to the Board seeking its consideration for regularization of the admissions and acceptance of the Registration Returns, Admission and Examination Forms, besides other requisites.

The acceptance of Registration Returns, Admission Forms and other requisites, shall not, however, entitle the

students to take the Examination unless they fulfill all the requisites needed therefor under the rules in force.

The aforesaid directions have been issued in the peculiar facts and circumstances of these cases which shall not be treated as precedent.

(J. P. SINGH)
JUDGE

JAMMU
27.12.2010
Pawan Chopra