

O R D E R

Leave granted. Heard.

2. The appellant filed a writ petition (WP No. 2688 of 2009) in the High Court of Madhya Pradesh for the following reliefs:

(a) to declare and strike down Rule 1.5.2 of B.Ed Pathyakram 2005 Ke Pravesh Niyam (for short 'Rules') as ultra vires the Constitution;

(b) to declare that the appellant was entitled to admit students belonging to other states, to B.Ed courses if the students domiciled in Madhya Pradesh were not

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available;

(c) to give relaxation/exemption from the rule that admission to B.Ed Courses could be granted only to students having domicile certificate of State of M.P;

(d) or in the alternative [to prayers (a) to (c)] to pass appropriate orders similar to the orders passed in Writ Petition No.9903/2005 dated 10.2.2006 (Sidhi Vinayak Education Society vs. State of MP).

3. The High Court dismissed the petition by the impugned order dated 8.4.2009. The Court found that National Council for Teachers Education (for short 'NCTE') had granted recognition to the appellant for conducting B.Ed examination for one year i.e. academic session 2003-04; that based on the said recognition, the Barkatullah University had granted temporary affiliation for the B.Ed course of appellant for the academic session 2004-05; and that the appellant institution neither had recognition from NCTE nor affiliation from the University for the academic year 2005-06. The High Court held that as the appellant did not have any recognition or affiliation, it could not have admitted any students for the year 2005-06 and therefore the question of permitting the students to

appear in the examination did not arise. In view of the said finding, the reliefs claimed with reference to non-

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domiciled students and validity of Rule 1.5.2 of the Rules were irrelevant and misleading. The said order of the High Court is challenged in this appeal by special leave.

4. We find from the order of this Court dated 22.6.2009, that notice was issued in this case in view of the submissions made by the appellant's counsel that the appellant had affiliation and recognition and this court by order dated 18.5.2007 in SLP (C) No. 17960/2006 (Sidhi Vinayak Education Society & Others vs. State of MP) had directed the Barkatullah University to permit the provisionally admitted students of the petitioner colleges to sit in the ensuing examination commencing from 28.5.2007 and that the appellants were entitled to similar orders. When the matter came up today the appellant again submitted that the matter may be disposed of in terms of the order dated 19.7.2010 of this Court in Sidhi Vinayak Education Society & Ors. v. State of Madhya Pradesh & Ors. (C.A. No.5672 of 2010 arising from SLP(C) No.17960/2006). The decision in Sidhi Vinayak Education Society is inapplicable as it did not lay down any legal principle. Further, the facts of that case were completely different. In that case, the institution had recognition and affiliation but had admitted students from outside the

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state, in violation of Rule 1.5.2 of the Rules which provided that only students domiciled in State of M.P. could be admitted. The institution challenged the said Rules and the High Court had disposed of the petition on the ground that Rules could not be challenged, after the counseling had taken place. That order of the High Court was challenged before this Court and this Court made an

interim order directing the University to permit the provisionally admitted students to appear in the examination. Ultimately when the matter was finally heard, this Court held that as the students had already undergone the course and had been allowed to appear in the examination, their results may be declared. The matter was not decided on the merits of the several contentions raised in that case.

5. The facts of present case are totally different. Even though the petitioner has tried to mislead, by challenging Rule 1.5.2 and seeking regularization of the admission of students from outside the state, the real issue was whether it could admit students when it had no recognition or affiliation. The writ petition of appellant was dismissed on the ground that it did not have recognition from NCTE nor affiliation from the University. The faint

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attempt of the appellant to contend that the Recognition Order dated 18.6.2004 of NCTE and the affiliation letter dated 8.9.2004 of Barkatullah University were not to be read as 'for' one year but to be read as 'from 2003-2004' and 'from 2004-2005' and therefore, it had recognition and affiliation for the academic year 2005-2006, are untenable. Both orders clearly state that they were for only one year. Students admitted to the course in the year 2005-2006 when the institution did not have affiliation or recognitions could not be permitted to appear in the examination, nor their admission could be regularized.

6. The appellant has sought to suppress the relevant facts and real issue, by contending that these cases were similar to Sidhi Vinayak Education Society where the students were admitted without domicile certificate, by a recognized institution. We deprecate the attempt of the

appellant to mislead this Court. In view of the above, we
dismiss this appeal with costs of Rs.25,000/-payable to
the respondents.

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.....J.
(R. V. Raveendran)

.....J.
(A.K. Patnaik)

New Delhi;
July 08, 2011