

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.216 OF 2010

(1) Sarvodaya Shikshan Santha, through
its President, Sakharam Shivram
Mumbarkar,
having office at Sai Nagar,
Devhag Dist.: Sindhudurg,
MAHARASHTRA

(2) The Principal, Sarvodaya Shikshan
Sanstha's Pragati Women's College of
Education (B.Ed.), having office at
Mote Building, Rajwelwadas,
Torxem, Pernem-Goa.

... Petitioners

Versus

(1) State of Goa, through its Directorate of
Higher Education, having its office at
Junta House, 2nd Lift, 5th Floor,
Panaji-Goa.

(2) Goa University, through its Registrar,
having its office at Taleigao Plateau,
Goa-403 206.

(3) SNDT Women's University,
through its Registrar, having office at
1, Nathibai Thackersey Road,
Churchgate, MUMBAI-400 020.

(4) National Council for Teacher
Education, through its Western
Regional Committee, having Office at
Manas Bhawan, Shamala Hills,
Bhopal – 462 002.

...Respondents

Mr Jitendra P. Supekar with Mr Roger D'Souza, Advocates for the Petitioners.

Ms Sulekha Kamat, Additional Government Advocate for Respondent No.1.

Ms A. A. Agni, Senior Advocate with Ms Jay Sawaikar, Advocate for Respondent No.2.

Mr Sanket Kamat, Advocate for Respondent No.3.

**CORAM: M. S. KARNIK &
VALMIKI SA MENEZES, JJ**

DATED: 28th APRIL 2023

ORAL ORDER: (Per M. S. Karnik, J.)

1. The challenge in this petition filed under Article 226 of the Constitution of India is to an order dated 12.01.2020 at 'Exhibit -S' passed by the Director of Higher Education. This petition had come up for admission before this Court on 22.03.2010 when the following order came to be passed:

'Respondent Nos. 1 and 2 waive service. Issue notice to the remaining respondents returnable on 05/04/2010.'

The petitioner's contention is that they do not require affiliation/recognition from the respondent No.2 - Goa University. They submit that recognition from the respondent No.4 - National Council for Teacher Education is sufficient. In that event, the withdrawal of the N.O.C. by the respondent No.1, which is impugned in this writ petition cannot affect the petitioner. If any further action pursuant to the impugned action is taken or sought to be taken, liberty to apply for interim relief.'

2. Thereafter, on 16.06.2010 'Rule' was issued and the matter was listed for hearing on interim relief on a subsequent date.

The petition came up for hearing on 28.09.2010 when the following order came to be passed:

'Heard learned Counsel for the parties. The writ petition has been admitted vide order dated 16th June, 2010. In our view, prima facie case is made out. Furthermore, respondent No.4 has filed an affidavit stating that respondent No.4 has recognized the course of the petitioner. In view thereof, there shall be interim relief in terms of prayer clause (D).'

3. The interim relief that was granted in terms of prayer clause (D) reads thus:-

''(D) Pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to stay the Impugned Order dated 12/1/2020 (ANNEXURE"S" to the Petition);'

4. The petition has now come up for final hearing. The interim relief is operating in favour of the petitioner since the year 2010. The petitioner is conducting B.Ed course having its affiliation with the SNTD University which was objected to by the respondent and hence the impugned order. The petitioner has now filed an affidavit indicating that the management has taken a decision that they will withdraw their affiliation from SNTD and seek affiliation from Goa University from the academic year 2024-2025 onwards. As the management has taken a decision that they will withdraw their affiliation from SNTD and seek affiliation from Goa University, nothing really survives for consideration in the present petition. However, the request of the petitioner is that they will seek affiliation from Goa University from the academic year 2024-25 onwards. This

is because the B.Ed course conducted by the petitioner having its affiliation with the SNTD since the year 2005 and continued till date as a result of the interim relief granted by this Court.

5. Learned counsel for the petitioner requested that as the course has been continuing this long and also pursuant to the interim order passed by this Court since the year 2010, they may be permitted to take admissions for the academic year 2023-24 which course would end in the year 2024-25 as that would enable them to start the process of affiliation to the Goa University which they would do at the earliest. This request is opposed by learned Additional Government Advocate.

6. The portals of the Goa University will open from October 2023 for applying for affiliation. The application notice will take some time to process. It is not as if the petitioner was running the B.Ed course without any affiliation. It had the affiliation of SNTD which is a reputed institution. We, however, feel that the request is reasonable as this course is continuing since 2005 and as the stand taken by the petitioner is reasonable and in the interest of justice.

7. The affidavit which has been filed by the petitioner is to the following effect:-

*'ADDITIONAL AFFIDAVIT/UNDERTAKING ON
BEHALF OF THE PETITIONER.*

I, Shivaji Shamrao Patil, s/o. Shamrao Patil, aged 61 years, Secretary, Sarvodaya Shikshan Sanstha (Petitioner), having office at Sai Nagar, Devgad Dist.: Sindhudurg, Maharashtra, Indian National, do hereby on solemn affirmation state and submit as under: -

1. I say that I am the Secretary of Sarvodaya Shikshan Sanstha, Petitioner herein, and I am authorized to file

the present Additional Affidavit.

2. I say that the present Additional Affidavit is being filed without prejudice to the contentions raised in the captioned Petition pending before this Hon'ble Court.

3. I say that the Petitioner's management has taken a decision that they will withdraw their affiliation from S.N.D.T University and seek affiliation from Goa University from the Academic year 2024-2025 onwards.

4. I say that as regards the admissions to the academic year 2023-24, the Petitioner may be permitted to take admissions being affiliated to S.N.D.T. University, which course would end in the academic year 2024-25.

5. I say that in view of the decision taken by the Petitioner management to seek affiliation of Goa University from the academic year 2024-25 onwards, this Hon'ble Court may be pleased to quash and set aside the Impugned Order dated 12/01/2010 (ANNEXURE- S, Pg.121).

6. I say that the Petitioner undertakes to start the process of seeking affiliation of Goa University within a period of 1 month from 28/04/2023. I say that in the peculiar facts and circumstances of the case, this Hon'ble Court, may deem fit, to consider, directing the Goa University, to process the application by the Petitioner within a period of 6 months from the date of receiving the Application for seeking affiliation.

7. I say that what is stated by me in the aforesaid Paragraphs 1 to 6, are true to the best of my knowledge.

Solemnly affirmed at Porvorim-Goa)

On this 28th day of April 2023) DEPONENT.

Identified by me:

Sd/-

Adv. R. D'Souza'

8. The affidavit is affirmed by Shri. Shivaji Shamro Patil, the Secretary of Sarvodaya Shikshan Sanstha and who is personally present in the Court. Learned counsel for the petitioner on instructions submitted that the petitioner undertakes to abide by the statements made in the affidavit. Statements accepted as undertaking to this Court. We are, therefore, inclined to accept

the stand taken in the affidavit. No further orders are required to be passed in the present petition.

9. We therefore permit the petitioners to take admission for the year 2023-24 being affiliated to SNTD University and that the said course would end in the academic year 2024-25. The petitioner to seek affiliation from Goa University from the academic year 2024-25 by applying for the same when the portals open in October 2023. The application obviously will be considered by the Goa University on its own merits and in accordance with law expeditiously.

10. In this view of the matter, the impugned order is rendered inconsequential. Needless to mention, when fresh applications/approvals are sought by the petitioner, the impugned order will not come in the way of considering the fresh applications/approvals.

11. Rule disposed of in the above terms. No cost.

VALMIKI SA MENEZES, J

M. S. KARNIK, J