



पत्र क्रमांक/बी.एड./प्रवेश/2012/ 5859

रायपुर दिनांक 20-12-12

प्रति

प्राचार्य

छ.ग. राज्य के समस्त

निजी शिक्षा महाविद्यालयों को प्रसारित

विषय – प्रवेश एवं शुल्क विनियामक समिति रायपुर द्वारा भारती शिक्षा महाविद्यालय (BIIT) दुर्ग के विरुद्ध बी.एड. पाठ्यक्रम 2010-11 में 4 छात्रों को सीधे प्रवेश दिये जाने के कारण की गई कार्यवाही की सूचना।

सन्दर्भ – प्रवेश एवं शुल्क विनियामक समिति रायपुर का पत्र क्रमांक 1363 दिनांक 11.12.2012।

उपरोक्त विषयान्तर्गत संदर्भित पत्र के साथ संलग्न प्रवेश एवं फीस विनियामक समिति रायपुर के संकल्प दिनांक 26.11.2012 अनुसार AFRC ने भारती शिक्षा महाविद्यालय (BIIT) दुर्ग को छ.ग.प्रवेश विनियामक अधिनियम 2008 व छ.ग. बी.एड. प्रवेश नियम 2006 के उल्लंघन करने का दोषी करार देते हुए उक्त महाविद्यालय की मान्यता समाप्त करने तथा 2 लाख का जुर्माना करने का अनुशंसा किया है।

अतः परिषद् द्वारा AFRC का उक्त संकल्प दिनांक 26.11.2012 आपके सूचना हेतु एस.सी. ई.आर.टी. रायपुर के वेबसाइट scert.cg.gov.in में अपलोड किया जा रहा है ताकि भविष्य में आपकी संस्था प्रवेश नियमों का पालन करें तथा इस प्रकार की घटना का पुनर्वाचन न हो।

संलग्न – संकल्प दिनांक 26.11.2012।


(अनिल राय)
संचालक

एस.सी.ई.आर.टी. छ.ग. रायपुर

सचिवालय

प्रवेश तथा फीस विनियामक समिति

तकनीकी शिक्षा संचालनालय परिसर, चैन्न बाजार, रायपुर छ0ग0 -492001

टेलीफोन: 0771/2331330, 2421376

फैक्स: 0771/2331331

कमांक/पीए/एएफआरसी/2012/
प्रति,

रायपुर दिनांक /12/2012

प्राचार्य

भारती शिक्षा महाविद्यालय(बीआईआईटी)

पुलगांव चौक दुर्ग छ0ग0 ।

विषय:- भारती शिक्षा महाविद्यालय(बीआईआईटी) दुर्ग में बी0एड0 पाठ्यक्रम में प्रवेशित छात्रा आराधना राय, लिलेश्वरी, निधि सिंह एवं शकुन्तला सोनी का प्रवेश अवैध घोषित करने के संबंध में ।

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उपर्युक्त विषयांतर्गत शिक्षण सत्र 2010-11 में आपने बी0एड0 पाठ्यक्रम में बिना काउंसिलिंग के 04 छात्राओं कर्मश: आराधना राय, लिलेश्वरी, निधि सिंह एवं शकुन्तला सोनी को प्रवेश दिया गया जिसको प्रवेश तथा फीस विनियामक समिति, छ0ग0 शासन ने छ0ग0 निजी व्यावसायिक शिक्षण संस्था(प्रवेश का विनियमन एवं शुल्क का निर्धारण) अधिनियम 2008 के प्रावधानों के तहत गलत पाया है एवं उक्त प्रवेश को संकल्प दिनांक 26/11/2012 के तहत अवैध घोषित किया गया है । (ध्वज-अ)

उक्त छात्राओं का प्रवेश अवैध होने के कारण समिति द्वारा निर्देशित किया गया है कि छात्राओं से बी0एड0 प्रवेश के समय ली गई सभी शुल्क उन्हें वापस कर दिया जाए ।

अतः निर्देशानुसार आपको सूचित किया जाता है कि छात्रा निधि सिंह को उसके द्वारा जमा राशि रू. 30,000/- आराधना राय को रू. 47,000/- उनके पते पर बैंक के माध्यम से वापस करें एवं छात्रा शकुन्तला सोनी एवं लिलेश्वरी द्वारा जो भी राशि संस्था में जमा की गई होगी, वह सम्पूर्ण राशि बैंक के माध्यम से उनके पते पर भेजी जावें ।

उक्त प्रकरण पर छात्राओं की फीस वापसी संबंधी कार्यवाही पत्र प्राप्ति के 15 दिवस के भीतर करें एवं इसकी जानकारी समिति के कार्यालय को देने का कष्ट करें ।

संलग्न:- उपर्युक्तानुसार ।

REGISTERED A.D.

सदस्य(तक0शिक्षा एवं प्रशा0)
प्रवेश तथा फीस विनियामक समिति

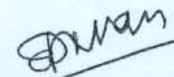
रायपुर दिनांक

12/2012

पृ0क0/पीए/एएफआरसी/2012/1363

प्रतिलिपि:-

1. कुल सचिव, पं0 रविशंकर शुक्ल विश्वविद्यालय, रायपुर छ0ग0 को आवश्यक कार्यवाही हेतु प्रेषित
 2. संचालक, राज्य शैक्षिक अनुसंधान एवं प्रशिक्षण परिषद, बी0टी0आइ0 मैदान, शंकर नगर, रायपुर ।
 3. आराधना राय पिता श्री अशोक कुमार राय, राय रेडियो एवं इलेक्ट्रीकल, गांधी चौक, पेन्ड्रा रोड, बिलासपुर छ0ग0 ।
 4. लिलेश्वरी पिता श्री श्यामलाल, ग्राम-टेकापार, तह0 बालोद, जिला बालोद छ0ग0 ।
 5. निधि सिंह पिता श्री चन्द्रभान सिंह, हाउसिंग बोर्ड कालोनी बांधामुड़ा, पेन्ड्रा रोड तह0 पेन्ड्रा रोड, बिलासपुर छ0ग0 ।
 6. शकुन्तला सोनी पिता श्री झुमुकलाल सोनी, निवासी-निमधा, तह0 मरवाही, जिला बिलासपुर छ0ग0 ।
- की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु अग्रेषित ।



सदस्य(तक0शिक्षा एवं प्रशा0)
प्रवेश तथा फीस विनियामक समिति
छत्तीसगढ़ शासन

ADMISSION AND FEE REGULATORY COMMITTEE

(A Statutory body established under an Act of the State of Chhattisgarh)

Resolution dated 26-11-2012

As per merit list of Pre B.Ed examination candidates who are eligible for admission to B.Ed course as per Chhattisgarh B.Ed. Pravesh Niyam 2006 (hence forth "Niyam 2006") in session 2010-11 after on line counseling were allotted seat in various colleges of Chhattisgarh running B.Ed course.

Aradhna Roy, Leeleshwary, Nidhi Singh, and Shakuntla Soni appeared in Pre.B.Ed examination but could not succeed in getting seat in B.Ed course through counseling. Bharti Mahavidyalaya (BIIT) Durg, hence forth "Institute" in defiance of rules admitted all these candidates in B.Ed. Course run by this institution. Director, State Education Research and Training Council, Raipur (SERTC) after being appraised by the University examined the matter and could come to know that without following the rules, Institute has given direct admission to candidates therefore SERTC reported the matter to Government with a copy to AFRC.

As per section 4(12) of the CG Niji Vyavsayik Shikshan Sansha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Act 2008 (hence forth " The Act 2008") , it is for the AFRC to ensure that the admission in an institution is done in a fair and transparent manner, therefore AFRC called information from the Institute and after due consideration passed resolution on 11-1-2012 which reads as below:-

"Director State Education Research and Training Council, Raipur vide their letter NO. B.ED./ ADMISSION/2011-12/2014 dated 31-10-11 endorsing the same to AFRC for taking necessary action , communicated Addl. Chief Secretary , School Education Deptt., State of Chhattisgarh, Raipur that Bharti College of Durg has directly admitted 5(five) students in B.Ed course during session 2010-11 committing breach of State Admission Rules, therefore to send proposal to NCTE Bhopal for derecognition of the Course.

AFRC vide its resolution dated 4-11-2011 called information from the institution and to state on what grounds direct admission to 5 candidates has been accorded by the college. Bharti College (BIIT) in its reply stated that Hon'ble the High Court of Chhattisgarh in WP(C) 5460/2010 on 9-11-2010 directed SERTC Raipur to hold within

Adhikari
26.11.12

J. Melwani
26.11.12

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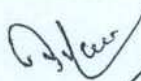
two weeks of time counseling for filling 850 seats lying vacant in various colleges and in anticipation of counseling they have given temporary admission to students. SERTC did not hold counseling as per direction of Hon'ble the High Court. In Chhattisgarh after completion of all stages of counseling, colleges are filling seats on the basis of merit by holding college level counseling.

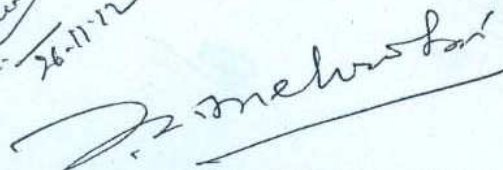
Seven Judges bench in the matter of *P.A. Inamdar v. State of Maharashtra* reported in 2005 AIR SCW 3923 herein after referred to as *PA Inamdar*, while answering question no. 2 i.e. Admission procedure of unaided educational institutions, in para 135 have held:-

Para 135. It needs to be specifically stated that having regard to the larger interest and welfare of the student community to promote merit, achieve excellence and curb mal-practice, it would be permissible to regulate admissions by providing a centralized and single window procedure. Such a procedure, to a large extent, can secure grant of merit based admissions on a transparent basis. Till regulations are framed, the admission committees can oversee admissions so as to ensure that merit is not the casualty.

Section 4(9), 10 and 12 authorizes AFRC to enquire matters relating to admission allowed by institutions in contravention of the provision of the Act, to declare admissions invalid, to ensure that admission in an institution is done in a fair and transparent manner and to recommend the University or appropriate authority for derecognition and deaffiliation of institute who has violated any of the provision of the Act.

FROM reply and enclosures it appears that college has violated provision of the Act but also without waiting for second counseling to be held by SERTC as directed by Hon'ble the High Court, have admitted students directly to B.Ed. Course during academic session 2010-11, amount recovered as fees from illegal admissions may amount to profiteering therefore before passing any final order against the institute it is necessary to give it opportunity of hearing. Alongwith reply college has also furnished copy of affidavit filed by four students who took admission temporarily in anticipation of second counseling to be held by SERTC, prima facie their admission is in violation of the provisions of the Act and in violation of the orders of Hon'ble the High


26-11-12





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Court, therefore they also deserves to be heard before passing any final orders by the AFRC.

Issue show cause notice to Bharti College with a direction to file its reply within fifteen days, as to why:

- (i) Direct admissions made by the college shall not be declared to be de hors merit and invalid;
- (ii) Fees realized from above admissions shall not be treated as profiteering ;
- (iii) Amount so collected shall not be returned to concerned candidate and recommendation for imposition of fine shall not be made; and
- (iv) Why University and NCTE shall not be asked to derecognize and deaffiliate .

Issue show cause notice to Nidhi Singh, Shakuntla Soni, Aradhana Roy and Leeleshwary with a direction to file their reply within fifteen days as to why their admission shall not be declared de hors merit and invalid.”

In compliance of aforesaid resolution, notices have been issued and send by registered Post.

Institute's defence in brief is that in WP (C) No. 5460/2010 Hon'ble the High Court vide order dated 9-11-2010 directed the Director, SERTC to hold a second counseling in view of the fact that more than 850 seats are lying vacant in different Colleges at the earliest preferably within a period of two weeks and submit a report to this court. Director did not conduct second counseling. In the interest of students on the basis of affidavits filed by students direct temporary admissions have been given against vacant seats. As interim admissions have been given therefore fees for whole session has also not been realized from the students. In case admissions are cancelled they are bound to refund the fees collected from students. Institute has made a request to keep the matter pending till decision of the aforesaid Writ Petition.

Students Shakuntla Soni, Aradhana Rai and Nidhi Singh in their joint reply have stated that they have qualified Pre B.Ed. Test and took part in counseling but could not get information regarding allotment of seat in time. Through news papers they could come to know that Hon'ble the High Court has directed for counseling to fill vacant 850 seats. They took temporary admission in BIIT, completed the course and also appeared in examination. Information

Aradhana
26.11.12

Shakuntla Soni
26.11.12

Nidhi

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regarding WP (C) 5460/2010 , pending in Hon'ble the High Court has already been given to the AFRC.

Nidhi Singh also by filing separate reply took a defence that Shri Shushil Chandrakar, MD of Bharti College through Shri Ajay Jayashwal MD of Rani Durgawati Shiksha Mahavidyalaya Medhuka communicated vacancy in its institute and offered admission. She contacted Shri Shushil Chandrakar, MD of Bharti College who after taking fees admitted her in their institution. She has been enrolled, received admission card and she also appeared in annual examination, passed the examination but her result has been withheld. She was not aware of the fact that for admission permission from competent authority is required. She prays to excuse her ignorance and to declare her result, by declaring her admission valid

Leeleshwary neither appeared nor filed her defence, although notice alongwith copy of resolution through Post has been sent to her twice.

For final hearing date has been fixed for 31-10-2012 and notices have been sent to Institute and above students by Registered Post with AD.

For Institute representative Shri Kailash Yadav appeared.

For Student Ku. Nidhi Singh, she appeared in person.

For student Aradhana Roy her father Shri Ashok Roy appeared.

None appeared for student Shankuntla Soni and Leeleshwary although notice under registered AD has been sent to both of them.

Parties present as stated above are heard .

On behalf of Institute it has been contended that WP (C) 5460/2010 is pending before Hon'ble the HC therefore till decision of the Writ Petition, matter may be kept in abeyance.

During the course of argument Nidhi singh contended that she participated in counseling thrice but could not succeed in getting the seat. She paying Rs. 30,000/-through Cheque towards tuition fee on the basis of affidavit took temporary direct admission in the Institute. She could not succeed getting seat through counseling. After completing the course she appeared in annual

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26/11/12

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ADMISSION AND FEE REGULATORY COMMITTEE

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examination but her result has been withheld by the University. Institute has not so far returned the fees.

On behalf of Aradhana Roy it has been contended that after paying fees Rs. 47000/- she took temporary admission directly on the basis of affidavit. Institute has not returned the fees so far.

For academic session 2010-11 for admission in colleges / institutions running B.Ed course, on line counseling on the basis of Pre. B.Ed. test and eligibility has been announced and conducted by SERTC. On line counseling has been conducted as per programme from 19-7-2010 to 30-8-2010. In three stages of the counseling seats have been allotted as per notification. Student who on the basis of first counseling have been allotted seat were permitted to get their allotment cancelled and to participate second time as per directions. List of allotment of seats are published in MKCL centre and also in web site of SCERT.

Hon'ble the High Court of CG in WP (C) 5460/2010 on 9-11-2010 passed the following interim order:

"Having regard to the facts situation of the case, it appears that respondent No.2 has chosen not to appear before the court, there is no other option except to direct the respondent No.2 to hold a second counseling in view of the fact that more than 850 seats are lying vacant in different colleges at the earliest preferably within a period of two weeks and submit a report to this Court.

The admission to different colleges would be subject to the above stated conditions, it is made clear that this order is a provisional order and the same does not confer any right on the candidates for admission.

From above order it is crystal clear that except afore said counseling none of the college/institute were entitled to fill vacant seats. Candidates seeking admissions are also bound to get admission only through the aforesaid counseling. Non-conducting second counseling by SERTC does not authorizes colleges/ institutions to fill seats by direct admission and like wise students also does not get right for direct admission. From reading the whole order it is clear that

W. S. Jaiswal
28.11.12

J. S. Jaiswal
26.11.12

W. S. Jaiswal

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the petition has been filed only seeking a direction to the respondents for conducting the second round of counseling.

Photo copy of affidavit of Nidhi Singh, Shakuntla Soni, Aradhna Roy, and Leeleshwary have been filed by the Institute stating that in anticipation of counseling to be conducted by SERTC, in the interest of students they allowed temporary admission to students. All above students in their affidavit have stated that in anticipation of allotment of seat in their favour in second counseling they are taking temporary admission.

Nidhi Singh during the course of hearing stated that she paid tuition fee Rs. 30,000/- to the institute vide ch. No.188877 dated 24-1-2011, she also stated that she has not preferred the aforesaid writ petition. On behalf of Aradhna Roy it has been stated that vide ch.No.084722 dated 25-1-11 Rs.47,000/-towards tuition fees in the name of Jug Mahadev society has been paid to the institute, and aforesaid WP has not been preferred by Aradhana Roy.

For counseling Hon'ble the HC prescribed two weeks from 9-11-2010 which ends on 23-11-2010, if no counseling in compliance of the above order has been conducted by the SERTC that is a separate and different issue, because in that order itself it has been made clear that admissions would be only in accordance with the counseling as ordered by Hon'ble the HC and not otherwise.

Admission in B.Ed.Course in private unaided professional educational Institution was permissible only on the basis of common entrance test followed by central counseling and admissions made in contravention of the same has been declared void as per section 7 of the Act 2008. Section 5 of the Act 2008 says that "the eligibility for admission to a private unaided professional educational institution shall be such as may be notified by the authority". Here in the instant matter, admission to B.Ed Course is being regulated by "Niyam 2006" and notifications issued by SERTC so far as they are not inconsistent with the Act 2008. Common entrance test is "Pre B.Ed. examination" and counseling is "on line counseling" and for admission only those candidates were eligible who on the basis of merit of Pre. B. Ed. test on counseling allotted seats in various college and in absence of allotment, if any admission is made that dehors merit and is void in accordance with section 7 of the "Act 2008"

26.11.12

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ADMISSION AND FEE REGULATORY COMMITTEE

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AFRC vide their resolution dated 28-7-2010 has already fixed interim fees for B. Ed. Course, therefore only in accordance with that resolution institutions were entitled to collect fees from students and according to that resolution total fees per student was Rs. 24000/- Growth & Development charges Rs.1000/-caution money Rs. 1500/-for institutes having the course accredited in addition to above Rs.1000/-.Para 16 and 17 also lays condition for drawing inference of capitation fee and also prohibits institutions from charging fees in excess of the amount prescribed under the resolution and also prohibits profiteering and violation thereof has been subject to legal action.

Matter of Writ Petition as discussed above and matters pending for consideration by AFRC are different therefore keeping the matter in abeyance till decision of the Writ Petition does not arise.

Institute and students very well knew that "Act 2008" is in force and admission to B.Ed. course is to be done in accordance with provisions of "Act 2008" and "Niyam 2006". Only candidates who did Pre.B.Ed and have been allotted seat through on line counseling are entitle for admission to the course. Institute also knew that interim fees fixed by the AFRC, alone can be collected by it and it is neither entitled to collect capitation fees, nor in excess of the fees fixed by AFRC

From aforesaid discussions it is clear that admission of Nidhi Singh, Aradhna Roy, Shakuntla Soni and Leeleshwary is in violation of provisions of "Act 2008", Niyam 2006 and also in violation of order of AFRC dated 28.7.2010, hence, admission of these students is also void as per sec. 7 of the "Act 2008".

By collecting fees vide cheque no. 188877 dated 24-1-2011 from Nidhi Singh Rs.30,000/- and from Aradhana Roy Rs.47,000/- vide cheque no. 084722 dated 25-1-2011, Institute collected fees in excess of the fees fixed by AFRC. By allowing illegal admission Institute has collected the amount therefore amount so collected shall amount to profiteering. Institute is bound to refund fees collected from those students to whom institute has allowed

illegal admission.

(Date)

26.11.12

Leeleshwary

SPM

ADMISSION AND FEE REGULATORY COMMITTEE
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Institute not only disobeyed the provisions of law but also knowingly collected amount from students to whom illegal admission has been given by it which differs from student to student and also is in excess of the fees fixed by the AFRC therefore it is necessary that govt. should be recommended for imposing a fine at least Rs.2 (two)Lakhs and matter should be recommended in accordance with law to University and NCTE for derecognition and deaffiliation. Admission's of Nidhi Singh, Aradhna Roy, Shakuntla Soni and Leeleshwary for B.Ed. Course in Bharti Mahavidyalaya (B.I.I.T.) Durg de hors merit and invalid. and it is also required to be declared invalid.

Accordingly we recommend and direct:-

- (i) Bharti Mahavidyalaya ,(BIIT) Durg shall pay Rs. 30,000/- to Nidhi Singh, shall pay Rs.47,000/- to Aradhna Roy and shall pay Shankuntala Soni and Leeleshwary amount if any collected by the institute towards their admission.
- (ii) We recommend to the State Government for imposition of fine of Rs. 2(two) lakhs on Bharti Mahavidyalaya (BIIT) Durg.
- (iii) We declare admission of Nidhi Singh, Aradhna Roy, Shakuntla Soni and Leeleshwary for B.Ed. Course in Bharti Mahavidyalaya (B.I.I.T.) Durg de hors merit and invalid.
- (iv) Subject to approval of State Government we recommend the University for withdrawal of affiliation and NCTE for derecognition of Bharit Mahavidyalaya (BIIT) Durg.

We further resolve that forthwith a copy of this resolution shall be sent to Nidhi singh, Aradhana Roy, Shakuntla Soni, Leeleshwary, Bharti Mahavidyalaya (BIIT) Durg, State Government and Pt. Ravishankar Shukla Vishwavidyalaya, Raipur.

We further resolve that for withdrawal of affiliation and derecognition after approval of the State Government, AFRC has to communicate recommendation to University and NCTE therefore Directorate shall take necessary steps for the same.


CHAIRPERSON


MEMBER


MEMBER