

BEFORE THE HON'BLE MEMBER, H.P. PRIVATE EDUCATIONAL INSTITUTIONS REGULATORY
COMMISSION SHIMLA-171002.

Case No.	6	of 2014
Instituted on:	25.08.2014	
Preliminary Orders passed on :	11.05.2016	
Final Orders Reserved on :	5.7.2016	
Final orders passed on:	07.11.2016	

Shri Kanwal Preet Singh, House No.3246, Customs & C.E. Society, Sector-49, Chandigarh-160 047.

... Complainant

Versus

Principal, Vaid Shankar Lal Memorial College of Education, Village and P.O. Chandi, Tehsil Kasauli, District Solan (HP).

... Respondent

Directions under Rule 5(1-A) of H.P. Private Educational Institutions (Regulatory Commission) Rules, 2011.

Present: Shri Chander Mohan Secretary of the Trust running Vaidh Shankar Lal Memorial College of Education.

FINAL ORDERS

1. The H.P. Private Educational Institutions Regulatory Commission (Commission) received a reference from Directorate of Higher Education Himachal Pradesh vide its letter No. EDN-H(8)A(1)/2011-complaint dated 13.05.2013; thereby enclosing complaint dated 25.03.2013 made by the complainant. It has been alleged by the complainant that respondent Institute does not fulfil the norms and standards and other requirements laid down and notified by the NCTE in accordance with the provisions of the NCTE Act, 1993 as per Show Cause Notice issued by NCTE No. F.NRC/NCTE/HP-199/161st meeting/2010/25815 dated 21.7.2010 (copy of notice enclosed with the complaint). The following points were raised in his complaint:

- (a) The respondent Institute is running M. Ed course without Professor and Reader and misguided the HP University and NCTE by showing proxy appointment of Dr. Jagjit Singh Brar and Dr. Samir Kumar Lenka who appeared before the Selection Committee only on the day of interview i.e. 25.10.2010 and 8.11.2010 respectively. Dr. Samir Kumar Lenka did not even attend or visit the Institute even on a single day thereafter. (Copy of attendance register attached).
- (b) The Institute is preparing fake Register to show expenditure on account of salary of proxy faculty. The Salary Register maintained and payment through banking channel is in itself a contradictory (copy of fake Salary Register attached).
- (c) The Institute has prepared fake Attendance Register of faculty showing attendance of proxy teachers (photo copy of Register attached).

- (d) Institute has no regular Principal since its inception. It has shown Dr. Jagjit Singh Brar as Principal in the papers only.
- (e) The Institute is paying much less salary than fixed by the UGC/NCTE/HPU. Complainant has doubted deposit of CPF of the employees.
- (f) The Institute has kept most of the specimen copies in the library which are supplied by the publisher to teacher.
- (g) The Institute is charging extra fees from the students on one pretext or the other. (Prescribed fee of HPU and proof of extra fee charged are attached). The institute is not even refunding the security at the time of completion of course.
- (h) The Institute has not credited salary of the complainant in his bank Account for the month of August 2011, February 2012 and April 2012 inspite of getting signatures in the Salary Register.
- (i) The Institute is not observing any vacations according to HPU calendar.

2. Consequent upon receiving the complaint, the Commission constituted a two Member Fact Finding Committee consisting of (1) Dr. S.B. Sekhri Additional Director Department of Higher Education as Chairman and (2) Shri Gian Chand Raita Advisor, HP PERC Shimla as Member to go into the issues raised by the complainant with a direction to finalize the report on spot and submit the same to the Commission by 8.8.2013 as per terms and reference of inspection.

3. The Fact Finding Committee visited the respondent institute on 2.8.2013 and conducted inspection. The Committee submitted its report to the Commission. The Committee restricted its inspection to the following issues:

- (a) Non compliance of notice of the NCTE (dated 21/07/2010) by the institute.
- (b) Issue of fake faculty/ inadequate faculty in M. Ed., B. Ed and JBT
- (c) Infrastructural shortcomings
- (d) Fake Attendance Registers in respect of staff and student and fake Library Registers.
- (e) Non compliance of EPF Act
- (f) Improper maintenance of Accounts and Stock registers.

4. The Committee inspected the class rooms, laboratories, library, multipurpose hall, ICT lab etc. located in different floors of the same building. The land papers and the Lease Deed papers of the Institute were also checked by the Committee. The Committee had also separate interaction with the complainant at the campus for which he was intimated in advance.

5. **The observations /findings of the Committee are as under:**

(a) ***Non compliance of notice of the NCTE (dated 21/07/2010) by the institute:***

This issue has already been adjudicated by the Hon'ble High Court of Himachal Pradesh and the Hon'ble Court has granted relief to the respondent Institute and the admissions were accordingly made in ETT (JBT), B.Ed and M.Ed. courses.

(b) ***Issue of fake faculty/ inadequate faculty in M. Ed. B. Ed and JBT:***

The Committee found that there was shortfall of 12 faculties in the respondent Institute for running M. Ed and B. Ed Courses. However, in so far as JBT Course is concerned the faculty position was as per norms fixed by NCTE/HPU. There was no Principal in the Institute. The charge of fake faculty stands proved. The website of the respondent Institute still shows Dr. S.K. Lenka, Mr. Roshan Lal Sharma, Mr. Kanwal Preet and Mr. Hari Ram as members of the staff, whereas all these are non-existing and one of them Mr. Kanwal Preet has been out of the Institute after March,2013 who is also the complainant.

(c) ***Infrastructural shortcomings:***

The Committee found that there are some shortcomings in respect of the laboratories, library and class rooms etc. besides some general shortcomings in respect of hostel/mess as detailed below:

- (i) Safety norms were not kept in view in respect of girls' hostel which should be in a separate building.
- (ii) The computers placed in the ICT lab are not upto the mark by any standards as more than half of them are assembled and the remaining ones seem to be outdated. The Institute could not produce any record of licenced software.
- (iii) The students are provided only the photocopies of the Psycho tests (booklets), perhaps to save money, whereas the original ones are kept for future use.
- (iv) The mess being run by the Institute for the hostellers of boys hostel and girls hostel is not only common but is open to outsiders also from the market side as a restaurant.

(d) ***Fake attendance registers in respect of staff and students and fake library registers:***

The Committee noticed the following deficiencies:

(i) **Internal assessment for B. Ed & M. Ed courses:**

Internal assessment is awarded by the Management of the Institute which is contrary to the norms, as the same should have been awarded by the faculty.

(ii) **Students' Attendance Register.**

Transparency in recording /marking attendance of students was not found. The Committee noted that two students of the Institute are serving as teachers in West Bengal and their attendance has been marked in there. The complainant provided copies of the documents to prove that some of the students on the roll of the Institute are non attending students.

(iii) **Fake attendance register of staff:**

The Institute has been found maintaining two type of attendance Registers in one of which attendance is recorded by marking "P" and at the end of month Principal is signing the said register. This register also recorded presence of Dr. S.K. Lenka, Dr. J.S. Brar and Mr. Roshan Lal Sharma who are not finding mention in the second Register duly signed by the teachers, which raises doubt in the minds of the inspection team.

(iv) **Fake Library register:**

The record maintained by the Institute was not found satisfactory.

(e) **Non compliance of EPF Act:**

The Institute is covered under Employees Provident Fund Act, 1952. The Commissioner, EPF has directed the Institute that EPF dues for the period from 01/02/2012 onward be remitted immediately by the Institute. The provisions of the Act need to be strictly complied with by the Institute as per the directions given by the Commissioner, EPF.

(f) **Improper maintenance of accounts and stock registers and issues related to overcharging and non payment of salary for August, 2011.**

Following discrepancies have been noticed by the Inspection Committee:

- (i) The Institute is not maintaining cash book which is a book of original entry. The Management of Institute was asked to maintain cash book and report compliance.
- (ii) The Institute is not keeping separate record of Amalgamated fund, building fund and student aid fund etc. Instead, the Institute is clubbing the amount collected from the students and classifying the same as fees.

- (iii) The stock charge entry on the bill is not being recorded nor stock register maintained properly as per norms.
- (iv) The examination centre creation charges and annual affiliation fee are required to be payable by the Institute and not to be charged from the students. The amount so charged from the students, if any, was advised to be refunded to the concerned students and compliance to be submitted to the HP PERC.

The consolidated amount is being paid as salary to the faculty and other staff through bank and APR obtained. However, it was observed that salary for the month of August, 2011 was not disbursed to the faculty/ staff. The Management of the Institution was asked to clear all the salary/ other dues of the staff/ faculty and report compliance.

6. Pursuant to the report submitted by the Fact Finding Committee, the Commission by invoking provisions of Rule 5(1-A) of H.P. Private Educational Institutes (Regulatory Commission) Rules, 2011 issued a letter No. HP PERC/189/VSLM/2012-1198 dated 7.9.2013 and directed the Institute to remove the deficiencies and compliance was called on each observation within fortnight. The Institute submitted reply to the notice vide its letter No. DDS/VSLMCE/2013/1359 dated 19.9.2013. The reply submitted by the respondent Institute was not found satisfactory and Principal of the respondent Institute was directed to appear in person before the Commission on 25.8.2014 alongwith all relevant records/ evidences connected with the matter and specific to the issues raised by the Commission.

7. On 25.08.2014 Principal did not put appearance. However, Shri Chander Mohan, Secretary of Trust managing the affairs of respondent Institute appeared in person. Shri Kanwal Preet Singh, complainant was also present in person. Shri Chander Mohan submitted application seeking one month's time for submission of detailed reply. It has also been stated in the application that the complainant had filed CWP No.7739/2013 titled Kanwal Preet Singh versus H.P. University and others before the Hon'ble High Court of Himachal Pradesh on similar issues and the said Petition was withdrawn on 3.3.2014 with a liberty to file fresh one. Copy of the Order is also attached with the application. The application is taken on record. Shri Chander Mohan stated that the College was not charging any fine from the students. The complainant stated that he had lodged FIR with Police Station Kasauli on 3.9.2013 vide FIR No.65 regarding forgery of documents (affidavits) submitted to Hon'ble High Court in CWP 6379/2010. He produced copy of the FIR which was taken on record. He further stated that he was unemployed at that time and pursuing his Ph.D from Punjabi University Patiala in Education.

8. The prayer of Shri Chander Mohan seeking time to file detailed reply was allowed by curtailing it to 15 days. Shri Chander Mohan was directed to ask Principal of the College to appear in person on the next date of hearing and also submit the following documents :

1. To produce the original Attendance Register of faculty, (particularly Dr. Jagjit Singh, Dr. Daljit Singh, Dr. Sumir Kumar Lenka, Shri Roshan Lal Sharma and Mr. Kanwal Preet Singh) for the sessions 2010-2011, 2011-2012, 2012-2013 and 2013-14 and the document showing present status of the faculty.

2. To produce the original Attendance Register of students (particularly Mr. Habibuddin Seikh, Mr. Sumit Dass and Mr. Viveka Nanda Dass) for the session 2011-2012.
3. To produce the original document of internal assessment of students for the sessions 2010-2011, 2011-2012, 2012-2013 and 2013-14.
4. Original approved map of the College Building indicating size of rooms for academic purposes and completion certificate.
5. Original permission letter under Section 118 of H.P. Tenancy and Land Reforms Act, if applicable.
6. Guidelines of NCTE regarding minimum requirement of land for running ETT (JBT), B. Ed and M.Ed. classes.
7. Original Library Register.
8. Documents proving opening of EPF account with EPF Organisation, Statement of accounts pertaining to the faculty members/ staff covered under EPF scheme.

The complainant was directed to produce evidence with regard to pursuing his Ph.D in Punjabi University Patiala and the case was fixed for 8.9.2014.

9. On 08.09.2014 Shri Manu Jaswal, officiating Principal of the College and Shri Chander Mohan Secretary of the Society appeared in person. Shri Kanwal Preet Singh, complainant also appeared in person. Representatives of the College could not produce original Attendance Registers of faculty and students and prayed for some more time for the same. Original internal assessment statements duly attested by Principal with seal from June, 2007 to academic session 2013-14 were produced (which were returned after examination). They also showed approved map of the College building (which was returned after examination). Shri Chander Mohan stated that the College has been set up by the Society members on their own land who are agriculturist in Himachal Pradesh, as such there was no need seeking permission under Section 118 of The H.P. Tenancy and Land Reforms Act. Original Library Registers were produced (which were returned after examination). They could not produce guidelines of NCTE regarding minimum requirement of land for running ETT (JBT), B.Ed and M.Ed. classes. However, copies of the documents relating to opening of EPF account with the EPF Organisation and accounts statement of the employees of the College covered under the EPF scheme were produced which were taken on record. Shri Kanwal Preet Singh submitted copies of the documents proving that he was pursuing his Ph.D in Punjabi University Patiala, which were taken on record.

10. Request of the college representatives seeking more time for production of the desired documents was accepted and they were directed to produce the following documents by 19.09.2014:

- (i) Original attendance registers of faculty and students as ordered in my previous order dated 25.8.2014.

- (ii) NCTE guidelines regarding minimum requirements of land for running ETT (JBT), B. Ed and M.Ed. classes as ordered in my previous order dated 25.8.2014.
- (iii) Document mentioning detailed dimensions of the College class rooms, administrative block etc.
- (iv) Copy of Musabi pertaining to the land where the College is situated and adjoining areas alongwith copy of jamabandi for the area where the College is set up; and thereafter the case was fixed for 19.09.2014.

11. On 19.09.2014 Dr. Kulbhushan, Principal, Shri Manu Jaswal, Vice Principal of the College and Sh. Chander Mohan Secretary of the Society were present in person. Shri Kanwal Preet Singh, complainant was also present in person. Students' original Attendance Register w.e.f. 8.8.2011 to 7.4.2012 was produced and checked. In the month of August, 47 students got admission (after first counselling). In the month of September, 47 students are shown on attendance. In the Students' Attendance Register for 2011-12, both students i.e. Shri Sumit Dass and Shri Habib Uddin Seikh have been shown under Roll No.70 (Seventy) and 76 (Seventy Six) respectively and their presence has been marked for full month. The representatives of the College submitted copy of Notification No. 1-533/2009-HPU (Acad) dated 30.5.2013 which reflects the hike of Rs. 7,150/- per student and the revised fee structure to be Rs. 46,750.00. As per the statement of Dr. Kulbhushan, Principal of the College, increased fee i.e. Rs.7,150/- has not been charged from the students. Copy of notification was taken on record. I have also checked original Academic staff attendance register which revealed that presence of Dr. S.K. Lenka in the academic staff attendance register was shown in the month of September, 2013 only. In the year 2013 there is no record/ presence of Shri Roshan Lal. As per statement of Chander Mohan, Secretary of the Society, Shri Roshan Lal did not join in the year 2013 may be because of his own known and unknown reasons. The representatives of the College submitted copy of plan / map of college building, copy of NCTE Regulations, 2005, copy of NCTE (Recognition Norms and Procedure) Second Amendment Regulations, 2010, copy of group personal accident policy introduced to the staff of the College under United India Insurance Company Limited and copies of appendix-2, appendix-4 and appendix 5 relating to various norms and standards for diploma in elementary teacher education programme, norms and standards for Bachelor of education programme and norms and standards for Master in education programme respectively; which were taken on record. Shri Kanwaljit Singh submitted copy of affidavit showing the worksheet of Dr. Daljit Singh in Rayat College of Education. He also submitted copy of certificate dated 29.06.2012 issued by Principal Rayat College of Education wherein Dr. Daljit Singh has been shown to have worked as Principal Rayat College of Education w.e.f. 12.09.2009 to 18.10.2011. He further submitted copies of down loaded information in support of his complaint indicating Dr. Daljit Singh working in Rayat College of Education.

As per the statement of complainant Dr. Kulbhushan is not the Principal of VSLM College. The copies of the record submitted by Shri Kanwaljit Singh were taken on record.

12. I have heard both the parties at length. Representatives of College were directed to produce the following documents:

- (i) Notification of HP University mentioning permission to admit students against vacant seats to be provided for the session 2011-12.
- (ii) Photo copies of the students' Attendance register/ record particularly students shown against Roll No.70 and 76 for the complete academic session 2011-12.
- (iii) Examination date sheet declared by HPU for the academic session 2011-12.
- (iv) Academic staff's Attendance Register for the academic Session 2011-12.
- (v) Attendance Register sheet for the academic Session 2011-12 particularly in relation to Dr. Daljit Singh, Sh. Sumit Kumar Lenka, Sh. Jagjit Singh Brar and Shri Roshan Lal.
- (vi) Any record in original together with photo copy of the staff particularly Dr. Daljit Singh, Sh. Sumit Kumar Lenka, Sh. Jagjit Singh Brar and Shri Roshan Lal regarding approval or dis-approval from HPU or by management.
- (vii) Original Fee Register of the academic Session 2012-13.
- (viii) Attendance record of Dr. Jagjit Singh and Daljit Singh for the academic year 2012.
- (ix) Attendance record of Shri Lenka together with photo copy for the month of September, 2013.
- (x) Photo copy of attendance record of Shri Roshan Lal (showing his absence), as shown in the original Register from the month of January to March, 2013.
- (xi) Copy of Musabi together with Jamabandi; and next date was fixed for 15.10.2014.

13. On 15.10.2014 Sh. Manu Jaswal officiating Principal appeared in person. Shri Kanwal Preet Singh, complainant also appeared in person. Shri Manu Jaswal submitted three documents as were required and mentioned against Sr. No. (i) to (iii) in my previous order dated 19.9.2013. He prayed for some more time for submission of remaining documents. Shri Kanwal Preet Singh also stated that he had applied for supply of some documents under RTI and the same are likely to be made available to him on 30.10.2014. He also prayed for some more time to submit relevant documents in support of his case. The documents submitted were taken on record. Shri Manu Jaswal was directed to submit following additional documents:

- (i) Building completion certificate duly supported with affidavit.
- (ii) Jamabandi for the land upon which the college building has been constructed.

- (iii) Salary statement of the staff for the month of September / October, 2014.

The prayer of Shri Manu Jaswal and Sh. Kanwal Preet Singh was accepted and the time for submission of documents on behalf of both the parties was extended and the case was fixed for 31.10.2014.

14. On 12.11.2014 Dr. Kulbhushan Principal and Shri Manu Jaswal Vice Principal of the College were present in person. Shri Kanwal Preet Singh, complainant was also present in person. Dr. Kulbhushan submitted reply dated 12.11.2014 regarding appointment of complainant together with supporting documents. Photo copies of salary disbursement statements for the month of February, 2012 and April, 2012 were also furnished. Original Affidavit of Shri Chander Mohan Secretary of VSLM College of Education swearing in/ certifying the genuineness of the structural stability certificate/ building safety certificate issued by XEN HPPWD Division Kasauli, copies of letters dated 5.9.2014, 7.10.2014 thereby disbursing the salary of JBT staff through Bank and letters dated 5.9.2014, 7.10.2014 and 1.11.2014 disbursing the salary of B. Ed staff supported by bank statement for the period 1.8.2014 to 31.10.2014 were also submitted. Shri Kanwal Preet Singh submitted copy of representation dated 11.02.2013 addressed by him to Chairman of the Trust. Copy of letter dated 7.7.2009 issued by Deputy Register HPU to the VSLM College and copy of proceedings regarding Selection Committee for the selection of lecturers in Education were also submitted by him. Documents submitted by both the parties were taken on record. Representatives of the College were directed to furnish the following documents:

1. Jamabandi of land as mentioned in my earlier order dated 31.10.2014 against Sr. No.4
2. Attendance record as mentioned in my earlier order dated 31.10.2014 against Sr. No.5.
3. Bank Statement for the months of February, and April, 2012 substantiating transactions through cheque No. 887500, 887515 and 1144127.

Shri Kanwal Preet Singh was directed to furnish copy of his appointment letter issued by VSLM College and the case was fixed for 20.11.2014.

15. On 20.11.2014 Dr. Kulbhushan Principal and Shri Manu Jaswal Vice Principal of the College were present in person. Shri Kanwal Preet Singh, complainant did not appear. However, a FAX was received from Chandigarh on the subject of hearing of VSLM College of Education, which was not legible. The representatives of the College submitted Bank statements substantiating the payment/ encashment of cheque No. 887500 dated 14.03.2012 for a sum of Rs. 74,800/-, Cheque No. 1144127 dated 8.5.2012 for a sum of Rs. 88,475/- and cheque No. 887516 dated 9.5.2012 for a sum of Rs. 20,006/-. They further stated that Cheque No. 887515 has wrongly been mentioned in fact it was cheque No. 887516 and the same be read as 887516 instead of 887515. The cheques have been issued for the

consolidated salary of staff for the month of February and April, 2012. They stated that jamabandi of the land over which the College is situated and attendance Register could not be procured and prayed that some more time be given.

16. Heard. Prayer allowed. Photo copies of Bank statements submitted were taken on record. The FAX purported to be received from complainant and not legible was also taken on record. Representatives of the College were directed to furnish the following documents:

1. Jamabandi and copy of Musabi of the land over which the College is established.
2. Attendance record as mentioned in order dated 31.10.2014 against Sr. No.5.

The case was fixed for 17.12.2014. Complainant was also ordered to be informed accordingly.

17. On 17.12.2014 Dr. Kulbhushan Principal and Shri Manu Jaswal Vice Principal of the College were present in person. Shri Kanwal Preet Singh is also present in person. Dr. Kulbhushan stated that Copy of Musabi and Jamabandi pertaining to the land of the College could not be procured and prayed for one month's time for the same. He further stated that Attendance Register as mentioned in Order dated 31.10.2014 against Sr. No.5 was with the EPF Organisation, hence expressed his inability to produce the same. In support of his complaint with regard to fake faculty, Shri Kanwal Preet Singh stated that Dr. Kulbhushan was not the Principal of the VSLM College of Education as he was working as Lecturer in Mata Gurdev Kaur Memorial Educational Institute Bahadurpur Road, Bareta, Distt. Mansa, Punjab and drawing salary from that College. He submitted copies of information obtained under RTI for the session 2013-14, in support of his statement. He submitted copy of his own appointment letter dated 15.7.2009 and experience certificate (date though not legible).

18. I have heard both the parties. Prayer made by Dr. Kulbhushan was allowed but as a last opportunity. He was directed to submit the copy of Musabi and Jambandi pertaining to the land of the College and also a certificate from EPF Organisation that the Attendance Register as required under Sr. No. 5 in Order dated 31.10.2014, was lying with EPF. He was also directed to submit his date of birth certificate and copies of degrees relating to his educational qualifications (alongwith originals) and the case was fixed for 21.01.2015.

19. On 21.1.2015 Sh. Kulbhushan- Principal, Shri Manu Jaswal- officiating Principal of the College and Shri Chander Mohan Secretary of the Society appeared in person. Shri Kanwal Preet Singh, complainant also appeared in person. Sh. Kulbbhushan submitted original certificates of (1) Matriculation Examination (2) Senior Secondary School Examination (3) BA part-III Examination result-cum-detailed marks card of Maharshi Dayanand University, Rohtak (4) BA degree Certificate (5)Result-cum-detailed marks card

of MA (Final) History from Maharshi Dayanand University, Rohtak (6) Degree certificate of MA (7) Result-cum-detailed marks card of MA (Final) Pol Science Exam from Maharshi Dayanand University Rohtak (8) Result-cum-detailed marks card of B. Ed examination from Maharshi Dayanand University, Rohtak (9) certificate of B.Ed (10) Result-cm- detailed marks card of M. Ed from Maharshi Dayanand University Rohtak. The original certificates were also shown to the complainant and he raised no objection. The original certificates have been returned to Dr. Kulbhushan and photo copies thereof retained on record. Shri Chander Mohan Secretary of the Society submitted photo copies of musabi (4 pages) which were taken on record. He stated that EPF record of the College for 2010, 2011 and 2012 was lost and FIR to this effect had been lodged copy of which had already been submitted to the Commission. The complainant requested that Salary Ledger of Dr. Daljit/ Sh. Sameer Kumar Lenka, Sh. Roshan Lal and Ms. Bandana Sharma may be called for to ascertain the disbursement of salary in their favour. Representatives of the College stated that Dr. Daljit has never worked with the College whereas others worked for a short time.

20. I heard both the parties. The representatives of College were directed to submit salary ledger of Sh. Sameer Kumar Lenka, Sh. Roshan Lal and Ms. Bandana Sharma. Next date in the case could not be fixed on the date of hearing. However, the parties were called for 19.2.2015 through registered AD post with the directions to respondent College to submit salary ledger of persons detailed above.

21. On 19.02.2015 Shri Manu Jaswal, Vice Principal appeared in person. Complainant did not put appearance. Shri Jaswal stated that inspection by EPF Organisation was going on in the College. He handed over a letter issued by Secretary of the College thereby requesting for adjournment of case.

22. Heard. Letter for adjournment was taken on record. Prayer made was granted. The case was fixed for 4.3.2015 (for the purpose mentioned in order dated 21.01.2015) to which Shri Jaswal agreed. Complainant was also ordered to be informed accordingly.

23. On 4.3.2015 No one appeared on behalf of the College. Complainant also did not put appearance. Shri Amit Katoch, Senior Assistant stated that the Commission has received an email from the Principal VSLM College thereby stating that due to heavy rain the link roads are blocked and requested for adjournment of case. Email was taken on record. On the basis of the request made, the case was adjourned for 18.03.2015. Both the parties were ordered to be called accordingly.

24. On 18.03.2015 Shri Kanwal Preet Singh, complainant appeared in person at 3.45 PM. Shri Heera Dutt Sharma a person authorised by Secretary Vaidh Shankar Lal Memorial College of Education appeared at 3.45 PM Shri Heera Dutt submitted authority letter and authenticated copies of salary ledger pertaining to Sh. Roshan Lal, Dr. S.K. Lenka and Dr. J.S. Brar. The documents submitted were taken on record and the case was adjourned for 31.03.2015.

25. On 13.04.2015 Kanwal Preet Singh, complainant appeared in person. Shri Manu Jaswal, Vice Principal also appeared in person on behalf of Vaidh Shankar Lal Memorial College of Education. Shri Kanwal Preet Singh stated that he had not been paid salary and increments for certain months, details of which would be submitted lateron. He further

stated that he was asked to leave the organisation on 29.3.2013 whereafter he has not been asked to join the Institute. The Institute has neither given any notice for his removal nor any salary for the notice period had been given. Shri Manu Jaswal was directed to produce the following documents:

1. Salary paid proof in respect of Shri Kanwal Preet Singh for the year 2010-2011, 2011-2012 (upto April, 2012) i.e. bank statement showing encashment of the cheque which includes the amount of salary of Shri Kanwal Preet Singh.
2. Proof of three months' notice, if given to Shri Kanwal Preet Singh.
3. Documents showing proof of release of increments in favour of Shri Kanwal Preet Singh.
4. Increment policy of the institution for the post held by Shri Kanwal Preet Singh.

Shri Kanwal Preet Singh was directed to submit the following documents:

1. Copy of the Bank Pass book showing debit/credit transactions for the period involved in the complaint.
2. Bank account statement.
3. Statement/ calculation sheet pertaining to the amount due from the VSLM.

The above documents/ information should reach the Commission on or before 26.5.2015.

Office report called for. The complainant has submitted copy of bank statement, copy of bank pass book and the calculation sheet on 22.5.2015 and the orders were reserved for pronouncement.

I have gone through the record submitted by both the parties and the inspection report. I have also heard both the parties at length. After going through the record submitted and the submissions made by both the parties; the following issues emerged for consideration and my findings against each issue are as under:

1. *Is there disproportionately less faculty to the ratio of students/ course run by the respondent institute?*

The Inspection Committee constituted by the HP PERC found that against the requirement of faculty for M. Ed (1 Professor, 1 Reader and 3 Assistant professors) and B. Ed. Course (1 Principal, 7 lecturers) the faculty in position in the respondent institute was 3 Assistant Professors with no Principal. There is shortfall of 1 Professor, 1Reader, 9 Assistant Professors and 1 Principal.

2. *Is there fake faculty (Dr. Jagjit Singh Brar, Dr. Daljit Singh and Dr. Samir Kumar Lenka) in the respondent institute:*

I have gone through the record submitted by the complainant i.e. attendance register containing initials of the faculty w.e.f. October, 2011 to March, 2012 wherein names of Dr. Jagjit Singh Brar Dr. Daljit Singh and Dr. Samir Kumar Lenka do not find mention. I have also gone through the record relating to disbursement of salary w.e.f. the month of November, 2010 to April, 2012 wherein salary has been shown to be disbursed in favour of Dr. J.S. Brar (Professor/ Principal) and Dr.

S.K. Lenka (Reader) for the month of November 2010 to April, 2012. The attendance register of faculty (wherein presence has been shown by marking 'P') was perused for the months of October, 2011 to February, 2012 wherein duo have been shown to be present. Such Attendance register has been counter signed by Shri Manu Jaswal as Principal of the College (signature of Shri Manu Jaswal is apparent to be similar as signed in the attendance register for day to day hearing maintained by the Commission) whereas Dr. J.S. Brar has been shown to be present as Principal of the College, thus the attendance register marking presence by mentioning 'P' and the salary register showing disbursement in favour of duo seem to be fabricated. Moreover respondent institute could not produce the original Attendance Register of faculty stating that the same was with the EPF Organisation. It can fairly be concluded that there is certainly fake/ ghost faculty in the respondent institute so far as Dr. J.S. Brar and Dr. S.K. Lenka are concerned. So far as Dr. Daljit Singh is concerned he finds no mention either in the attendance register initialled by the faculty or in another attendance register marking presence by 'P' or in the salary disbursement register, hence all the three teaching persons mentioned above are not found physically present in the respondent institute, the allegation of complainant in this regard is true, which has been established by the Fact Finding Committee constituted by the Commission.

3. Whether respondent Institute is charging extra fees from the students and the Institute is not refunding the security at the time of completion of course?

I have gone through the fee structure approved by the H.P. University for the Academic Session 2010-11 vide its letter No. 1-533/2009-HPU (Acad)- dated 15.12.2010, which prescribed the tuition fee and other charges for the Academic Session 2010-11 in terms of the **order passed by Hon'ble High Court of Himachal Pradesh** as under:

I. Tuition Fee	Rs. 28,600.00
II. Annual charges:	
(a) Admission fee	Rs. 1080/-
(b) Examination fee	Rs. 400/-
(c) Purchase of equipments & its maintenance	Rs. 250/-
(d) Building Fund	Rs. 1080/-
(e) House Examinations	Rs.110/-
(f) Magazine fee	Rs. 30/-
(g) Identity Card	Rs. 10/-
(h) Medical Fund	Rs. 60/-
(i) Student aid fund	Rs. 270/-
(j) Electricity & water charges	Rs. 60/-
(k) Colelge Badge	Rs. 10/-
(l) Society Fund	Rs. 60/-
(m) Sports fee	Rs. 110/-
(n) Cultural Activity Fund	Rs. 110/-

Total:	Rs. 32,240/-

I. Monthly charges:	
(a) Amalgamated fund @ Rs. 60 p.m.= Annual	Rs. 720/-
(b) Lib. And Reading Room fee @Rs. 60/- pm.= annual	Rs. 720/-
(c) Particulars for science and other subjects @ Rs. 60/- and annual =	Rs. 720/-
(d) Other students Activities @ Rs. 130/- = Annual	Rs. 1560/-
(e) Computer fee @ Rs. 220 per month = Annual	Rs. 6360/-
(f) Library Security charges (refundable)	Rs. 1000/-

Grand total:	Rs. 39,600

Note: 1. The levy charges @10% on tuition fee will be charged by H.P. University from the College concerned only and the amount will be remitted by each college at the time of counselling/admission of the students.

2. No college will charge extra amount in addition to above in any case and if any violation is made by the College the whole responsibility will lie on the college authorities and University will not be responsible for the same at any stage."

The fee deposit certificates dated 12.11.2010 issued by Principal of the College in respect of B. Ed students for the session 2010-2011 shows that respondent institute has collected annual fee as under:

(a) College Fee	Rs. 39,600/-
(b) HPU charges	Rs. 2,860/-
(c) Verification fee	Rs. 200/-
(d) Prospectus fee	Rs. 275/-
(e) Hostel charges	Rs. 22,000/-

Total:	Rs. 64,935/-

Comparison of fee approved by HPU and the fee charged by the College indicates that College has charged Verification fee of Rs. 200/- per student as additional charges whereas the Hostel charges of Rs. 22000/- have no prior sanction from the concerned authority. The respondent institute has further charged 10% (Rs. 2860/-) on tuition fee of Rs. 28,600/- as levy charges from the students, whereas it has clearly been stipulated that such amount is payable by the College itself, ***hence the respondent institute is guilty of deviating from the orders passed by Hon'ble High Court of Himachal Pradesh in CWP No.4500/2009 titled Himachal Educational Promotion Society and others Versus State of Himachal Pradesh and others*** (upon which the Vice Chancellor Himachal Pradesh University had finalized fee structure in question. **Therefore, the amount charged over and above the fee structure is required to be refunded to the students immediately whereas hostel charges of Rs. 22,000/- are required to be got approved from HPU/ State government.**

The allegation that the respondent institute has not refunded the security amount after completion of course is not supported by any documentary proof, moreover the same has not been pressed at the time of hearing, hence the allegation of non refund of security amount is not proved, hence rejected.

4. *Is there complete infrastructure in the respondent institute?*

The inspection committee found that in order to ensure security of girls students, the girls hostel should be in a separate building conforming to the safety norms. Standard quality Computers in ICT lab are required to be placed with licenced softwares. The mess being run by the respondent institute is common i.e. hostellers (boys and girls) and easily approachable to outsiders which deserves to be barred for outsiders. It is concluded that the respondent institute should immediately take measures to ensure safety of girls students and stop common approach to general public in the campus.

5. *Is there fake attendance register for the students/ proxy attendance is marked for such students who are marking attendance at their place of working?*

The attendance register produced before the Inspection Committee revealed that the attendance is not being recorded by the concerned faculty. At the end of the month the student attendance register is signed by the officiating Principal, which practice gives scope to the management to give undue advantage regarding attendance to the students on the pick and choose basis. The attendance of Mr. Habibuddin Seikh (Roll No. 76) and Mr. Sumit Dass (Roll No.70) was cross checked from the attendance register maintained by the institute w.e.f. 1.10.2011 to 7th April, 2012 and the position is that attendance of both the students are 65% and 63% respectively.

Amazingly both of them had not only short attendance but their names have been shown to be struck off from the rolls of the Institute in the month of March 2012, however again taken back in the month of April, 2012 when the session was closed on 7.4.2012.

The record submitted by complainant and the findings of the Fact Finding Committee shows that both these students are employees of Green Valley Kinder Garten VPO Srirampur Haji More, PS Kali Chak District Malda, West Bengal and these two are shown on the roll of teachers (marking their presence) in that school in the month of January, 2012. It has been found that record maintained by the respondent institute raises doubts about these two students making them frequent between West Bengal and Institute at Chandi because they were on the rolls of both the institutes as teachers and students respectively. When these two students remained almost absent, how they could be allowed to sit in the examination and awarded degrees of B.Ed.

NCTE Regulations 2009 under clause 2 (1) specifically stipulates that for B.Ed. Programme shall be of duration of at least one academic year or two semesters. Clause (2) (a) stipulates that there shall be at least two hundred

working days each year exclusive of the period of examination and admission, out of which at least forty days shall be for practice teaching or skill development in nearby schools.

Clause 3 of H.P. University B.Ed Prospectus stipulates that minimum attendance of students shall be 80% for Theory Courses and Practicum and 90% for Field Attachments/ School Internship/Practice Teaching.

Clause 4.1 of H.P. University B.Ed. Prospectus further stipulates that Each student will have to attend a minimum of 80% Lectures/ Tutorials/ Practicals as class room Attendance. A student having less than 80% attendance will not be allowed to appear in the End Semester Examination. However, the exemption from 80% attendance will be given to those participating in prescribed co-curricular activities (e.g. NCC, NSS, Youth Festivals, Sports etc.) to the extent of 20% (making the necessary attendance as 60% in these cases.

Following points emerged:

1. Attendance of Shri Sumit Dass is 65% whereas that of Shri Habibudin Seikh is 63%.
2. Comparison of attendance with the requirement of HPU norms established that both the students never fulfilled attendance criteria.
3. Name of both the students were struck off in March, 2012 but again shown present in the month of April, 2012 for 7 days, which creates suspicion in my mind with regard to functioning of the Institute as well as attendance of these two students i.s. Sumit Dass and Sh. Habibudin Seikh.
4. Both the students are employees in Green Valley Kinder Garten VPO Srirampur Haji More, PS Kali Chak District Malda, West Bengal where they marked their presence in the month of January 2012.

It has clearly been found that norms of the HPU were flouted in these two cases and they can never be termed as regular students of the Institute being employees of Green Valley Kinder Garten VPO Srirampur Haji More, PS Kali Chak District Malda, West Bengal, as such can be fairly termed "***non attending students***".

6. *Whether the respondent Institute has not credited salary of the complainant in his bank for the month of August 2011, February 2012 and April 2012 inspite of getting signatures in the salary register.*

The complainant has submitted copy of pass book and accounts statement of his saving bank account. On perusal of these documents it is clear that the respondent had been remitting the salary of complainant in his saving bank account maintained with UCO Bank regularly except for the months of August, 2011, February, 2012 and April, 2012. The respondent institute has produced copy of record indicating disbursement of salary @ Rs. 13,275/- in favour of Shri Kanwal Preet Singh for the months of August, 2011, February, 2012 and April, 2012 which record has already been questioned by the complainant to be a fake record as the same indicates disbursement of salary in favour of fake faculty. Interestingly the copies of record

produced by the respondent institute with regard to payment of salary is shown in the salary ledger by obtaining signatures of the faculty whereas on the other hand the same is shown to be transferred to the bank account of the faculty as per copy of bank statement submitted by the complainant. However, salary for the questioned months has been shown to be disbursed in the salary ledger amongst others whereas no credit has been shown in the bank account of the complainant, this raises serious doubts on the functioning of the respondent institute.

It has clearly been established that the respondent institute has not paid any salary for the questioned months to the complainant hence the complainant is entitled for the same.

It is established that the respondent instituted has not paid salary at the rate of Rs. 13,275/- p.m. to the complainant for the months april, 2011, February and April, 2012 amounting to Rs. 39,825/-.

7. *Whether Internal assessment for B. Ed and M. Ed courses is being done by the faculty?*

The Inspection Committee found that the internal assessment is being made by the management instead of faculty which is in contradictions to the HPU norms.

This practice deserves to be deprecated in the interest of students.

8. *Whether the respondent institute is not following the EPF directions?*

As per report submitted by the Inspection Committee constituted by the Commission, the respondent institute has been allotted Code No. HP 8017 by the Employees Provident Fund Organisation vide its letter No. PN/SM/HP-8017-Enf.1/5011 dated 21st June, 2013 and the Commissioner, EPF has directed the respondent institute to follow the norms fixed by the EPF. Non compliance of EPF directions attracts provisions of EPF Act, as such no indulgence can be shown by the Commission on this issue, as the aggrieved persons are at liberty to approach the quarter concerned and the EPF Organisation has sufficient powers to deal with the defaulters.

9. *Whether improper accounts and stock registers are maintained by the respondent institute with regard to issues related to overcharging and non payment of salary for August, 2011?*

The Inspection Committee constituted by the Commission found that the Institute is not maintaining cash book which is a book of original entry, the institute is not keeping separate record of amalgamated fund, building fund and student aid fund etc, the stock charge entry on the bill is not being recorded nor stock register maintained properly as per norms. It has further been found that the examination centre creation charges and annual affiliation fees are required to be payable by the institute and not to be charged from the students. The amount so charged from

the students is required to be refunded to the students. The consolidated amount is being paid as salary to the faculty and other staff through bank and APR obtained. It has been established that salary for the month of August, 2011 was not disbursed to the faculty/ staff.

10. Is there non compliance of notice of the NCTE (dated 21/07/2010) by the institute?

The inspection Committee found that NCTE Jaipur had issued a show cause notice to the Institution vide letter No. NRC/ NCTE/HP-199/161st meeting/2010-25815 dated 21st July, 2010 pursuant to the report of the inspection team that conducted the inspection of the institution u/s 17 of NCTE Act on 12.8.2009. Dissatisfied with the reply, the NCTE decided to withdraw the recognition of ETT (JBT), B. Ed. And M. Ed from the academic session 2010-2011 vide order No. F. NRC/NCTE/HP-199/163th Meeting/ 2010'27009 dated 2nd September, 2010. The aid order was challenged by the Institute in the Hon'ble High Court of Himachal Pradesh which gave them relief in December, 2010 and in the institute got the admissions in all the three courses i.e. ETT (JBT), B. Ed and M. Ed.

Since the matter has already been adjudicated by the Hon'ble Court and the admissions have been made by the respondent institute, this issue attracts non indulgence on the part of Commission.

11. Is the institute located on the land of the trust?

Vide lease deed No. 149 dated 20.5.2006 Shri Suresh Chander Sharma son of Shri Shankar Lal Sharma resident of Village and PO Chandi Sub Tehsil Krishangarh, District Solan (HP) has leased out land together with building constructed thereupon i.e. land measuring 4 bighas 9 biswas (4250 sq. Mtrs) out of total land measuring 8 bighas and 18 biswas comprised in Khatauni No. 37/37, Khasra Nos. 622/128, 623/128 and 157 Kita for a period of 30 years from 1.5.2006 to Devbhoomi Development Society Chandi which is a registered body under the Societies Registration Act vide registration No. 16-798/2004 having its registered office at Shanker Bhawan, V&PO Chandi, Tehsil Kasauli District Solan (HP). The property has been leased out for the purpose of running educational institute in the name of Vaid Shanker Lal Memorial College of Education. However, the complainant has not raised any point in this regard, hence it is felt that Commission may not go into this issue in detail, hence no finding rendered at this stage.

26. Conclusion:

On the basis of discussions and the findings rendered above, I had issued preliminary orders 11.05.2016 against the respondents in the following manner and directed compliance by 10th June, 2016:

1. The respondent institute was directed to refund verification charges of Rs. 200/- collected from students. The respondent Institute was further directed to refund

entire amount collected @ 10% (i.e. Rs. 2860/-) on tuition fee of Rs. 28,600/- as levy charges from the students. Detailed particulars of students and the amount refunded, mode of refund etc. to the satisfaction of the HP PERC was to be furnished. The refund was related to the academic session 2011 onwards till date.

2. The respondent institute was directed to refund the amount collected from students for examination centre creation and annual affiliation fees to the students. Details of the students and the amount refunded to them was to be submitted from the academic session 2011 till date.
3. Since it had been established that both the students i.e. Shri Sumit Dass (Roll No. 70) and Shri Habib Uddin Seikh (Roll No.76) in the academic session 2011-12 were “non attending students” of the Institute, hence the B.Ed degrees; obtained by them by fraudulent means; are declared invalid.

Since the matter with regard to award of degrees relates to HPU which is not within the ambit of HP PERC, however, gravity of irregularity committed by the institute and these two students warrants that matter be brought to the notice of HPU for cancelling their degrees, as per its norms.

Cancellation/withholding of the B. Ed. Degrees is essential in order to uphold the sanctity of mandate of H.P. Private Educational Institutions (Regulatory Commission) Act, 2010 (Act No.15 of 2011) and Rules framed thereunder, which defined the duties of the HP PERC to ensure standards of admission inter alia to be maintained by Private Educational Institutions in accordance with the guidelines issued by the Regulatory Bodies of the Central Government or the State Government or by the Central Government or the State Government from time to time.

4. Respondent Institute was directed to pay salary @ Rs. 13,275/- p.m. to the complainant for the months of April, 2011, February and April, 2012 amounting to Rs. 39,825/-only.
5. Hostel charges of Rs. 22000/- be got approved from the HPU/State Government.
6. Respondent institute was directed to fill up vacant faculty position before start of next session 2016-17 in proportion to the norms fixed by NCTE/HPU.
7. Respondent institute was directed to install biometric attendance machine in the institute for faculty and students in order to check exercise on fake faculty/ non attending students. Instructions to all the Private Educational Institutions in the State of Himachal Pradesh was to be issued in this regard.
8. Respondent Institute was directed to separate girls hostel from the institute’s building and ensure safety of girls students.

9. Respondent institute was directed to ensure that in future internal assessment should be awarded the faculty concerned and not the management.
10. The respondent institute was directed to maintain cash book properly indicating all income head-wise separately and also maintain stock register as per norms.

The above orders be complied within the period stipulated, failing which the respondent institute was directed to show cause as to why the preliminary Orders should not be made absolute/confirmed besides imposing penalty as per provisions of the H.P. Private Educational Institutions (Regulatory Commission) Act and Rules. Such explanation was to reach the Commission within 15 days after expiry of period given for reporting compliance of the orders.

27. On 22.06.2016 Shri Chander Mohan, Secretary VSLM College of Education appeared in person. He stated that he was duly authorized and competent to make statement before the HP PERC. He further stated that all the records submitted by VSLM College during the proceedings before HP PERC were genuine, true and correct as per information derived from the record of the College and that the fee structure approved and notified by HPU on 15.12.2010 (for the session 2010-11) was applicable to VSLM College. He further stated that thereafter the HPU had modified fee structure several times and the copies thereof shall be furnished to the HPPEREC in the next hearing. He also stated that the modified notifications after the year 2010 could not be submitted to the HPPEREC during the course of hearings for which he tendered unconditional apology. He also stated that the College has not charged any amount over and above fixed by HPU. 10% is levied on tuition fee which is payable by the students and verification charges of Rs. 200/- is deposited by the students at the time of counselling. He further stated that in compliance of preliminary orders issued by HPPEREC regarding recruitment of faculty, installation of biometric attendance machine, internal assessment by the teachers and maintenance of cash book properly, necessary action has already been initiated.
28. The unconditional apology tendered for non submission of modified notifications was accepted subject to submission of copies of such notifications in the next hearing. Shri Chander Mohan was directed to submit list of students (in all courses) for the session 2010-11 till 2015-16. He was further directed to release salary to the complainant as directed in my previous preliminary order on or before the next date of hearing. He was also directed to submit affidavit in support of his oral submissions before HP PERC. All the documents should reach HP PERC on or before the next date of hearing which is fixed for 5.7.2016.
29. On 5.7.2016 Shri Chander Mohan, Secretary VSLM College of Education appeared in person. Shri Chander Mohan submitted original affidavit dated 5.7.2016, copy of list of students admitted in JBT course for the session 2008-2010, 2011-2013, 2012-2014, 2013-15; copy of list of students admitted in B. Ed. Course during the year 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2017 and copy of list of students admitted in M. Ed. Course during the session 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2017. He also furnished original DD No. 736650 dated 04.07.2016 amounting to Rs. 39,825.00 on account of salary payable

to Mr. Kanwal Preet Singh in terms of the orders dated 11.05.2016 passed by HPPEREC. He further stated that copies of modified notifications with respect to fee applicable to VSLM could not be procured from HPU till date and prayed that some more time be granted.

30. Documents submitted were taken on record. Prayer of Shri Chander Mohan allowed for submission of modified notifications which shall be submitted by him within 10 days. This was last opportunity. DD of Rs. 39,825.00 was ordered to be sent to Mr. Kanwal Preet Singh by registered AD/ Speed Post and final orders were reserved.
31. Shri Chander Mohan failed to submit modified notifications upto the date of pronouncement of final orders. The unconditional apology tendered for non submission of modified notifications was accepted subject to submission of copies of such notifications which he utterly failed. The case in hand is relating to B.Ed. course for the session 2010-11. The respondent institute has utterly failed to comply with the order so far refund of overcharged fee of Rs. 2,860/- is concerned with respect to 100 students. Such default on the part of the respondent institute has attracted penal action under the H.P. Private Educational Institutions (Regulatory Commission) Rules 2011 relevant extract of which is as under:

“6. Amount of penalty to be imposed.—(1) The Commission shall be empowered to impose penalty on the Private Educational Institutions and Universities as per provisions laid down in Section 11 of the Act and the minimum penalty shall be as follows:-

(b) Deviation of fee charged from the student.-In case any admitted student is charged fee in excess of the amount fixed and approved by the Government/ Competent Authority, under the provisions of an Act, the penalty shall be three times the actual amount charged from the student over and above the specified fee.”

It has conclusively been proved that respondent institute has collected Rs. 2,860/- being 10% of total fee of Rs. 28,600/- from each student during 2010-11. The total intake of the respondent institute for the relevant session is 100 students, as per list submitted by the respondent institute. Therefore, total amount overcharged by the respondent institute from 100 students for the session 2010-11 works out to Rs. 2,86,000/-. As per provisions of aforesaid Act and Rules the respondent institute is liable to be imposed a penalty of Rs. 8,58,000/- (Rupees Eight Lakhs Fifty Eight Thousand) i.e. three times of actual amount charged over and above the fee fixed by the competent authority i.e. Rs. 2,86,000/- from 100 students.

32. It is relevant to mention here that H-PUMA had filed Civil Writ Petition No. 10140 of 2012 titled H-PUMA Vs. State of Himachal Pradesh and pending final decision in the matter, the Hon’ble High Court had passed interim orders on 1.12.2012 as under:

“2. There will be a stay of the operation and implementation of the following provisions of the H.P. Private Educational Institutions (Regulatory Commission) Act, 2010:

i) Section 8(a) &

ii) Section 11 dealing with penalties except those penalties prescribed under Rule 6(1)(a) to 6(a) g) of the Himachal Pradesh Private Educational Institutions (Regulatory Commission) Rules, 2011.

3. There will also be a direction to the 3rd respondent to keep all the penalties received under section 8(d) under separate account.”

However, ultimate decision in the matter was pronounced by the Hon’ble Court on 19.10.2013 wherein, the Hon’ble Court inter alias has declared H.P. Private Educational Institutions (Regulatory Commission) Act, 2010 and the Rules made thereunder as *ultra vires* the Constitution of India. The said judgment has been assailed before the Hon’ble Supreme Court of India vide Civil Appeal No. 11290 of 2013 titled State of H.P. & another Versus H-PUMA and another. Pending adjudication of the main petition, the Hon’ble Court has passed interim order dated 8.5.2014 as under:

“Heard.

Pending further orders from this Court, we direct that status quo ante, as it prevailed on 18th October, 2013 i.e. immediately before the pronouncement of the impugned judgment, shall continue to be maintained.

The hearing of the appeal is expedited.

Liberty is also granted to mention for early hearing.”

Therefore, H.P. Private Educational Institutions Regulatory Commission is competent to invoke relevant provisions of H.P. Private Educational Institutions (Regulatory Commission) Act and Rules framed thereunder to the extent permitted by the Hon’ble Court as on 18.10.2013; as such the following orders are passed:

33. The respondent institute is imposed with the penalty of Rs. 8,58,000/- (Rupees Eight Lakhs Fifty Eight Thousand) which is three times the actual amount charged over and above the fee fixed by the competent authority i.e. 2,86,000/- from 100 students undergoing B.Ed course during the session 2010-2011. Respondent Institute is directed to refund a sum of Rs. 2,860/- each to 100 students and remaining amount of Rs. 5,72,000/- be deposited with the H.P. Private Educational Institutions Regulatory Commission. These orders should be complied within 30 days from pronouncement. Complete particulars of students alongwith amount refunded and mode of refund be supplied within the stipulated period.

Copy of the Orders be supplied to the respondent institute.

Orders be hosted on the website of the HP PERC.

Amount of Rs. 5,72,000/- received as penalty be kept in separate Account with the Bank.

Case filed be consigned to record room subject to receipt of compliance of the orders, in default the case file be put up after expiry of stipulated period for initiating appropriate action.

Announced

Sd/-
(Sunil Dutt Sharma)
Member