

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ 1. W.P.(C) 5131/2008 & CM 9827/2008, 10337/2008

% Date of Decision : 01.08.2008

BUDHA COLLEGE OF EDUCATION & ORS Petitioner
Through: Mr. Sanjay Sehrawat, Advocate
versus

NATIONAL COUNCIL FOR TEACHER EDUCATION ... Respondent
Through: Mr. Amitesh Kumar, Advocate

2. W.P.(C) 5134/2008 & CM No.9829/2008 , 10336/2008

MAHARAJA AGRASAIN COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sehrawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION ... Respondent
Through: Mr. Amitesh Kumar, Advocate

3. W.P.(C) 5135/2008 & CM No.9830/2008, 10303/2008

MAHABIR COLLEGE OF EDUCATION FOR WOMEN Petitioner
Through: Mr. Sanjay Sehrawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION ... Respondent
Through: Mr. Amitesh Kumar, Advocate

4. W.P.(C) 5136/2008 & CM No.9831/2008, 10287/2008

R.R.MEMORIAL COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sehrawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. Amitesh Kumar, Advocate

5 W.P.(C) 5252/2008 & CM No.10032/2008

SHRI AANASAGAR STC COLLEGE ... Petitioner
Through: Mr. Sanjay Sehwat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION ... Respondent
Through: Mr. Amitesh Kumar, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

VIPIN SANGHI, J. (Oral)

1. These writ petitions have been filed by the petitioner institutions who are running the one year B.Ed. course (D.Ed/STC course in WP(C) No.5252/2008) duly recognized by the respondent NCTE. These institutions were granted recognition/approval by the respondent NCTE for academic session 2007-2008. At the relevant time when the initial approval was granted Regulations framed by NCTE dated 20.7.2006 were in force. Clause 8(3) and 8(4) of these Regulations provided as follows:

“8. Conditions for grant of recognition

(1).....

(2).....

(3) An institution shall be permitted to apply for enhancement of intake in a teacher education course

already approved after completion of three academic sessions of running the course.

(4) An institution shall be permitted to apply for enhancement of intake in Secondary Teacher Education Programme-B.Ed., & B.P.Ed. Programme, if it has accredited itself with the National Assessment and Accreditation Council (NAAC) with a grade of B+ on a nine point scale developed by NAAC.”

However, there was relaxation in force in respect of the requirement contained in Regulation 8(3) and 8(4). The notification granting relaxation was issued on 20.7.2006.

2. The petitioners made application for enhancement of their intake capacity by one unit (100 seats in B.Ed. course and 50 seats in D.Ed/STC Course) for the academic session 2008-2009. These applications were made after 10th December 2007 and upto January, 2008. By an identical order, the applications of all the petitioners have been rejected. While doing so the respondent has relied upon Clause 8(3) and 8(4) as contained in new Regulations notified on 10.12.2007 which read as follows:

“8. Conditions for grant of recognition

(1).....

(2).....

(3) An institution shall be permitted to apply for enhancement of course wise intake in teacher education courses already approved, after completion of three academic sessions of running the respective courses.

(4) An institution shall be permitted to apply for enhancement of intake in Secondary Teacher Education Programme-B.Ed., & B.P.Ed. Programme, if it has

accredited itself with the National Assessment and Accreditation Council (NAAC) with a *Letter Grade B* developed by NAAC.”

3. Regulation 5(4) of the Regulations notified on 10.12.2007 for the first time introduced a cut off date by which an application was required to be submitted, and also prescribed the date by which the respondent would send a final communication either granting or refusing to grant recognition. The applications were required to be submitted by 31st October of the year preceding the academic session for which the recognition was being sought. Therefore, for the academic year 2008-2009, the application ought to have been submitted by 31.10.2007. Since the new Regulations were themselves notified on 10.12.2007, that is after the cut off date of 31.10.2007 the respondent issued a public notice stating that *“it is clarified that applications received even after 31st October, 2007 could be processed for the next academic session, 2008-09 subject to fulfillment of other conditions for grant of recognition to the institution for a particular Teacher Training course. However, no recognition/permission for the academic session 2008-09 could be granted to an institution after 15th May, 2008. It is also clarified that this relaxation is only for the current year and the cut off date of 31st October shall strictly be effective from 31st October 2008 i.e. preceding the academic session 2009-2010.”*

4. By identical orders as are impugned in these petitions, the respondent rejected scores of applications filed by various institutions. Some of the institutions approached this Court by filing writ petitions challenging vires of the new Regulations which came to be listed before a Division Bench of this Court. On 21.5.2008 in WP(C) No.1119/2008 ***Shiksha Parishad Kanya Gurukul Julana vs. National Council for Teacher Education***, counsel appearing for the respondent Mr. V.K. Rao made a statement that “***The respondent for the purpose of processing and approval of this application would not insist on these two criterion.***” The criteria referred to were those contained in Regulations 8(3) and 8(4) of the Regulations notified on 10.12.2007 as aforesaid.

5. The aforesaid writ petition came to be disposed of on 29.5.2008 since, in the interregnum, the inspection had been conducted by the Regional Committee of the respondent of that particular institution, which found the conditions satisfactory of approval. Therefore, for the petitioner in W.P(C) No.1119/2008 the respondent granted approval without insisting on compliance of Regulations 8(3) and 8(4) of the new Regulations of 10.12.2007. The question regarding the challenge to Regulations 8(3) and 8(4) of the aforesaid Regulations notified on 10.12.2007 was left open. The order dated 21.5.2008 in WP(C) No.1119/2008 and the arrangement worked out thereby was followed in three other writ

petitions which were similarly disposed of on 11.6.2008 by taking note of the concession earlier made by Mr. V.K. Rao, Advocate for the respondent in WP(C) No.1119/2008. On this occasion Mr. Ravi Sikri, Advocate appeared on behalf of the respondent NCTE. It would, therefore, be seen that the concession did not remain confined only to one petitioner in WP(C) No.1119/2008 but was extended to three other petitioners in WP(C) No.4507/2008, WP(C) No.450/2008 and WP(C) No.4512/2008. Another writ petition being WP(C) No.4582/2008 was similarly disposed of on 26.7.2008. Once again, the Court noted the concession made by the respondent in WP(C) No.1119/2008 and gave a direction that the respondent shall not insist on the eligibility criteria of having three academic sessions as also the requirement of having accreditation with NAAC as provided in Regulations 8(3) and 8(4) for the purpose of considering the petitioners' application for enhancement of intake capacity by one unit. Thereafter, two other writ petitions were disposed of by this Court on similar lines being WP(C) No.4625/2008 and WP(C) No.4674/2008 on 1.7.2008 and 10.7.2008 respectively.

6. When WP(C) No.4674/2008 was taken up for consideration learned counsel for the respondent had urged that the concession had been made in the aforesaid cases, and in particular in WP(C) No.1119/2008, but that the respondent was not willing to make a similar concession in WP(C) No.4674/2008.

Taking note of that submission, this Court had observed that the mere fact that the respondent was not willing to make a similar concession in that particular case could not be a reason to deny the petitioner the same relief as other similarly situated institutions had been granted, since the respondent was bound to maintain consistency in its action and cannot treat similarly placed organizations on different footing without any justification.

7. When these matters came up for hearing a few days ago, learned counsel for the respondent Mr. Amitesh Kumar stated that the respondent is moving an application for seeking review of the order in WP(C) No.1119/2008 wherein the concession made by Mr. V.K. Rao, Advocate had been recorded. It was then urged that the said concession with regard to Regulation 8(3) and 8(4) not being insisted upon was made without instructions. Accordingly, consideration of these petitions was adjourned for today. In the meantime the review petition had been filed, considered and stands disposed of by the Division Bench on 25.7.2008. An uncertified copy of the said order has been produced by learned counsel for the respondent. The Division Bench has, inter alia, observed that the order dated 21.5.2008 was self explanatory and did not call for elaboration or clarification. Therefore, the Division Bench has not accepted the submission of the respondent that the said concession was made without instructions and has not relieved the respondent, in that

particular case (i.e., WP(C) No.1119/2008), of the concession made by it through its counsel.

8. To oppose these petitions Mr. Amitesh Kumar, learned counsel for the respondent has relied on an order passed by the Division Bench on 28.7.2008 in CM No.7998/2008 and CM No.9289/2008 in WP(C) No.4108/2008 ***Brahaspati Mahila Mahavidyalaya vs. National Council for Teacher Education***, of which he has produced an uncertified copy. He submits that these applications were filed by the petitioner in that case to seek a similar direction and for that purpose the petitioner had even relied on the various orders passed by this Court as aforesaid. In spite of that, the Division Bench declined to grant an interim mandatory direction for processing the application of the petitioner in that case, for additional seats.

9. Mr. Amitesh Kumar also relies on the decisions of the Supreme Court in ***Tripura Goods Transport Association & Anr. vs. Commissioner of Taxes & Ors.*** 1998(2) SCC 264; ***B.S. Bajwa & Anr. vs. State of Punjab & Ors.***; 1998(2) SCC 523, ***Uptron India Ltd. vs. Shammi Bhan & Anr.***; 1998(6) SCC 538 and ***Central Council for Research In Ayurveda & Siddha & Anr. vs. Dr. K. Santhakumari***; 2001(5) SC 60 to urge that a concession in law, made by a counsel on behalf of a party, cannot bind that party.

10. Having considered the submissions made by the learned counsel for the parties, I am of the view that the respondent cannot be allowed to treat the petitioners in these writ petitions differently from the institutions whose petitions have been allowed on the basis of concessions made by the respondent through their authorized counsel on repeated occasions. Pertinently, the concession was made first by Mr. V.K. Rao, Advocate. It appears that thereafter neither Mr. Ravi Sikri nor Mr. Amitesh Kumar deviated from the same as would be apparent from the orders dated 11.6.2008 and 1.7.2008 referred to above. In my view, the decisions cited by learned counsel for the respondent have no application in the facts of these cases. This is so because the Regulations whereby the respondent regulates the norms and procedure for grant of recognition to institutions are framed by the NCTE itself and are amended from time to time by the NCTE. It is the NCTE which is the respondent in these petitions. Pertinently even earlier, public notice in relation to clarification with regard to the application of Regulation 5(4) has also been issued by NCTE. Therefore, the NCTE has exercised its power to relax its norms and Regulations from time to time. However, while granting relaxation it cannot act discriminatorily between similarly situated institutions. It cannot, therefore, be said that the relaxation of Regulation 8(3) and 8(4) is illegal, beyond the competence of NCTE or contrary to the regulations. It, therefore,

cannot be said that the concession made by counsel for the respondent with regard to the relaxation of Regulations 8(3) and 8(4) as initially recorded in WP(C) No.1119/2008 could not have been made; that the said relaxation could not bind the respondent; and that the said concession was contrary to the Regulations. So far as the order passed by the Division Bench on 20.7.2008 is concerned, from the said order it does not appear that the Hon'ble Division Bench has gone into the effect of the concession made by Mr. V.K. Rao initially, and the effect of the same being followed by the Division Bench and the single Benches of this Court repeatedly, as aforesaid. In my view, therefore, the said order cannot be construed as a reversal of the view of this Court, from the view which finds expression in all the aforesaid orders.

11. Accordingly, following the decisions of this Court in WP(C) No.1119/2008 and the various other writ petitions detailed in paragraph 5 above, I direct that to process the applications of the petitioners for approval for intake of one additional unit for the B.Ed./D.Ed./STC course the respondents shall not insist upon the eligibility criteria of having three academic sessions as also the requirement of having accreditation with NAAC as contemplated in Regulations 8(3) and 8(4) of the Regulations dated 10.12.2007. The impugned communications in each of these petitions is quashed. The respondent is directed to process the case of these

petitioners for additional intake of one unit for the academic year 2008-2009 strictly in accordance with the other Rules as expeditiously as possible.

12. Counsel for the petitioners points out that in case the recognition is not granted by 16.9.2008, the petitioner would not be in a position to admit students in the current academic session 2008-2009. The petitioners undertake that from their side they would cooperate with the respondent and there would be no delay in fulfillment of whatever requirements the petitioners have to meet. In case there is no delay on the part of the petitioners individually the respondents would try to dispose of the applications by 7.9.2008 so that they are able to commence the course with enhanced intake from the academic session 2008-09 in the event of the approval being granted.

Petitions stand disposed of.

Dasti to the parties.

**VIPIN SANGHI
JUDGE**

August 01, 2008
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