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

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**WRIT PETITION (CIVIL) NO.8433/2009**

Date of Decision : 23<sup>rd</sup> April, 2009

1. Swami Vivekanand College of Education  
Tarkwari[Bhorani] Dist.Hamirpur  
Himachal Pradesh  
Through its Secretary Sh.Rajeev Sharma
2. Trisha College of Education  
Thain Rangas, 463 Nadaun  
Dist Hamirpur, Himachal Pradesh  
Through its Secretary CA Rajeev Sharma
3. Kanya Gurukul College of Education  
Village Shadipur, Tehsil Julana  
District Jind, Haryana  
Through its Principal Sh Rakesh Vashist ..... Petitioners

Through: Mr.Sanjay Sharawat, Advocate

versus

1. Union of India  
Ministry of Human Resource Development  
Government of India  
Department of School Education and Literacy  
Shastri Bhawan  
New Delhi-110001.
2. National Council for Teacher Education  
Through its Chairman  
Corporate Office at : Hans Bhawan, Wing-II  
Bahadur Shah Zafar Marg  
New Delhi-110001
3. University Grant Commission  
Through its Chairman  
Bahadur Shah Zafar Marg  
New Delhi-110002.

4. National Assessment and Accreditation Council  
Through its Director  
P.O. Box. No.1075, Nagarbhavi  
Banglore-560072. .... Respondents

Through Mr. Saleem Ahmed, Adv. for  
R-1.  
Mr. V.K. Rao, Mr. Ayushya  
Kumar and Mr. Saket Sikri,  
Advs. for R-2 and R-3.

% **CORAM:**  
**HON'BLE MR. JUSTICE MADAN B. LOKUR**  
**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL**

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|--------------------------------------------------------------------------|-----|
| 1. Whether reporters of local papers may be Allowed to see the judgment? | Yes |
| 2. To be referred to the Reporter or not?                                | Yes |
| 3. Whether the judgment should be reported in the Digest?                | Yes |

**MADAN B.LOKUR, J (ORAL):**

Learned counsel for the Petitioner has challenged Clause 8(4) and 8(5) of the National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2007 issued vide notification dated 27<sup>th</sup> November, 2007 (notified on 10<sup>th</sup> December, 2007).

2. Clause 8 generally deals with the conditions for grant of recognition. Clause 8(4) which is under challenge deals with an application for enhancement of intake and reads as follows:-

“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. The Petitioners are colleges imparting teacher training courses. They already have some “students” and were granted additional intake of “students” as per the National Council for Teacher Education (Recognition Norms & Procedure) Regulations framed in 2005.

4. According to learned counsel for the Petitioner, the requirement brought about in the Regulations of 2007 that an institution shall be permitted to apply for enhancement of intake in the Secondary Teacher Education Programme if it has an accreditation with the National Assessment and Accreditation Council (NAAC) is excessive delegation of powers conferred on the National Council for Teacher Education (NCTE) under the National Council for Teacher Education Act, 1993. In this regard, learned counsel refers to Section 12(k) of the Act which deals with the functions of the Council. One of the functions of the Council is to evolve a suitable performance appraisal system, norms and mechanism for enforcing accountability on recognized institutions. It is submitted that performance appraisal is an essential function of the NCTE and it cannot be delegated to the NAAC.

5. Clause 8(4) that we have referred to above, merely puts a condition for making an application which is that the applicant should have itself accredited with the NAAC with a letter grade B developed by NAAC. This is clearly not a delegation of power but only a condition that has to be met before an application is made for enhancement of intake. This is quite clear from the heading of Clause 8 of the Regulations also. It is not as if the

NCTE has abdicated its power of evolving a suitable performance appraisal system.

6. Learned counsel for the Petitioner says that he is not challenging the reasonableness or otherwise of the condition that has been placed and, therefore, we need not go into that aspect of the matter. His argument is confined only to excessive delegation of power and in our opinion it is absolutely clear that Clause 8(4) merely puts a condition on the making of an application and there is no delegation of any power or any essential function of the Council.

7. We, therefore, do not find any reason to conclude that Clause 8(4) of the Regulations suffers from any vice of excessive delegation.

8. The second contention of learned counsel for the Petitioner is with regard to the validity of Clause 8(5) of the Regulations which reads as follows:

“An institution that has been granted additional intake in B.Ed. and B.P.Ed. teacher training courses after promulgation of the regulations, 2005 i.e. 13.01.2006 shall have to be accredited itself with the National Assessment and Accreditation Council [NAAC] with a letter grade B under the new grading system developed by NAAC before 1<sup>st</sup> April, 2010 failing which the additional intake granted shall stand withdrawn w.e.f. the academic session 2010-2011.”

9. According to learned counsel for the Petitioner, the condition requiring accreditation with the NAAC under a new grading system for the academic session for 2010-2011 has a retrospective effect. Elaborating this, it is submitted by learned counsel that earlier an additional intake was

granted to the Petitioner, which will be rendered nugatory if NAAC accreditation is not granted. It is in this context that learned counsel for the Petitioner says that Clause 8(5) is retrospective.

10. We do not agree with the submission of learned counsel for the Petitioner. Having already obtained an additional intake of seats the Petitioners can continue with it for the time being. However, if the Petitioners are desirous of the additional intake continuing in the academic session 2010-2011 and thereafter, a fresh accreditation with the NAAC is required under a new grading system.

11. In other words, the additional seats already obtained by the Petitioner are not being disturbed until the academic session 2010-2011. It is only thereafter that a fresh accreditation is required under a new grading system for continuation of the additional seats. This again is a condition imposed on the continuation of the additional intake. This does not have any retrospective effect. It is only an additional burden placed on the continuation of an existing situation.

12. It is not the contention of learned counsel for the Petitioner that this condition is unreasonable in any manner whatsoever. That being the position, we do not think that the mere placing of an additional condition for the future continuation of the additional intake in any manner can be said to have any retrospective effect. It is true that the condition may have an impact on existing seats in the future. However, the condition does not take away the existing right of the Petitioner to continue with those seats until the

academic session 2010-2011. The effect is prospective and not retrospective.

13. No other point has been urged by learned counsel for the Petitioner.

14. We find no merit in the writ petition. Dismissed.

**MADAN B. LOKUR, J**

**SIDDHARTH MRIDUL, J**

**APRIL 23, 2009**  
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