

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

JUDGMENT RESERVED ON: 01.12.2008

% **JUDGMENT DELIVERED ON: 07.01.2009**

+ **(1) W.P.(C) 6216/2008**

SHRI SATYA SAI COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. V.K. Rao and Mr. Ayushya
Kumar, Advocate

And

(2) W.P(C)No.6813/08

VINAYAK COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. V.K. Rao and Mr. Ayushya
Kumar, Advocate

And

(3) W.P(C)No.6969/08

SHARADDHANATH TEACHER EDUCATION
COLLEGE Petitioner
Through: Mr. Sanjay Sharawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. V.K. Rao and Mr. Ayushya
Kumar, Advocate

And

(4) W.P(C)No.6970/08

ASIAN COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. V.K. Rao and Mr. Ayushya
Kumar, Advocate

And

(5) W.P(C)No.7475/08

SANT RAMKRISHNA KANYA MAHAVIDYALAYA Petitioner
Through: Mr. Sanjay Sharawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. V.K. Rao and Mr. Ayushya
Kumar, Advocate

And

(6) W.P(C)No.7477/08

YADUVANSHI COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. V.K. Rao and Mr. Ayushya
Kumar, Advocate

And

(7) W.P(C)No.7932/08

ADARSH KRISHNA COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. V.K. Rao and Mr. Ayushya
Kumar, Advocate

And

(8) W.P(C)No.7959/08

JAI MURTI COLLEGE Petitioner
Through: Mr. Sanjay Sharawat, Advocate

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent
Through: Mr. V.K. Rao and Mr. Ayushya
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? Yes
3. Whether the judgment should be reported in the Digest? Yes

VIPIN SANGHI, J.

1. In this batch of writ petitions under Article 226 of the Constitution a preliminary objection has been raised with regard to the lack of territorial jurisdiction in this Court to entertain these petitions. These petitions have been filed by various institutions situated in the states of Rajasthan, Uttar Pradesh and Haryana against the National Council for Teacher Education (the Council), which has its head office at Delhi. The Council, in all these petitions, has also been impleaded through its Northern Regional Committee in Jaipur. The petitioners are running their respective institutes by offering courses in Teacher Training with the approval of the respondent Council. Each of them

applied for approval of the Council either for additional intake in the course(s) already being run by them, or for starting additional course(s) in subjects of teacher education. The applications were made to the Northern Regional Committee of the Council in Jaipur.

2. The impugned orders/acts of omissions resulting in the approval not being granted are attributed to the Northern Regional Committee of the Council at Jaipur. The question is, whether the petitioners can approach this Court under Article 226 of the Constitution of India to impugn the acts/omissions of the Northern Regional Committee of the Council, situated in Jaipur, merely because the head office of the Council is situated in Delhi. Article 226 of the Constitution, in so far as it is relevant reads as follows:-

“226. Power of High Courts to issue certain writs – (1) Notwithstanding anything in Article 32, every High Court shall have powers, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including [writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.”

3. According to the learned counsel for the petitioner, this Court would have the territorial jurisdiction to entertain these writ petitions

by virtue of sub-Article (1) of Article 226, inasmuch as, the head office of the Council is situated in Delhi. He submits that it is not necessary that some part of the cause of action should have arisen within the territorial jurisdiction of this Court, for this Court to get vested with the jurisdiction to exercise the powers under Article 226 of the Constitution. It is argued that the Council has framed Regulations prescribing the procedure for dealing with applications for seeking recognition of courses/additional courses/additional intake. The Northern Regional Committee has misinterpreted/misapplied the Regulations while considering the applications of the petitioners. Since the Regulations have been framed by the Council in Delhi, it is argued that this Court has the jurisdiction to entertain the writ petitions. Counsel for petitioner has relied upon the following decisions in support of his submissions: -

1.	<i>Vareli Weavers Pvt. Ltd. v. Union of India</i>	(1996) 3 SCC 318
2.	<i>Appollo Tyres Ltd. v. Union of India</i>	1980 ELT 428 [Del]
3.	<i>M/s J.K. Industries v. Union of India</i>	2002 V AD (Delhi) 668
4.	<i>Ela Kumar v. AICTE</i>	117 [2005] DLT 371
5.	<i>Bernard D'Mello v. IFC Ltd.</i>	12 [2004] DLT 371
6.	<i>Union of India v. Oswal Wollen Mills Ltd.</i>	[1984] 3 SCR 342
7.	<i>Nirmal Kumar Sikdar v. Chief Electoral Officer</i>	AIR 1961 Cal 289
8.	<i>U.P. Rashtriya Chini Mill Adhikari Parishad v. State of U.P.</i>	(1995) 4 SCC 738

9.	<i>Mohd. Ashfaq v. Union of India</i>	43 [1991] DLT 504
10.	<i>Navinchandra N. Majithia v. State of Maharashtra</i>	(2000) 7 SCC 640
11.	<i>Sthapati Engineers v. CBRI</i>	66 [1997] DLT 232
12.	<i>Alchemist Ltd. v. State Bank of Sikkim</i>	[2007] 11 SCC 335
13.	<i>Agencia Commercial International Limited & Ors. Vs. Custodian Branches of Banco Nacional Ultra Marino</i>	AIR 1982 SC 1268

4. To examine the aforesaid issue, it is necessary to refer to a few provisions of the National Council for Teacher Education Act, 1993 (the Act) whereunder the Council is constituted. The Council is established under Section 3 of the said Act. The Council is declared to be a body corporate having perpetual succession and it may sue and be sued by its name. The functions of the Council are set out in Section 12 of the Act. The primary function to be performed by the Council is to take steps for ensuring planned and coordinated development of teacher education and for the determination and maintenance of uniform standards for teacher education throughout India. The expression “Regional Committee” is defined to mean a committee established under Section 20 of the Act.

5. Section 20 of the Act provides that the Council, by notification in the official gazette, may establish the following Regional Committees, namely, Eastern Regional Committee, Western Regional Committee, Northern Regional Committee and Southern Regional Committee. The constitution of the Regional Committees is provided for in Section 20(3). Section 20(6) states that the Regional Committee,

in addition to its functions stipulated under Sections 14, 15 & 17, may perform such other functions as may be assigned to it by the Council or as may be determined by Regulations. Under Section 20(7) it is provided that the functions of, the procedure to be followed by, the territorial jurisdiction of, and the manner of filling casual vacancies among members of a Regional Committee shall be such as may be determined by Regulations. Chapter IV of the Act deals with the aspect of recognition of teacher education institutions. Every institution offering or intending to offer a course or training in teacher education is obliged to apply for grant of recognition under the Act. The application has to be made to the concerned Regional Committee. On receipt of an application by the Regional Committee, the Regional Committee is required to examine the same. It may either accept or refuse the application by granting or refusing the grant of recognition. The order granting or refusing recognition is required to be published in the official gazette and communicated in writing for appropriate action to the institution and the examining body, local authority or the State Government and Central Government. Section 15 deals with the aspect of permission for establishment of a new Course or training by a recognized institution, and provides that an application for this purpose has to be made to the Regional Committee concerned.

6. The submission of Mr. V.K. Rao, learned counsel for the respondent Council is that no part of the cause of action has arisen within the jurisdiction of this Court in respect of any of the petitioners, inasmuch as, the petitioners are situated outside the jurisdiction of this

Court; they made the applications to the Northern Regional Committee of the Council at Jaipur, and; the applications have also been dealt with and responded to, or allegedly remained inactioned by the Northern Regional Committee at Jaipur. He, therefore, submits that this Court would have no jurisdiction, particularly when the Northern Regional Committee has been constituted as a statutory body under Section 20 of the Act and is required to discharge statutory functions under Sections 14, 15 & 17 of the Act. It is the actions/omissions of the Northern Regional Committee which are in question in these writ petitions. The grievance of the petitioner that the Northern Regional Committee has misinterpreted the Regulations dated 10.12.2007 is also an issue arising in relation to the conduct of the Northern Regional Committee only, and merely because the Regulations so interpreted by the Northern Regional Committee are framed by the Council, that by itself would not vest this Court with jurisdiction.

7. So far as the location of the head office of the respondent National Council at Delhi is concerned, it is argued by Mr. Rao that merely because the Council has its head office at Delhi, this Court would not have the territorial jurisdiction as the Northern Regional Committee is a separate statutory body located at Jaipur; it is the acts/omissions of the Northern Regional Committee by which the petitioners are aggrieved, and it is these acts/omissions which, according to the petitioners, give each of them the cause of action to file these writ petitions. It is also argued that merely because the

disputes raised by these petitioners on merits may require the interpretation of the Regulations framed by the Council at Delhi, that fact would not vest this court with jurisdiction. Mr. Rao has relied upon the decision of the Supreme Court in ***Kusum Ingots & Alloys Ltd. v. Union of India*** (2004) 6 SCC 254.

8. I now proceed to deal with the various decisions relied upon by the learned counsel for the petitioners in support of his aforesaid submissions. ***Varieli Weavers Private Limited*** (supra) was a decision rendered by the Supreme Court in an appeal preferred against the order of a Division Bench of this Court whereby this Court dismissed the appellant's writ petition on the ground of lack of jurisdiction. The issue raised by the appellant was with regard to classification of the partially oriented yarn (POY) imported by the appellants. The respondent authorities had sought to classify the imported POY on the basis of a circular issued by the Central Board of Excise and Customs, which stated that POY was assessable to countervailing duty and Excise Duty at the final denirage stage, that is after the POY had been texturized. The submission of the appellants was that there was no warrant for levying countervailing duty upon imported goods by treating them as goods into which they would be transformed after undergoing a process. They had already been subjected to duty in the state in which they were, when imported. In these circumstances the court observed that the circular, on the basis of which the duty was levied, having been issued in Delhi, the Delhi High Court had jurisdiction to entertain the appellant's writ petition.

Firstly, I may notice that on the merits of the aforesaid dispute the respondents conceded the case in favour of the appellants. Secondly, there is no discussion to be found on the aspect of the Delhi High Court having territorial jurisdiction on account of the fact that the circular, on the basis of which the appellants were subjected to countervailing duty at the final denierage stage, had been issued from Delhi. The said decision, therefore, cannot constitute a binding precedent for the proposition that a High Court would have territorial jurisdiction only on account of the fact that the circular, which has all India application, has been issued within the jurisdiction of that particular High Court. In fact, this proposition has been squarely considered in ***Kusum Ingots*** (supra) and it has been held that the place of issuance of the circular/law, which has application all over the country, would not by itself give jurisdiction to the Court within whose jurisdiction the circular/law was issued. ***Kusum Ingots*** (supra) is a later and a larger bench decision of the Supreme Court and would, in any event, prevail over the decision in ***Vareli Weavers Private Ltd.*** (supra).

9. The next decision relied upon by the petitioner viz. ***Appollo Tyres Limited*** (supra) is of little assistance. In this case, the petitioner had assailed the press note which had been issued by the Central Government at New Delhi. In these circumstances it was held that this court had jurisdiction. Firstly, it appears that the issue of jurisdiction was decided on the basis that a part of the cause of action

had arisen in Delhi wherefrom the impugned press note was issued. Therefore, it is Article 226(2) which was involved and not 226(1). However, in the present cases the petitioners have impugned the various communications/orders issued by the Northern Regional Committee in Jaipur by resort to Article 226 (1) of the Constitution. Secondly, even if one were to proceed on the basis that the Court assumed jurisdiction merely because the impugned press note was issued from Delhi, this decision would be contrary to the later Supreme Court decision in **Kusum Ingots** (supra). Similar was the case in **M/s. J.K. Industries Limited** (supra). In this case, the impugned order/notification/clarificatory order was issued from New Delhi. Reference may be made to Para 29 of the judgment in this regard. The decision in **Poona Battling and Ors** (supra) also falls in the same category as **J.K. Industries** (supra), **Applo Tyres Limited** (supra). In this case as well, the letter, which formed the basis of the show cause notice issued to the petitioner was issued from Delhi. It is on that basis that the Court held that this Court would have territorial jurisdiction since the issuance of the said letter dated 14.04.1978 was a part of the cause of action and the case squarely fell under Article 226 (2) of the Constitution. In **U.P. Rashtriya Chini Mill Adhikari Parishad** (supra), the issue of jurisdiction was decided again on the basis that cause of action had arisen upon the issuance of order/notification by the Government at Lucknow and held that the bench at Lucknow had jurisdiction to deal with the matter. Moreover, this decision has been overruled by the Supreme Court in **Kusum**

Ingots and Alloys Limited Vs. UOI (2004) 6 SCC 254. This decision again is, therefore, of no assistance to the petitioner.

10. ***Ela Kumar*** (supra) also has no relevance to determine the issue of territorial jurisdiction arising in the present petitions. That was a case where respondent No.1 AICTE changed the eligibility criteria for the post of Assistant Professor, rendering the petitioner ineligible for the said post after he had appeared in the interview at the YMCA Institute of Engineering, Faridabad, Haryana – respondent No. 2. When the petitioner had sought redressal of his grievance, he was informed that AICTE had directed the respondent No.2 Institute to decide his eligibility as per the amended notification dated 19.02.2003. The relief sought in the writ petition filed by the petitioner was to seek a mandamus to AICTE respondent No.1 to modify its notification dated 19.02.2003 and to bring it conformity with an earlier corrigendum notification and to declare him eligible for the post of Assistant Professor in the respondent No.2 institute. The learned Single Judge had dismissed the writ petition for want of territorial jurisdiction on the premise that the relief sought by the petitioner was directed against the respondent No.2 institute located in Faridabad which fell outside the territorial jurisdiction of this Court. In Letters Patent Appeal the Division Bench concluded that the relief sought by the petitioner was, in fact, directed against the respondent No.1 AICTE which had issued the corrigendum notification changing the eligibility criteria. In these circumstances the Division Bench held that the writ petition was

maintainable in this Court since the AICTE is located at Delhi. From the judgment of the Division Bench it does not appear that the notification in question dated 19.02.2003 was not issued from Delhi, and that the same had been issued from any other place outside the jurisdiction of this Court. Consequently, the aforesaid decision also has no relevance to determine the issue in hand.

11. **Bernard D'mello (supra)** relied upon by the petitioner would certainly have come to the petitioner's rescue since the learned Single Judge of this Court held that this court would have jurisdiction to issue a writ to any authority whose registered office is situated within Delhi by resort to Article 226 (1) of the Constitution of India. Unfortunately for the petitioners, this decision has been overruled on the aforesaid aspect of territorial jurisdiction in **Bernard D'mello Vs. IFCI Ltd** LPA 723/2001 and LPA 920/2004 decided on 05.10.2006 reported as 2006 IX AD (Delhi) 493. The Division Bench considered various decisions of the Supreme Court and this Court including the decision in **Sector 21 Owners Welfare Association Vs. Airforce Naval House Board** 1996 1 AD Delhi 471, and held as follows:

"21. The learned Single Judge in dealing with the said issue has largely based his judgment on Article [226\(2\)](#) (Sic) 226(1) and the situation of the Registered Office in Delhi. The learned Single Judge while dealing with the issue of territorial jurisdiction considered the plea questioning the jurisdiction of this Court by invoking Article [226\(2\)](#) (Sic) 226(1) of the Constitution. It was urged that that since the MDI Institute is at Gurgaon, Haryana and all subsequent events such as the Board's decision, the communication and receipt of this

communication by the Petitioner all occurred at Gurgaon, no part of the cause of action accrued in Delhi and hence this Court did not possess the jurisdiction to entertain the said writ petition. The relevant portion of the Single Judge's judgment reads as under:

“The fact that the Registered Office of the Respondent No. 2 is within the territory of the Union Territory of Delhi would clothe this Court with territorial jurisdiction. It may be noted that prior to insertion of Sub-article (2), some of the High Courts were of the opinion that where the cause of action arose a writ petition could be filed in those High Courts as well. This view was constitutionally recognized by amending Article 226 of the Constitution and insertion of Sub-article (2). In the Statement of Objects and Reasons it was brought that the purpose of the amendment was to clothe the high courts with jurisdiction where the cause of action arose. It may also be noted that in Sub-article (2) the word used is "also". This clearly shows that the jurisdiction conferred by the Sub-article (2) is in addition to the jurisdiction conferred on the courts under Sub-article (1) and not in derogation thereof. In other words, with regard to writ petitions, it is not only the High Courts within whose jurisdiction the cause of action arose which would have jurisdiction, but even the court within the territorial jurisdiction of which the Respondent resides would have jurisdiction. Residence of a juristic entity would be the place its Registered Office is situated.”

22. The learned Single Judge thus held that since that the Registered Office of the Respondent No. 2 was within the territory of the Union Territory of Delhi this Court was equipped with the territorial jurisdiction to entertain the writ petition.

23.

24. In our view, the writ petition would have been entertainable in Delhi High Court in case the appeal was preferred to the appellate authority situated in Delhi and the impugned order was passed by the appellate authority in Delhi or any cause of action arose qua the

Registered Office in Delhi. However, this is not so. The facts of the present case and indeed the pleadings clearly show that no appeal was preferred pursuant to the impugned order dated 23rd September, 2003. There is no plea in the entire writ petition which refers to any cause of action arising qua the Registered Office situated in Delhi. The Petitioner's grievance sought to be highlighted in the writ petition which according to Mr. Gonsalves brought in the territorial jurisdiction of this Court was based upon a complaint which preceded the impugned order of termination. There is no grievance raised in Delhi after the impugned order of termination nor is there any prayer in the writ petition which relates to any cause of action which has taken place in Delhi. Even the averments about the cause of action contained in paragraph 29 of the writ petition only proceed on the basis that the Registered Office of the MDI is situated in Delhi. This in our view is not ipso facto sufficient to entitle this Court to entertain the writ petition in view of the judgment of the Hon'ble Supreme Court in *Adani Export's case* and the judgment of this Court in ***Sector 21 owners Welfare Association case*** (supra). Accordingly, we are of the view that in so far as the entertainment of the writ petition on the existing pleadings is concerned, the MDI is entitled to succeed. However, this judgment has proceeded on the pleadings of the case and our consequent view that on the existing pleadings, the learned Single Judge ought not to have entertained the writ petition irrespective of the fact of whether this Court had territorial jurisdiction. We are however, not ruling out the territorial jurisdiction of this Court in an appropriate case where there are appropriate pleadings to that effect."

12. Unfortunately, learned counsel for the petitioner has cited an overruled decision. This, I assume is a bonafide error. The counsel for the petitioner, it is hoped, would be more careful in future and take care to make all reasonable efforts to ascertain, whether a decision has been overruled before citing the same. In ***Sector 21 Owners Welfare Association Vs. Airforce Naval House Board*** (supra) the Division Bench of this Court after considering various decisions held as

follows:

"The law reflected by the abovesaid decisions is that the emphasis has shifted from the residence or location of the person or authority sought to be proceeded against to the situs of the accrual of cause of action wholly or in part. It is also clear that a trivial or insignificant part of the cause of action arising at a particular place would not be enough to confer writ jurisdiction; it is the cause of action mainly and substantially arising at a place which would be determinating factor of territorial jurisdiction. So also it shall have to be kept in view also who are the real persons or authorities sought to be proceeded against or against whom the writ to be issued by the Court would run. Joining of proforma or ancillary parties, and certainly not the joining of unnecessary parties, would be relevant for the Article 226(1)."

13. In ***Oswal Woolen Mills Limited*** (*supra*) the Supreme Court deprecated the practice of writ petitions often and deliberately being filed in distant High Courts as part of a maneuver in a legal battle, so as to render it difficult for the officials to move applications to vacate stay where it becomes necessary to file such applications. The inevitable result of the filing of writ petitions elsewhere then at the place where the concerned offices and the relevant records are located is to delay prompt return and contest. This decision does not deal with the aspect of territorial jurisdiction. It is rather a judgment which lays down the considerations that should be kept in mind by the Court while granting or refusing interim protection. This decision is, however, relevant from the point of view that the records pertaining to the consideration of the petitioners applications for additional intake/additional course(s) would all be located at Jaipur where the Northern Regional Committee of the respondent Council is located and

the records showing the consideration of the petitioners applications by the Northern Regional committee would also be located at Jaipur. Therefore, the most convenient Court for the petitioners to approach, in case they are aggrieved by the acts/omissions of the Northern Regional Committee of the Council which is statutorily empowered to deal with the applications made by the petitioners, would be the courts in Jaipur/Rajasthan.

14. In ***Kusum Ingots*** (supra), the Supreme Court observed that *"We must remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens"*. A similar view was in ***Musaraf Hussain Khan Vs. Bhageerath Engineering Limited and Ors.*** (2006) 3 SCC 658.

15. The decision in ***Nirmal Kumars Sikdar*** (supra) is of no relevance whatsoever, inasmuch as, the said decision was rendered even prior to the 15th amendment of the Constitution in 1963 whereby Sub Article (1A) [which after the 42nd amendment was renumbered as Sub Article (2)] was inserted. ***Mohd. Ashfaq @ Haji Kallu*** (supra) was a case decided on the aspect of territorial jurisdiction on a finding that cause of action had arisen within the jurisdiction of this Court. Same is the position in ***Navin Chandra N. Majitia*** (supra). These

decisions do not advance the argument of learned counsel for the petitioners.

16. ***Sthapati Engineers and Builders*** (supra), in my view, has no relevance to determine the issue in hand. This was a case dealing with the territorial jurisdiction of the court to hear the objections to the award. Apart from the fact that the arbitrator had filed his award in this Court, the Court also took into account the fact that the respondent institute is a unit of CSIR Society having its registered office in Delhi. I find no discussion in this case on the aforesaid aspect. The same does not constitute a binding precedent on the aspect of territorial jurisdiction of the High Court under Article 226 of the Constitution.

17. ***Alchemist Limited*** (supra) is a case dealing with the aspect of "cause of action" and is not a case decided on the basis of Article 226 (1) upon which petitioner's case is entirely founded. The Court held that the expression "cause of action", which has neither been defined in the Constitution, nor in the CPC can be described as bundle of essential facts necessary for the plaintiff to prove before he can succeed. Failure to prove such facts would give the defendant right to judgment in his favour. Cause of action thus gives occasion and forms the foundation of the suit. If there is no cause of action, the plaint or petition has to be dismissed.

18. Applying the aforesaid principle in the present cases, I find that no cause of action can be said to have arisen within the territorial

jurisdiction of this Court. The applications were made by the petitioners to the Northern Regional Committee at Jaipur, the applications were processed by the Northern Regional Committee at Jaipur. The impugned decisions were taken at, or the Northern Regional Committee failed to take decisions at Jaipur, and also communicated the impugned decision to the petitioners from Jaipur. Therefore, no part of cause of action has arisen within the jurisdiction of this court to vest jurisdiction to entertain the present writ petitions.

19. The respondent Council exercises its jurisdiction all over the country in the performance of its statutory duties. The Council has formed various regional committees which exercise jurisdiction and discharge statutory duties and functions under the Act within their respective areas of jurisdiction. Merely because the Council has its Head Office in Delhi, in my view, a party cannot approach this Court to impugn the acts/omissions of one or the other regional committees which are located at places not within the jurisdiction of this Court.

20. The petitioner has relied upon the decisions of the Supreme Court in ***Agencia Commercial International Limited*** (supra) to submit that as a general proposition a body corporate and its branches are not distinct and separate entities from each other. As noticed hereinabove, the regional committees are statutorily constituted committees discharging statutory functions and duties. It is only the particular regional committee, which has jurisdiction over the concerned area within which the institution is established or proposed

to be established, that can deal with any application for recognition made by an applicant. When the petitioners are statutorily required to approach only a particular regional committee located at a particular place, I do not appreciate how the petitioners who were obliged to and have approached the Northern Regional Committee at Jaipur, can approach this Court for seeking redressal of the grievances against the acts/omissions of the Northern Regional Committee when this court has no territorial jurisdiction over the Northern Regional Committee of the Council at Jaipur.

21. Mr. Sharawat submits that the decision of ***Kusum Ingots*** (supra) cannot be applied in the facts of this cases since the said decision does not deal with Article 226 (1) and this decision only considers the issue in the light of Article 226(2). The argument of Mr. Sharawat cannot be accepted. The Supreme Court in ***ONGC Vs. Utpal Kumar Basu and Ors.*** (1994) 4 SCC 711, which is a three Judge Bench decision, inter alia, has held as follows:

“The Supreme Court in *Saka Venkata Subba Rao's* case (supra) while interpreting Article 226 as it then stood observed as under:

“The Rule that cause of action attracts jurisdiction in suits is based on statutory enactment and cannot apply to writs issuable under Article 226 which makes no reference to any cause of action or where it arises but insists on the presence of the person or authority "within the territories" in relation to which the High Court exercises jurisdiction.”

Thus, this Court ruled that in the absence of a specific provision in Article 226 on the lines of the CPC, the High Court cannot exercise jurisdiction on the plea

that the whole or part of the cause of action had arisen within its jurisdiction. This view was followed in subsequent cases. The consequence was that only the High Court of Punjab could exercise jurisdiction under Article 226 of the Constitution against the Union of India and other bodies located in Delhi. To remedy this situation, Clause (1A) was inserted by the 15th Amendment Act, 1963 to confer on the High Court's jurisdiction to entertain a petition under Article 226 against the Union of India or any other body or authority located in Delhi if the cause of action has arisen, wholly or in part, within its jurisdiction. Clause (1A) was later renumbered as Clause (2) of Article 226. Therefore, the learned Counsel for NICCO is right that this amendment was introduced to supersede the view taken by this Court in the aforesaid case. **But as stated earlier, on a plain reading of Clause (2) of Article 226, it is clear that the power conferred by Clause (1) can be exercised by the High Court provided the cause of action, wholly or in part had arisen within its territorial limits.**" (emphasis supplied)

22. I may also refer to a recent decision of the Supreme Court in ***Eastern Coal Field Limited and Ors. Vs. Kalyan Baneerjee*** (2008) 3 SCC 456. The respondent had sought to challenge the termination of his services with the appellant, which had its head office in West Bengal, by approaching the courts in Calcutta. The respondent was an employee who was posted in Jharkhand State. His appointing authority was also located in Jharkhand state. The termination order was not subject to sanction of the head office in West Bengal, and had been issued from Jharkhand State. The Supreme Court held that in these circumstances no part of the cause of action could be said to have arisen within the State of West Bengal and the entire cause of action had arisen outside West Bengal. Mere location of the head office of the company in West Bengal would not

confer jurisdiction upon the Calcutta High Court to entertain a writ petition to challenge the termination.

23. In support of their case that this court has the territorial jurisdiction to entertain the present writ petitions the petitioners have, in their respective petitions made substantially the same averment. As a sample I am reproducing the averment made in the case of Vinayak College of Education W.P.(C) No.6813/2008, which reads as follows:

"29. Although the office of the NRC is situated at Jaipur and the Petitioner college is based on the State of Rajasthan, but in view of the fact that the Regulations dated 27.12.2005 and 10.12.2007 were framed by the NCTE with its head office in New Delhi. Not only this the NCTE at New Delhi has also issued various clarifications, public notices thereby clarifying the said Regulations. The relief sought by the Petitioner in the present writ petition is totally dependent upon and is consequential to interpretation of the said Regulations/clarifications/notices framed by the NCTE at New Delhi, therefore this Hon'ble Court has territorial jurisdiction to entertain and adjudicate the present writ petition. In this regard reliance is placed upon decisions of the Hon'ble Supreme Court of India in VARELI WEAVERS PVT LTD vs UNION OF INDIA {(1996) 3 SCC 318}; U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD LUCKNOW vs STATE OF U.P {(1995) 4 SCC 738} and decision of a Division Bench of this Hon'ble Court in M/S J.K. INDUSTRIES LTD vs UNION OF INDIA {2002 V AD (DELHI) 668}."

24. Merely because Regulations dated 27.12.2005 and 10.12.2007 have been framed by the Council at Delhi, and merely because the Council is stated to have issued clarifications and public notices thereby clarifying the Regulations at Delhi, which have All India

application, the same would not vest jurisdiction in this Court to entertain these petitions. This is well settled, including by the decision of the Supreme Court in ***Kusum Ingots*** (Supra). It cannot be appreciated, how jurisdiction can be claimed to be vested in this Court merely because the reliefs sought in the writ petitions require interpretations of the Regulations/Clarifications/ Notices framed by the Council at New Delhi. I have, therefore, no doubt that no cause of action has arisen within the jurisdiction of this Court. Even otherwise, I am not inclined to exercise the discretionary jurisdiction under Article 226 of the Constitution, since the most convenient Court to approach would be the Court having territorial jurisdiction over the Northern Regional Committee of the Council, where all the relevant records are situated.

25. Learned counsel for the petitioner pointed out that in respect of one of the petitioners namely Vinayak College of Education, the petitioner in W.P. (C) No. 6813/2008, the 132nd meeting of the Northern Regional Committee was, in fact, held in New Delhi between 11/14.09.2008 wherein the case of the said petitioner was considered. He, therefore, submits that this court would have jurisdiction to entertain the writ petition since a part of cause of action, atleast in relation to the said petitioner, had arisen within the jurisdiction of this court. Though there may be merit in the submission of the petitioner, I am still not inclined to entertain the writ petition also for the reason that under Section 18 of the Act any person aggrieved by an order

made under Section 14 or 15 or 17 of the Act can prefer an appeal to the Council. The petitioner Vinayak College of Education therefore has an efficacious alternative remedy available to it by way of a statutory appeal.

26. For the aforesaid reasons, I dismiss this batch of writ petitions with costs of Rs.15,000/- in each petition to be paid to the Prime Minister's Relief Fund within two weeks. Since I have not touched upon the merits of any of these petitions, it shall be open to the petitioners to approach the appropriate Court to agitate their respective rights and to seek appropriate remedy.

(VIPIN SANGHI)
JUDGE

JANUARY 07, 2009
rsk/dp