

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 26.08.2009

+ **W.P.(C) 11068/2009**

LORD KRISHNA COLLEGE OF EDUCATION Petitioner

- Versus -

NCTE & ANR Respondents

Advocates who appeared in this case:-

For the Petitioner : Mr Sanjay Sharawat

For the Respondent : Mr V. K. Rao with Mr Ayushya Kumar

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MS. JUSTICE VEENA BIRBAL

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. With the consent of the parties this writ petition is taken up for disposal at the admission stage itself. It is also made clear that the respondents do not admit anything contained in the petition which is contrary to the record.

2. The petitioner is aggrieved by the order dated 07.08.2009 passed by the National Council for Teacher Education whereby the petitioner's appeal against the order dated 23.04.2009 passed by the Northern Regional Committee, refusing recognition for conducting the B.Ed course, was dismissed. The Northern Regional Committee had refused recognition to the

petitioner for conducting the B.Ed course for the Session 2009-10 on two grounds:-

- (i) The CLU has not been issued by the competent authority in the prescribed format;
- (ii) The State Government recommendation was negative.

3. From the impugned order dated 07.08.2009 it appears that a document dated 06.04.2009, which purports to be a CLU, was shown to the Council. It is also recorded in the impugned order that the representative of the petitioner admitted that this document had not been submitted to the Northern Regional Committee. It, therefore, appears that the Council did not consider the submission of the said document dated 06.04.2009 as sufficient compliance of the requirements of submitting a Change of Land Use certificate (CLU).

4. Insofar as the CLU is concerned, the learned counsel for the petitioner submitted that the document dated 06.04.2009, which was submitted by them, was not, in fact, a CLU at all. It was a letter from the District Town Planner, Enforcement, Hisar indicating that the site of the petitioner's college, which was comprised in Khasra No. 53/5/2, 54/1 in the revenue estate of village Siwani Bolan, District Hisar, did not fall within the controlled areas and / or urban areas of the said District. The letter further indicates that in case, in future, the site of the petitioner's college fell within the controlled areas, it would have to seek fresh permission under the provisions of the Punjab Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963. The learned counsel for the

petitioner further submitted that since the petitioner's site did not fall within the controlled areas, a certificate had to be obtained from the Gram Panchayat. It is the petitioner's case that the certificate of the Gram Panchayat had been filed along with the application and was definitely before the Northern Regional Committee. According to the learned counsel for the petitioner, this aspect of the matter has been overlooked by the Council while passing the order dated 07.08.2009.

5. The learned counsel appearing on behalf of the respondents submitted that it is an essential criteria that the Change of Land Use certificate must be submitted along with the application. It is not sufficient that such a certificate is produced before the Appellate Authority. However, the learned counsel for the respondents submitted that as the record is not with him at the moment, he is not able to confirm as to whether the petitioner had furnished the certificate of the Gram Panchayat with regard to land use or not.

6. With regard to the second ground for rejection and that is that the State Government recommendation was negative, the learned counsel for the petitioner submitted that such negative recommendations need not come in the way of the Council for granting recognition for conducting B.Ed courses. As an instance, the learned counsel for the petitioner drew our attention to the Council's orders, both dated 07.08.21009, in respect of Guru Dronacharya College of Education, Mohindergarh, Haryana and Shri Ganpati Institute of Education & Technology, Mohindergarh, Haryana. In the said orders, in respect of the other two institutions, it appears that the

Council has taken the stand that the NCTE had not taken any policy decision not to grant recognition for conducting B.Ed course for the session 2009-10 and consequently the negative recommendation of the State Government did not come in the way of granting such recognition. We may also note that with regard to the submission of CLU, in both the orders in respect of the other two colleges, the Council had accepted the certificates issued by the Gram Sarpanch and found the same to be in sufficient compliance.

7. The learned counsel for the respondents pointed out that insofar as the negative recommendation of the State Government is concerned, in the other two orders, there is no mention of the statistical data whereas in the petitioner's case statistical information has been provided indicating that there are 51,000 seats in Haryana in the B.Ed course and the total number of students who passed graduation every year is only about 42,000. As a result, thousands of seats remained unfilled. Therefore, granting recognition to further institutes would only add to the unfilled seats.

8. In response to this, the learned counsel for the petitioner has placed before us a copy of the letter received from Maharshi Dayanand University, Rohtak pursuant to information sought under RTI Act, 2005 which indicates that as per the record of the university, it has received 71,755 forms for admission to B.Ed (Regular) Course 2009-10 upto 15.07.2009, which was the last date for receipt of the application forms. According to the learned counsel for the petitioner, this is a significant statistic in the sense that there are 71,000 applicants for the B.Ed Course whereas there are only 51,000

seats available in Haryana. According to the learned counsel for the petitioner, this figure gives a complete answer to what has been noted in the impugned order dated 07.08.2009, which indicates that if further recognition is granted to new institutions, thousands of seats would remain unfilled.

9. After considering the aforesaid submissions, we are of the view that the impugned order ought to be set aside and the matter be remanded to the Council for reconsideration. Consequently, we set aside the impugned order dated 07.08.2009 and remand the matter to the Council for consideration afresh particularly in terms of the submissions recorded above. We expect that the Council shall consider the same and pass an order in accordance with law within 10 days from today.

The writ petition stands disposed of.

Dasti.

BADAR DURREZ AHMED, J

VEENA BIRBAL, J

AUGUST 26, 2009
SR