

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

**Date of decision: 7<sup>th</sup> July, 2010.**

+ W.P.(C) No.3830/2010

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**ISHAN INSTITUTE OF MANAGEMNET  
AND TECHNOLOGY**

..... Petitioner

Through: Mr. Saurabh Trivedi, Advocate.

## Versus

**NATIONAL COUNCIL FOR TEACHER EDUCATION  
AND ANR.**

..... Respondents

Through: Mr. Amitesh Kumar, Advocate for NCTE.

***CORAM :-***

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

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|----|-----------------------------------------------------------------------|----|
| 1. | Whether reporters of Local papers may be allowed to see the judgment? | No |
| 2. | To be referred to the reporter or not?                                | No |
| 3. | Whether the judgment should be reported in the Digest?                | No |

**RAJIV SAHAI ENDLAW, J.**

1. Though no notice of this petition has been issued to the respondents as yet but the counsel for the respondents was called for yesterday and has been heard today.
2. The petitioner had applied on 30<sup>th</sup> December, 2003 to the Northern Regional Committee (NRC) of the National Council for Teacher Education (NCTE) established under the National Council for Teacher Education Act,

1993, for recognition for imparting educational course of Basic Training Certificate (BTC). The NRC vide its order dated 14<sup>th</sup> November, 2006 found the Institute of the petitioner fit for grant of recognition for imparting education in the BTC course to 50 students, subject to the condition of appointment of qualified staff through duly constituted selection committee and subject to certain other conditions. It is the case of the petitioner that notwithstanding the said order of the NRC it could not commence imparting education in the BTC course owing to the permission thereof having not been obtained from the State of U.P. within whose territory the Institute of the petitioner was situated. The counsel for the petitioner adds that at the then contemporaneous time the State of U.P. had no policy with respect to the grant of permission to private Institutes for imparting education in the said course. Resultantly, the petitioner did not appoint prescribed staff through prescribed selection/appointment procedure in terms of the condition aforesaid imposed by NRC.

3. The counsel for the petitioner had yesterday handed over in this Court a photocopy of the communication dated 19<sup>th</sup> May, 2010 of the Secretary of the Basic Education Department of the State of U.P. to the Director State Council for Education Research & Training, State of U.P. stating that such Institutes which have been allowed affiliation by the State and which are recognized will be entitled to impart education for the BTC course. It is stated that now the State of U.P. has formulated a policy for permitting

private Institutes as the petitioner to impart education in the BTC course.

4. However in the meanwhile, owing to the petitioner having not satisfied the condition of appointment of qualified staff in terms of the order dated 14<sup>th</sup> November, 2006 (supra), the NRC vide its order contained in minutes of 141<sup>st</sup> meeting dated 22<sup>nd</sup> May to 24<sup>th</sup> May, 2009 refused recognition to the petitioner.

5. The petitioner preferred the statutory appeal against the aforesaid refusal, to the NCTE. However the said appeal has been dismissed vide letter dated 6<sup>th</sup> May, 2010 for the reason of being barred by time and the petitioner having not shown sufficient grounds for condonation of delay.

6. Aggrieved therefrom the present writ petition has been preferred.

7. The petitioner contends that the petitioner, as per the policy now formulated by the State of U.P. would be entitled to apply for affiliation to the State of U.P. only if granted recognition by the NCTE. It is further stated that the last date for application for affiliation to the State of U.P. for the current academic year is 31<sup>st</sup> August, 2010. It is further urged that the only ground on which recognition has been refused to the petitioner is of having not furnished the list of faculty appointed as per NCTE norms, has since been remedied and the faculty has already been appointed by a duly constituted selection committee.

8. The counsel for the respondents contends that the petitioner in the

appeal before the NCTE concealed that the copy of the order aforesaid of the NRC had been sent to the petitioner vide postal receipt dated 10<sup>th</sup> July, 2009, copy whereof is shown on the record of the NCTE Appellate committee produced by the counsel. It is further contended that the petitioner, in the appeal also did not state as to on which date it noticed the order on the website and that the pleas of the petitioner for condonation of delay in preferring the appeal before the NCTE were vague. The counsel for the respondent thus contends that there is nothing wrong in the order of NCTE dismissing the appeal of petitioner as time barred. It is further contended that the petitioner is always entitled to apply afresh to NRC for recognition.

9. NCTE has been set up/constituted to regulate the training and education of teachers. It is concerned with granting recognition and satisfying itself that the Institutes imparting education to the teachers who carry with them the onus to, in turn teach and inculcate the minds of the future generation are duly qualified and equipped to do so and that Institutes which are not in a position to turn out duly qualified teachers do not proliferate. Hierarchy of Regional Committees with appeal thereagainst to the NCTE is only to eliminate human error. It is not as if on account of non preferring the appeal, any rights are created in favour of any other party and which ought not to be disturbed by condoning the delay in preferring the appeal. Though a period for preferring appeal has been prescribed but with power to the NCTE to admit and hear appeals preferred after the prescribed

period upon finding sufficient cause for delay in preferring appeal. In the present case considering that the petitioner, notwithstanding the conditional recognition by the NRC, was unable to commence teaching operations owing there being no policy then of the State of U.P. for affiliation, it cannot be said that the petitioner even if filed the appeal belatedly inspite of knowledge of the order of the NRC, the petitioner had sufficient reason for not preferring the appeal earlier. Till a policy as aforesaid was formulated by the State of U.P., the recognition granted by the NCTE was of no value to the petitioner. In fact the petitioner at one stage had itself written to NCTE, withdrawing its application for recognition. Further the postal receipt aforesaid on the file produced, is addressed to the petitioner at Noida with the Pin Code No.201 when the address of the petitioner admittedly is of Delhi or of Greater Noida and in the letter heads of the petitioner on record the Pin Code No.201 is not to be found.

10. Considering all the aforesaid, the order of the NCTE dismissing the appeal of the petitioner on the ground of limitation cannot be sustained and is set aside.

11. However no purpose would be served in remanding the matter to the NCTE to decide the appeal on merits inasmuch as considerable time has elapsed since grant of conditional recognition as aforesaid by NRC to the petitioner. Owing to long lapse of time, it will have to be verified whether the petitioner has complied with other conditions imposed by NRC. It will

also have to be verified whether the claim of the petitioner of having now appointed the faculty is correct. All this will have to be done by the NRC only and cannot possibly be done by the Appellate Committee of NCTE. I have in ***Guru Nanak Khalsa College Vs. National Council for Teacher Education*** WP(C) 4218/2010 decided on 2<sup>nd</sup> July, 2010 held that subsequent events can be taken note of. If the matter is remanded to NCTE Appeal Committee, it will lead to waste of time and the petitioner missing the deadline aforesaid of 31<sup>st</sup> August, 2010. It is expedient that the matter is considered by NRC. The argument of counsel for respondent that petitioner can apply afresh has no merit. The applications for recognition are found to have a considerably long incubation period and petitioner ought not to be pushed back in the queue.

12. The counsel for the respondents states that without the order of the NRC being set aside, NRC would not be entitled to decide the matter afresh and at this stage seeks time to file reply stating that notice even has not been issued. He further contends that the order of the NRC is not even under challenge in this petition and cannot be set aside.

13. As aforesaid the purpose of NCTE was only to act as a regulatory body and not to take an adversarial stand qua the applicants. As long as NCTE and the Regional Committees are required to perform their statutory duties, they ought not to come in the way of such recognition sought, specially when generally it is found that the students are more than the seats

in the teaching institutions.

14. In the aforesaid circumstances the order dated 9<sup>th</sup> July, 2009 of NRC is also set aside and while allowing the petition, the matter is remanded to NRC for decision in terms of above, after giving opportunity to the petitioner. The NRC will satisfy itself as to whether the petitioner has complied with all the conditions and/or with any subsequent requirement/event on account of which the petitioner may now not be entitled to recognition. In view of the urgency expressed, the NRC is requested to dispose of the matter preferably on or before 16<sup>th</sup> August, 2010.

15. The counsel for the respondents at this stage states that since then there has been a direction for not granting any further recognitions for several of the courses. If there is any such subsequent event, liberty has already given hereinabove to the NRC to act in accordance with the same.

The writ petition is disposed of. No order as to costs.

The order be given Dasti.

**RAJIV SAHAI ENDLAW  
(JUDGE)**

**7<sup>th</sup> July, 2010**  
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