

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

Date of decision: 13th July, 2010.

+ W.P.(C) No.4094/2010

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G.D. MEMORIAL COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, Advocate

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.** Respondents
Through: Mr. Ayushya Kumar & Mr. Vaibhav
Kalra, Advocates

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. This writ petition has been preferred impugning the order dated 12th April, 2010 of the Appeal Committee of the National Council for Teacher Education (NCTE) and for a mandamus directing the Northern Regional Committee (NRC) to conduct inspection and decide the application of the petitioner for recognition for B.Ed. course from the academic session 2010-11. It is the case of the petitioner that as per the Regulations earlier in force of the NCTE for recognition, the Institution seeking recognition and / or the

society managing the said Institution could be a lessee of the property from which the Institute / College was to be run / operated. The case of the petitioner is that it is managed and run by Shri Krishna Shiksha Samiti (Regd.), a Society registered under the Societies Registration Act, 1860; that one Sh. Baldev Krishna has been and is the Chairman of the said Society; that the land on which the building of the petitioner College is constructed is in the name of the said Sh. Baldev Krishna; that the said Sh. Baldev Krishna had executed a 99 years lease with respect to the said land in the name of the Society aforesaid. It is further the case of the petitioner that after making the application for recognition, it came to its knowledge that as per the amended Regulations, the Society or the Institution was required to be the owner of the land and being a lessee, even if for 99 years, was not sufficient; Sh. Baldev Krishna being the owner of the land is then stated to have executed a Gift Deed with respect to the land in favour of the Society. It is further the case of the petitioner that the said Gift Deed was also filed by the petitioner with the NRC.

2. The NRC did not process the application of the petitioner for recognition. The petitioner filed writ petition being WP(C) No.8749/2008 before this Court in this regard. The said writ petition was disposed of vide order dated 10th December, 2008 on the statement of the counsel for the NRC / NCTE that the application of the petitioner for recognition shall be processed and decided within 90 days. The petitioner contends that instead

of having the Institute of the petitioner inspected, as required, the NRC vide order communicated vide letters dated 12th March, 2009, closed the file of the petitioner for recognition on the following three grounds:

- “(i) State Govt. recommendation is required Clause 7(3) of Regulations 2007. The State Government recommendation is negative. State Govt. has provided reasons / grounds and statistics for not granting recognition.
- (ii) The institution has not submitted permission letter from the competent authority to use the land for educational purposes as required under the Clause 8(8) of Regulation 2007.
- (iii) The land is not in the name of institution as required under Clause 8(7) of the Regulations 2007.

Hence, committee decided not to have inspection and file is to be closed and FDRs are to be returned.”

3. Aggrieved from the aforesaid decision of the NRC, the petitioner preferred the statutory appeal to the Appeal Committee of NCTE. The Appeal Committee as aforesaid, vide order dated 12th April, 2010 dismissed the appeal merely by observing as under:

“**AND WHEREAS** the Council noted that the land was registered in the name of the society only on 3.7.2008 i.e. after 9.6.2008 which was the date of submission of the application.

Thus the land was neither in the name of the Society nor in the name of the institution. Therefore, the institution did not fulfill the mandatory requirement of Regulation 8(7) of NCTE Regulations 2007, which stipulated that no institution shall be granted recognition under the Regulation unless it was in possession of required land either on ownership basis or on lease from Government on the date of submission of application. The Council was therefore of the view that there was no ground to accept the appeal.”

4. Aggrieved from the aforesaid, the present writ petition has been filed. Notice of the writ petition was issued and a counter affidavit has been filed by the respondents. In the counter affidavit, it is merely stated that since as per the Regulations in force at the time when the petitioner submitted the application for recognition, either the petitioner College or Society governing the same were required to be the owners of the land / property on which the building of the College was situated and further since admittedly on that date, the petitioner College / Society governing it were not the owners and merely the lessee for 99 years, the application was not in order and has been rightly rejected.

5. One thing is clear from the aforesaid facts; that though on the date of making the application for recognition, the petitioner did not satisfy the requirement of ownership but before the application was even considered by

the NRC, the petitioner satisfied the said requirement. However, neither the NRC nor the Appeal Committee have taken the same into consideration.

6. I have in judgment dated 2nd July, 2010 in WP(C) No.4218/2010 titled ***Guru Nanak Khalsa College Vs. National Council for Teacher Education*** held that subsequent events are to be taken note of. I now find that a single Judge of Karnataka High Court also in ***Municipal Teachers Training Institute Vs. The NCTE*** MANU/KA/0010/2001 has taken the same view.

7. The counsel for the petitioner has further contended that the NRC under Regulation 7(1) of the NCTE (Recognition Norms & Procedure) Regulations, 2009, even if finding any deficiency in the application of the petitioner for recognition, was required to give an opportunity to the petitioner to remove the said deficiency. On the basis of the said Regulation, it is contended that it is thus not as if it is mandatory to be the owner of the land on the date of making the application; even if the College / Society becomes the owner of the land upon the defect in title being pointed out, the same is required to be taken into consideration.

8. The counsel for the respondents has responded by contending that at the time of the order of the NRC, the NCTE (Recognition Norms & Procedure) Regulations, 2007 were in force; Regulation 8(7) of the said Regulations prohibit recognition being granted to any Institution unless it

was in possession of the required land on the date of the application. It is thus contended that the requirement under the Regulations of 2007 was of being the owner of the land on the date of application for recognition.

9. I am unable to accept the contention of the counsel for the respondents. Under Regulations of 2007 also, as under Regulations of 2009, the applicant seeking recognition was required to be given an opportunity for making up the deficiencies, if any, in the application. The prohibition under Regulation 8(7) (supra) was only for such applicant Institutions which were not even in possession of the land on the date of the application. The petitioner in the present case, on the date of the application was in possession of the land though as a lessee for 99 years; subsequently without even the said deficiency having been pointed out, the petitioner became the owner of the land. The counsel for the petitioner has also drawn attention to Regulation 8(10) of the 2007 Regulations where under also the applicant Institution was required to fulfill all the norms for recognition, at the time of inspection. On the basis thereof, it is contended that under the Regulations of 2007 also, the deficiencies even if any of the petitioner qua the title of the land could be fulfilled till the date of inspection. The counsel for the petitioner urges that the petitioner without any notice being served upon and before inspection had already removed the said deficiency. In fact, it is one of the grievances of the petitioner that no opportunity as required was given

to it before rejection of its application by the NRC. I find merit in the said contentions also of the petitioner.

10. I therefore hold that the Appeal Committee erred in dismissing the appeal. It is also found that the Appeal Committee did not even deal with the other two grounds of rejection by the NRC. It is found that the appeals are being dealt with by the Appeal Committee of the NCTE in a casual manner. The Appeal Committee is required to return its findings on all the grounds for rejection by the Regional Committees as well as the grounds urged by the appellant. Else, in the event of this Court disagreeing with the finding of the Appeal Committee will have to remand the matter to the Appeal Committee for adjudication on other aspects and which will necessarily lead to delays.

11. However, in the present case, since the inspection even of the petitioner has not been done, instead of remanding the matter to the Appeal Committee, it is deemed proper to remand the matter to the NRC for decision on the application of the petitioner in accordance with law.

12. The petition accordingly succeeds. The order of the Appeal Committee dismissing the appeal of the petitioner is set aside. The matter is remanded to the NRC for processing the application of the petitioner for recognition in accordance with law. Sufficient time having already lapsed,

NRC is directed to decide the application within three months of today. The petition is disposed of. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

13th July, 2010
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