

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

Date of decision: 13th July, 2010.

+ W.P.(C) 4563/2010

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ARUL EDUCATIONAL TRUST

..... Petitioner

Through: Mr. S. Nanda Kumar, Advocate with Mr.
Achin Goel, Mr. Satish Kumar & Ms. Anjali
Chauhan, Advocates

Versus

**THE MEMBER SECRETARY, 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. The petitioner by this writ petition impugns the order dated 5th May, 2010 of the Appeal Committee of the National Council for Teacher Education (NCTE) rejecting the appeal of the petitioner against the order dated 2nd March, 2010 of the Southern Regional Committee (SRC) denying recognition to the petitioner to conduct B.Ed. course.

2. The SRC had rejected the application of the petitioner for recognition for the reason that as against the required built up space of 27,000 sq.ft., the petitioner had available with it only 25,000 sq.ft. and the balance 2,000 sq.ft. was yet to be completed. The SRC had in fact imputed an admission on the petitioner as to the deficiency of 2,000 sq.ft. space.

3. The Appeal Committee has noticed that the Visiting Team in its Report of September 2009 had reported that the B.Ed. course for which recognition was sought and the D.Ed. course for which the petitioner already has recognition were intended to be conducted from a “main building and an adjacent small one story building”; a portion of the main building was still under construction and the available built space was only 25,000 sq. ft. instead of requirement of about 27,000 sq. fit.

4. Considering the nature of controversy, with the consent of counsel for respondents who appears on advance notice, the counsels have been finally heard.

5. It is the contention of the counsel for the petitioner that the petitioner has duly sanctioned built up space of 27,200 sq.ft. as per the Building Completion Certificate issued by the concerned agency; that though some work of construction was going on at the time of inspection by Visiting Team in September 2009 and is still going on but the same is for further expansion and not for the purposes of the B.Ed. & D.Ed. courses. The

petitioner has placed before this Court, the Building Completion Certificate with respect to 27,200 sq.ft. space. The counsel for the petitioner has also drawn attention to the letter dated 24th December, 2009 in which admission of paucity of 2,000 sq.ft. space is attributed to the petitioner. From a reading thereof, it is contended that no such paucity is admitted therein.

6. Though the petitioner along with the paper book has not filed the copy of appeal preferred before the Appeal Committee but has handed over a copy of the same in the Court. It is the contention of the petitioner in the memorandum of said appeal also that it was in possession of completely constructed of 27,200 sq.ft. space as per the Completion Certificate issued to it.

7. The counsel for the respondents has attempted to show discrepancy in the Completion Certificate and in the representations from the petitioner from time to time to contend that notwithstanding the said Completion Certificate, the built up space of 27,200 sq.ft. does not exist. However, unfortunately the order of the Appeal Committee does not deal with the same. The Appeal Committee has not given the said reason of discrepancy in the order dismissing the appeal. This Court cannot contemplate what prevailed with the Appeal Committee in rejecting the documents showing completed built up space of 27,200 sq.ft. The order of the Appeal Committee cannot be sought to be justified on grounds which do not appear from the order itself. I have already in *Shanti College of Education Vs.*

NCTE, W.P.(C) No.13220/2009 decided on 8th July, 2010 held that the Regional Committees as well as the Appeal Committee are required to deal with the contentions raised before them and give reasons for their orders. It is only then that either the Appeal Committee or this Court in the exercise of the power of judicial review would be able to understand as to what prevailed in the minds of the decision making authorities in deciding either way. The Appeal Committee in the order impugned in this petition has relied on the visiting team report (VTR) only. However, notwithstanding the said VTR, the petitioner had in the appeal, relying on the Completion Certificate, contended that the area does exist. The Appeals Committee ought to have dealt with the said Completion Certificate and if not agreeable with the same given reasons therefor. The counsel for the petitioner also relies on the judgment dated 14th September, 2009 of another Single Judge of this Court in *Rajalakshmi Educational Trust Vs. Member Secretary, NCTE* MANU/DE/2402/209 being WP(C) No.8290/2008 laying down that reasons are required to be given.

8. However, this Court does not deem it appropriate to, in the exercise of power under Article 226 of the Constitution go into the question of whether the petitioner is entitled to recognition or not. More so, when the Appeal Committee on perusal of VTR has also found the petitioner lacking/deficient in other respects also, viz the books available in library being unrelated to teaching education and infrastructure and instructional resources are grossly

insufficient and suffer from short comings. Even though the same did not form part of the reasons given by SRC for refusing recognition but the Appeal Committee was fully entitled to satisfy itself in all respects. However, before the Appeal Committee bases its decision on factors/grounds other than those given by SRC, the AC is required to give an opportunity to the petitioner to place its case qua such other factors/grounds. The same does not appear to have been done. The matter is as such required to be remanded to the Appeal Committee for decision afresh after hearing the petitioner.

9. A perusal of the Memorandum of Appeal also shows that the petitioner has not stated the facts and not urged the grounds therein as succinctly as before this Court. To enable the Appeal Committee to properly adjudicate the matter the petitioner is also granted an opportunity to make a further representation to the Appeal Committee not only to show existence of 27,200 sq.ft. available space but also as to why the VTR on other aspects is incorrect.

10. I may notice that I have in *Guru Nanak Khalsa College Vs. NCTE*, W.P.(C) No.4218/2010 decided on 2nd July, 2010 also held that the subsequent events are to be taken into consideration. In view of the said judgment, even if the space of 27,200 sq.ft. did not exist on the date of the order of the SRC or on the date of the order of the Appeal Committee but if the petitioner succeeds in now showing that the said space of 27,200 sq.ft. as

required exists, the Appeal Committee shall take that into consideration. Similarly, it shall be open to the petitioner to show that other deficiencies mentioned in VTR and noticed by AC in order dated 5th May, 2010 have since been removed. The counsel for the respondents has suggested that the petitioner be directed to apply afresh for recognition. However, considering investments done on building the infrastructure and further considering the gestation time in processing the application for recognition, the alternative course suggested of directing the petitioner to prefer a fresh application for recognition is not found expedient.

11. The petition is allowed in aforesaid terms. The parties to appear before the Appeal Committee of NCTE which will decide the appeal afresh in accordance with law. It will be open to the Appeal Committee to, before deciding the appeal, satisfy itself on all aspects including of inspection of the existence of the infrastructure and other facilities as per the norms. No order as to costs.

RAJIV SAHAI ENDLAW, J

JULY 13, 2010

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