

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

Date of decision: 8th September, 2010.

+

W.P.(C) 5995/2010

**BASANT LAL MEMORIAL COLLEGE
OF EDUCATION**

..... Petitioner

Through: Mr. Sanjay Sharawat, Advocate

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR**

..... Respondents

Through: Mr. Vaibhav Kalra, Advocate

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

- | | | |
|----|---|----|
| 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 petition impugns the order dated 27th August, 2010 of the Appeal Committee of the National Council for Teacher Education (NCTE) pursuant to the order dated 6th July, 2010 in WP(C) 4397/2010 and WP(C) No.4398/2010. This petition came up before this Court first on 6th September, 2010 when counsels were heard with orders to be pronounced during the course of the day. The counsel for the petitioner thereafter mentioned the matter and for which reason orders were not pronounced and the matter directed to be listed today.

2. The petitioner was recognized for B.Ed. course vide order dated 15th October, 2007. On 13th August, 2008 recognition was also granted to the

petitioner for Diploma in Elementary Education also known as D.Ed. as well as D.El.Ed. The Northern Regional Committee (NRC) in its 142nd meeting held from 14th to 16th June, 2009 in pursuance to powers under Section 17 of the NCTE Act, decided to inspect the Institute of the petitioner where the aforesaid two courses was being imparted. Pursuant to inspection on 7th August, 2009, a show cause notice dated 4th November, 2009 pointing out the deficiencies qua both the courses was issued to the petitioner and to which a reply dated 18th November, 2009 was issued by the petitioner. The NRC in its 160th meeting, held from 18th to 20th May, 2010, decided to withdraw the recognition to the petitioner for both the courses aforesaid. The petitioner preferred the statutory appeals to the Appeal Committee of the NCTE. It was at that stage that the writ petitions WP(C) No.4397/2010 & WP(C) No. 4398/2010 (supra) came to be filed before this Court and wherein the Appeal Committee was directed to dispose of the appeal in a time bound manner and certain other directions were given.

3. Pursuant thereto the Appeal Committee vide order dated 27th August, 2010 has allowed the appeal of the petitioner qua B.Ed. course but dismissed the appeal qua D.Ed. course. This writ petition has been filed qua the order of dismissal.

4. The appeal of the petitioner qua D.Ed. course has been dismissed only for one reason i.e. that the petitioner had not selected any Head of the Department (HOD) for the said courses and Sh. Satender Kumar Yadav who the petitioner was urging was the HOD was not selected by the Selection Committee for the post of HOD but was selected for the post of the Lecturer only.

5. The petitioner after the hearing on 6th September, 2010 had mentioned the matter stating that the Selection Committee had agreed to meet on 7th

September, 2010 for considering the appointment of Sh. Satender Singh Yadav as HOD. The petitioner since then has produced before this Court the original Minutes of the meeting of the Selection Committee held on 7th September, 2010 wherein Sh. Satender Singh Yadav has been appointed as the HOD. The contention of the petitioner now is that since the only deficiency / defect, for the reason whereof the recognition of the petitioner for D.Ed. Course has been withdrawn, has been removed, the petitioner be permitted to admit students in the current academic year for the D.Ed. course and the counseling for admission whereof is stated to have started on 4th September, 2010.

6. The counsel for the respondents has drawn attention to Appendix-2 and Appendix-4 of the NCTE Regulations, 2009. While Appendix-2 deals with the Norms and Standards for D.Ed. programme, Appendix-4 deals with Norms and Standards for B.Ed. degree.

7. Appendix-2 prescribes the staff for D.Ed. programme to be comprising of a Principal and six Lecturers. The Principal has to have the same qualifications as for the post of a Lecturer with an additional requirement of five years experience in teaching in primary and elementary teacher education institution. It also mentions that if more than one course in teacher education are run by the same Institution in the same campus, the institution shall have one Principal for the entire institution and “Heads” for the different teacher education programmes offered in the Institution. However, Appendix-2 nowhere mentions the qualification for the “Head” for the D.Ed. programme. On the contrary, Appendix-4 (relating to B.Ed.) prescribes the qualification for the Principal / Head (in multi-faculty Institutions) and the qualification for both are the same.

8. The counsel for the respondents opposing the petition has contended

that since in Appendix-4 relating to B.Ed. programme, the qualification prescribed for Principal /HOD is the same, the qualification for the HOD for D.Ed. programme should also be the same as that for the Principal. He further contends that Mr. Satender Singh Yadav though claimed by the petitioner in the earlier writ petition as well as before the Appeal Committee to have been appointed on 16th August, 2009 as the HOD was not appointed as the HOD but as a Lecturer only because till then he did not have the five years experience of teaching in primary or elementary teacher education as required for a Principal in D.Ed. programme, though since then he has gained such experience and on 7th September, 2010 was having the qualification as of Principal for D.Ed. programme. He thus contends that there is no error in the order of the NRC or of the Appeal committee in holding that there was no qualified HOD for the D.Ed. programme.

9. The Norms and Standards prescribed for B.Ed. & D.Ed. are different. While for B.Ed. programme the HOD is required to have the same qualification as of a Principal, it is not so for D.Ed. programme. When while framing regulations, at the same time for two courses different format / approach is adopted, ordinarily it is to be presumed that what is prescribed for one and is missing in the other was not intended for the other. Thus, I am unable to accept the contention of the respondents that since the qualification prescribed for HOD in Appendix-4 (supra) is the same as the qualification prescribed for the Principal, the same should be read in Appendix-2 as the rule for HOD for D.Ed. course also. If the makers of the said norms intended the HOD for D.Ed. programme to also have the same qualification as the Principal, as in the case of B.Ed., nothing prevented them in prescribing so in Appendix-2 also. However, this discussion is not intended to be a final opinion on the matter and it is still left to the authorities concerned to take a decision in this regard. The observations today have been made in the absence of any document showing application

of mind by the experts on the said aspect.

10. As of today, Mr. Satender Singh Yadav is admittedly qualified to be the HOD and has been appointed as the HOD by the Selection Committee. Thus, for the current academic session as well as for the students admitted to D.Ed. course in 2009 (it being a two years course), as of today the HOD is available.

11. Though there is merit in the contention of the counsel for respondents that in the circumstances aforesaid no error can be found in the orders of the NRC and the Appeal Committee impugned in this petition but in the opinion of this Court, the subsequent event can be considered in this jurisdiction also particularly when there are no disputed questions of fact and when an Institute / College has earlier been granted recognition. Withdrawal of recognition has serious repercussions on the continuity of the Institution and also affects the fate of the students already admitted thereto. With a gap year, the Institute which is self-financed may not be able to sustain its resources and which would result in the facilities available to the existing students also being depleted. Thus when there is no challenge to the petitioner Institute as of today meeting the requisite criteria for imparting education in D.Ed. course, it is not deemed expedient to deprive it of the same for the technicality of the deficiency having been removed after the order of the Appeal Committee impugned in this writ petition.

12. The counsel for the respondents at this stage contends that it is only the NCTE which could have decided the validity of the document produced before this Court and as to whether Mr. Satender Singh Yadav has the requisite qualification or not. It will be open to the NCTE to go into the aspect and if finds that the petitioner has misrepresented facts or that Mr. Satender Singh Yadav has not been appointed as HOD by a duly constituted

Selection Committee or is not qualified for the post of HOD, to take appropriate action in this regard. In the event of the same happening and the petitioner in the meanwhile admitting students to the D.Ed. course and the fate of the said students being affected owing to the petitioner, the petitioner would remain liable to compensate the said students with such compensation which may be determined by this Court, upon application in this regard being made by the respondents or by any of the students.

13. The petition is allowed on the aforesaid terms. The subsequent events aforesaid are found to entitle the petitioner to conduct the D.Ed. course in the current academic year. The petitioner would thus be entitled to admit students for the D.Ed. course in the current academic year subject to the condition aforesaid. No order as to costs.

Dasti under signature of the Court Master to the counsel for the parties.

**RAJIV SAHAI ENDLAW
(JUDGE)**

8th SEPTEMBER, 2010
gsr