

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

Date of decision: 8th September, 2010.

+ W.P.(C) No.14116/2009 & CM No.16262/2009 (for stay)

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RAO O.P.M. COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, Advocate.

Versus

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

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. Whether reporters of Local papers may
be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether the judgment should be reported Yes.
in the Digest?

RAJIV SAHAI ENDLAW, J.

1. The petitioner had applied to the Northern Regional Committee (NRC) of the National Council for Teacher Education (NCTE) for recognition for starting D.Ed. course with effect from the academic session 2008-2009. The NRC rejected the said application of the petitioner vide its order dated 23rd April, 2009. The petitioner preferred a statutory appeal to the Appeal Committee of the NCTE and which appeal was disposed of vide order dated 26th November, 2009. The contention of the petitioner is that the NRC had rejected the application only on two grounds i.e. (i) CLU is not

issued by the competent authority on the prescribed format and (ii) the State Government recommendation is negative. It is contended that the Appeal Committee was satisfied that the CLU produced by the petitioner was by the appropriate authority; the Appeal Committee has also observed that if the recommendation of the State Government was negative, the NRC should not have carried out the inspection of the Institution of the petitioner. It is thus urged that the Appeal Committee having upset both the reasons on which NRC had rejected the application, ought to have granted recognition to the petitioner for D.Ed. course; instead the Appeal Committee has remanded the matter to NRC for re-consideration accepting the CLU and also taking into account the Visiting Team Report (VTR).

2. The Appeal Committee has in the order dated 26th November, 2009 given reasons for remanding the matter to the NRC. The Appeal Committee noted that the VTR dated 8th October, 2008 had reported:

“The multipurpose hall is under construction, construction work done is just half of what is needed that’s why management did not give blue print map of the building and tampered with C.D.”

3. The Appeal Committee observed that the glaring deficiency aforesaid pointed out by the Visiting Team did not form a part of the deficiency show cause notice issued by the NRC to the petitioner and further observed that recognition ought to have been refused on this ground alone. It was for this

reason that the Appeal Committee remanded the matter to the NRC for re-examination in the light of aforesaid Visiting Team Report observation.

4. The counsel for the petitioner has argued that the Appeal Committee could not have extended the scope of the inquiry. It is contended that as per Section 18(5) of the NCTE Act, 1993 the Appeal Committee is entitled to either confirm or reverse the order of the NRC and the Appeal Committee is not entitled to go into the other aspects which did not form the basis of the order of the NRC. Reliance in this regard is placed on the judgment dated 22nd October, 2009 of this Court in W.P.(C) No.12154/2009 titled ***Lord Krishna College of Education Vs. NCTE***. It is contended that the matter relating to the other deficiencies even if any with respect where to no show cause notice was issued by the NRC and which did not form the ground for rejection of application by the NRC could not have been opened by the Appeal Committee. The petitioner thus seeks the relief from this Court of setting aside the part of the order of the Appeal Committee which remands the matter to the NRC and of granting recognition to the petitioner.

5. I am unable to accept the aforesaid contention of the counsel for the petitioner. The petitioner cannot be permitted to brush under the carpet in the manner aforesaid the serious deficiencies if any in its infrastructure, than as per the norms prescribed in the NCTE Act and the Regulations framed thereunder. The NCTE Act and the Regulations framed thereunder are

aimed at setting up a Regulatory Body without whose recognition none can impart education/training in the field of teacher education. The same are to eliminate Institutes/Colleges not equipped to impart such education and prevent them from profiteering at the expense of gullible students. The NCTE and its Regional Committees are to safeguard the interest of the students seeking education/training in the field of teacher education. The Act has provided double layered machinery in this regard. The applications for recognition are required to be considered by the Regional Committees and appeals against their orders are provided to the Appeal Committee. Such double check cannot be allowed to be defeated. It cannot be argued that the Appeal Committee of the NCTE which as aforesaid, essentially is a Regulatory Body, even if during the course of hearing of an appeal finds that an applicant Institute is not equipped to conduct the course for which recognition is sought, is bound to grant such recognition merely because such ground was not noticed by the NRC. If such interpretation is to be adopted, it would lead to the ill-equipped Institutes which do not meet the prescribed norms admitting students and playing with their future and career. Such an interpretation cannot be accepted by this Court. I therefore do not find any error in the order of the Appeal Committee remanding the matter to the NRC owing to the reasons pointed out in the order.

6. This Court in *Lord Krishna College of Education* (supra) set aside order of the Appeal Committee remanding the matter to the NRC for the

reason of the same being a bald direction and bereft of any reason at all for such remand and/or as to why a fresh inspection was necessary. However the same is not the position in the present case. The Appeal Committee has given reasons arising from the Visiting Team Report for remanding the matter to the NRC. Thus the said judgment is not apposite to the facts of the case.

7. The counsel for the petitioner has also urged that the petitioner apprehends that the NRC on such remand would commence a *de novo* inquiry for fulfillment by the petitioner of all norms for conducting the D.Ed. course and with respect where to NRC was earlier satisfied. It is contended that the same would prejudice the petitioner and ought not to be allowed. Some directions are sought for limiting the scope of inquiry by the NRC on such remand, only to the deficiencies pointed out in the order of the Appeal Committee.

8. I am not inclined to issue any such direction also. The inspection earlier conducted by the NRC was for the previous academic year. One year has elapsed since then. NRC is found to have committed at least one mistake in overlooking the Visiting Team Report to the extent pointed out by the Appeal Committee. I hesitate from restraining NRC from examining the matter again. It is quite possible that the Appeal Committee finding one deficiency in the Visiting Team Report not considered by the NRC and

finding the same sufficient to remand the matter stopped from any further inquiry. It is possible that there may be other deficiencies which were also overlooked by the NRC. NRC cannot be stopped from looking into the matter in entirety and then taking a decision on remand. Similarly it is quite possible that some norms may have changed in the last one year or there may be several infrastructural requirements which may require a fresh inspection as to continuance thereof. All that can be said is that the remand should not be used to harass the petitioner.

9. The counsel for the petitioner has also made arguments with respect to the State Government recommendation being negative. Reliance is placed on *State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya* (2006) 9 SCC 1 and on the judgments of the Bombay High Court in W.P.(C) No.1279/2010 titled *Jay Bajrang Pratishthan Vs. National Council for Teacher Education*; W.P.(C) No.1282/2010 titled *Siddhivinayak Shaikshanik & Samajik Sanstha Vs. National Council for Teacher Education*; W.P.(C) No.1961/2010 titled *Saraswati Shikshan Prasarak Mandal Vs. National Council for Teacher Education*; W.P.(C) No.3062/2010 titled *Triveni Educational & Social Charitable Trust, Kolhapur Vs. National Council for Teacher Education*; W.P.(C) No.3721/2010 titled *Man Vidya Prasarak Mandal Vs. National Council for Teacher Education*; W.P.(C) No.3479/2010 titled *Kansa Khora Shikshan Prasarak Mandal Vs. National Council for Teacher Education*; W.P.(C)

No.3429/2010 titled *Jyotiba Bhakt Mandal Society Vs. National Council for Teacher Education*; W.P.(C) No.3455/2010 titled *Sitarama Roma Kale Shikshan Sanstha Vs. . National Council for Teacher Education*; W.P.(C) No.3702/2010 *Vishwabharati Shikshan Prasarka Mandal Bapumiya Deshmukh Adyapak Vidyalay Vs. National Council for Teacher Education*; W.P.(C) No.3703/2010 titled *Shivchaleshwar Devasthan Trust Vs. . National Council for Teacher Education* to contend that the same could not have been the basis. Per contra the counsel for the respondent relies on the judgment dated 13th August, 2009 of the Rajasthan High Court in W.P.(C) No.5913/2009 titled *Sampat STC Mahavidhayalaya (BSTC) Vs. The State of Rajasthan through the Secretary (School Education), Govt. Secretariat, Rajasthan, Jaipur (Rajasthan)* and has also filed a copy of the letter dated 31st July, 2008 of the State Government requesting the NRC to refuse permission to the petitioner. It is contended that NRC on the basis of the said recommendation of the State Government can take a decision to refuse recognition. The judgment aforesaid of the Rajasthan High Court is relied on in this regard.

10. The counsel for the petitioner has rejoined by contending that since neither NRC nor the Appeal Committee has accepted the said recommendation, the NRC is now precluded from considering the same.

11. Since I am upholding the remand to the NRC, it is not deemed expedient to return any finding on the said aspect. The parties would be free to make their representation/submissions on this aspect before the NRC and the NRC would on remand decide the matter in accordance with law.

12. With the aforesaid observations, the petition is dismissed. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

8th September, 2010
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