

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

% *Date of Judgment: 05.7.2011*

+ **CONT. CAS (C) No.232/2011**

DR. RAJALAKSHMI EDUCATIONAL TRUST Appellant
Through: Mr.S. Nanda Kumar and
Ms.Seema Singh, Advocates.

Versus

SHRI HASIB AHMED & ANR. Respondents.
Through: Mr. Amitesh Kumar, Advocate.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

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

INDERMEET KAUR, J. (Oral)

1. By way of this petition, it has been pointed out that the order of this Court dated 14.09.2009 has not been complied with; the respondents are guilty of contempt of Court.
2. The petitioner (Dr. Rajalakshmi Educational Trust) is an

educational trust who had sought recognition for running a college of education i.e. the B. Ed. Program. The petitioner had submitted the requisite documents i.e. the lease deed, building plans, structural stability certificate, completion certificate pursuant to which an inspection had been carried out by the committee constituted by the Southern Regional Committee of the National Council for Teacher Education. In the order dated 14.09.2009, it had been noted that the inspection of the premises (at site) had been carried out pursuant to a fee amount of ₹ 40,000/- which has been deposited by the petitioner. This order had further noted that the Inspection Committee had ignored all relevant documents only with a view to reject the application of the petitioner for grant of recognition. The impugned order of the inspecting committee dated 11.01.2008 i.e. the order passed by the Southern Regional Committee and the order dated 14.10.2008 passed by the NCTE rejecting the application of the petitioner had been set aside; the respondents had been directed to grant recognition to the petitioner for the B. Ed. course forthwith.

3. It is not disputed that recognition has since been granted to the petitioner; this was in terms of the letter of recommendation issued on 13.10.2009 by the NCTE; recognition was granted on

01.12.2009 by the Regional Director of the NCTE in terms of Section 14 (3)(a) of the NCTE Act, 1993 for conducting its B. Ed. course.

4. There was initially a dispute about the inspection of the premises i.e. as to whether the premises had been inspected at the old address or at the new address. The old address of the petitioner college is:-

"29-30, Oragadam Road, Ambattur, Chennai-600 053."

The new address of the petitioner college is:-

"Palavedu village, Mattnamalli Post, Avadi, Chennai 600 055"

5. This controversy has been set at rest by the affidavit placed on record (along with the rejoinder filed by the petitioner); this affidavit is of Sh. D.N. Sreenivasappa, Regional Director of NCTE wherein para 4 of the application (filed along with the rejoinder) it has been clearly stated that the B. Ed. course proposed to be carried out by the petitioner college at Palavedu village, Chennai has been inspected by the inspecting team and the report has been submitting showing that it has a built up area of 17,544 square feet; building completion certificate had also been filed along with the said affidavit. Thus there remains no dispute to the

fact that the building site at the new address i.e. Palavedu village, Chennai had been inspected.

6. It has been pointed out by learned counsel for the petitioner that the respondent is however even till date for one reason or the other unduly harassing him;, it is still hell bent on withdrawing the recognition granted on 01.12.2009.

7. Attention has been drawn to the notice dated 18.11.2010 issued by the NCTE to the petitioner college. The said notice reads as follows:-

“To

The Correspondent

Dr. Rajalakshmi College of Education,

Palavedu Village, Mittanamalli Post,

Avadi,

Chennai-600055,

Tamilnadu

Subject: Inspection of your institution under section 17 of NCTE ACT for B.Ed-course-reg.

Sir,

With reference to the above, SRC in its 196th meeting held on 15th-16th September 2010 has decided to conduct inspection under section 17 after submission of fee of ` 40000/- by the institution and on submission of filled in Questionnaire, along with relevant supporting documents relating to building, land, including Building Completion certificate from the competent Government Engineer and land Use

Certificate, within four weeks from the date of confirmation of the Minutes.

It is to convey that SRC-NCTE proposes to inspect your institution under section 17 of NCTE Act 1993 by a team of experts between 10th to 20th November 2010.

You are now required to be ready with the various infrastructural and instructional facilities as per the norms and standards prescribed by NCTE.

Further, please find enclosed a QUESTIONNAIRE seeking details of infrastructural and instructional facilities provided in the new building/location. The questionnaire shall be duly filed and submitted along with the above documents within 15 days without fail.

Therefore, you are requested to submit the above fee and documents within 15 days failing which action will be taken as deemed fit which includes withdrawal of recognition.

Yours faithfully

(Gangadharaiah)
Regional Director”

8. It is pointed out that this notice presupposes a situation where a first time inspection has to be carried out and that is why there is a mention of deposit of inspection fee of ₹40,000/-. To this query learned counsel for the respondents has no answer. He has candidly admitted that the fee is charged only at the initial inspection which inspection already stands foreclosed.

9. Learned counsel for the respondent has drawn attention

of this Court to Section 17 of the NCTE Act. Relevant would it be to reproduce Section 17 of the NCTE Act. It reads as under:-

“17.CONTRAVENTION OF PROVISIONS OF THE ACT AND CONSEQUENCES THEREOF

(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognized institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of section 14 or permission under sub-section (3) of section 15 was granted, it may withdraw recognition of such recognized institution, for reasons to be recorded in writing:

Provided that no such order against the recognized institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognized institution:”

10. Section 17 no doubt gives powers to the Regional Committee either on its own motion or on any representation received from any person to inspect a recognized institution; however this power as is evident from this statutory provision is only if there is contravention of any of the provisions of the Act or rules, regulations, orders made or issued thereunder; in these circumstances the recognition may be withdrawn.

11. A bare perusal of the notice dated 18.11.2010 shows that there is no mention of any contravention of the provisions of the Act or its rules, regulations, orders made or issued thereunder. Submission of learned counsel for the petitioner is thus borne out

to the extent that this appears to be a case of undue harassment to the petitioner. There is no doubt that powers are available to the respondent to reinspect the premises but only for the purpose as mentioned in Section 17 of the NCTE Act. Notice dated 18.11.2010 has not presupposed such a situation.

12. Attention has also been drawn to the subsequent notice dated 01.02.2011 issued by the NCTE to the petitioner wherein it has been pointed out that the members of the inspecting team had visited the institution on 25.11.2010 for inspection but the main gate was found locked and the building could not be inspected; contact on telephone was also not available; this had led to the issuance of this show cause notice constraining the NCTE to note that in these circumstances notice was issued to show cause as to why recognition granted be not withdrawn. Admittedly a written representation to the show cause notice had been sent by the plaintiff; the said representation is not on court record. Today it has been agreed upon between the parties that the premises of the petitioner college at Palavedu village, Mattnamalli Post, Avadi, Chennai 600 055 will be available for inspection by the respondents on 15.07.2011 between working hours at 10:30 AM to 05:30 PM which is a right available to the respondent in terms of Section 17 of the NCTE Act.

13. Noting the aforementioned facts, no further orders are called for; the petition is disposed of accordingly.

INDERMEET KAUR, J.

JULY 05, 2011

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