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

% Judgment Delivered on: **April 20, 2011**

\+ **LPA No. 315 Of 2011**

IP College of Education ..... Appellant
Through: Mr.Sanjay Sharawat, Advocate.

Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

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

DIPAK MISRA, CJ

For orders, see LPA 242/2011.

CHIEF JUSTICE

SANJIV KHANNA, J.

APRIL 20, 2011
pk

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IN THE HIGH COURT OF DELHI AT NEW DELHI

(5)

% Judgment Delivered on: April 20, 2011

+1. LPA No. 242 Of 2011.

Saheed Capt. D.K. Khola College of Education ..... Appellant
Through: Mr.Sanjay Sharawat, Advocate.
Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

2. LPA No. 243 Of 2011

Kalpana Chawla College of Education for Women & Ors. ..... Appellants
Through: Mr.Sanjay Sharawat, Advocate.
Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

3. LPA No. 313 Of 2011

I.B. Women College of Education & Management ..... Appellant
Through: Mr.Sanjay Sharawat, Advocate.
Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

4. LPA No. 314 Of 2011

IPS School of Management and Education ..... Appellant
Through: Mr.Sanjay Sharawat, Advocate.
Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

5. LPA No. 315 Of 2011

IP College of Education ..... Appellant
Through: Mr.Sanjay Sharawat, Advocate.
Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

6. LPA No. 316 Of 2011

IPS College of Education Research & Technology ..... Appellant
Through: Mr.Sanjay Sharawat, Advocate.
Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

7. LPA No. 318 Of 2011

Shanti Niketan College of Education & Ors. ..... Appellants
Through: Mr.Sanjay Sharawat, Advocate.
Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

8. LPA No. 320 Of 2011

Rao Kehar Singh Elementary Institute of Education & Anr. ..... Appellants
Through: Mr.Sanjay Sharawat, Advocate.

Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

9. LPA No. 358 Of 2011

Rao Udmi Ram Memorial College of Education ..... Appellant
Through: Mr.Raj K. Ruhil and Mr.Vivek Malik, Advocates.

Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

10. LPA No. 359 Of 2011

B.M.P. College of Education ..... Appellant
Through: Mr.Raj K. Ruhil and Mr.Vivek Malik, Advocates.

Versus

National Council for Teacher Education & Anr. ..... Respondents
Through: Mr.Mayank Manish with Mr.Amitesh Kumar, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

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

DIPAK MISRA, CJ

Not for nothing it has been said, training is the first foundation of life and better than an abstract concept. Training is fundamentally governed by reason which is tested on the touchstone of logic and rational acceptability. It distances itself from desire, habitual disobedience and unfettered feelings. In a cultured society which is governed by Rule of Law, the command of law is an imperative prescription. The collective at large is assured of what is just and right. It ostracises any reason based on ignorance as well as pretence. It does not countenance any allowance to any deviation or artificially contrived path. In a State where the Rule of Law is supreme, it is not expected to have any kind of conflict and hazard which is hostile to it. Warren E. Burgern, in one of his addresses, had spoken thus:-

> "Rule of law places restraints on individuals and on governments alike. This is a delicate, a fragile balance to maintain. It is fragile because it is sustained only by an ideal that requires each person in society, by an exercise of free will, to accept and abide the restraints of a structure of laws."

2. It is apt to note here that sometimes, some individuals and at other times, some institutions managed by individuals, scandalise the role attributed to them for imparting education and training. Sometimes, as the factual exposé would uncurtain, the private institutions, which impart training to the students who, in turn, become teachers and teach the students, endeavour to create a state of instability in the name of Rule of

Law. One may not be very much wrong if it is called inadequacy and starvation of intellect. One is reminded of the saying that if one is totally truthful, he shall always be courageous and not labour hard to take recourse to the over-stretched concepts and unnecessary labyrinths of interpretation.

3. The question, a pivotal and a spinal one, that arises for determination in this batch of appeals is whether the stand and stance assiduously pyramided by the appellants to the extent that the Northern Regional Committee (NCR) constituted by the Central Council under the National Council for Teachers Education Act, 1993 (for brevity 'the Act') is devoid of power and authority to carry any inspection after the recognition is granted under Section 14 of the Act, or whether the submission of the NCTE that the Act was enacted by the Parliament to provide for the establishment of a National Council for Teachers Education with a view to achieving planned and coordinated development of the teachers education system throughout the country, the regulation and proper maintenance of norms and standards in teachers education system and for matters connected therewith, and, therefore, the power of inspection has to be an integral part of the scheme of Section 17 of the Act.

4. The proposition that has been canvassed by the institutions fundamentally is that once the Regional Committee grants recognition, it has no power to do anything relating to inspection as the power

exclusively vests with the National Council for the same and, therefore, any action for inspection by the Regional Committee is totally sans the authority of law and deserves to be lanceted in exercise of inherent jurisdiction of this Court. The proponement of NCTE is that the interpretation that is placed by the institutions exposes a disturbing phenomenon that corrodes the marrows of the educational institutions which are concerned with imparting education to the students who, in turn, become teachers and eventually the system of education is slaughtered or thrown to the abysmal depth so that the term "teaching", as is understood in the proper paradigm, would lose importance, for a vicious atmosphere is deliberately created.

5. The aforesaid controversy, as we proceed with our deliberations, shall gradually get unfurled and uncurtained. We may note with profit that regard being had to the commonality of issue involved in these appeals, they are disposed by a singular order. For the sake of clarity and convenience, the facts in LPA No.242/2011 arising out of order dated 28.2.2011 passed by the learned Single Judge in W.P.(C) No.9703/2009 are exposited herein.

6. The appellant, Saheed Capt. D.K. Khola College of Education, was granted recognition by the National Council for Teacher Education (for short 'NCTE') and its functionaries for conducting four courses, namely, B.Ed; B.Ed [Add]; D.Ed and M.Ed, in the year 2007-2008. The recognition

for each course was granted by the respondents after conducting inspection each time and after duly verifying the availability of the requisite infrastructural and instructional facilities. The affiliation was granted by the University after due inspection and the appellant institution was subject to numerous inspections before affiliation was granted. On 4.6.2009, the NCTE conducted inspection of the appellant institution under Section 13 of the Act. Thereafter, the respondent No.2, namely, Northern Regional Committee (for short 'NRC'), desired to conduct inspection of the appellant and constituted an inspection team. When the appellant institution got the information about the inspection, a request was made to defer the date. That apart, it was also stated that NCTE had already conducted the inspection under Section 13 of the Act. On 4.6.2009, a show cause notice was issued under Section 17 of the Act purporting to withdraw the recognition of the appellant in respect of all courses on the ground that the inspecting team was not allowed to conduct the inspection. Thereafter, the appellant submitted its reply and requested the NRC that it was open to inspection any time. Despite the said request, the NRC withdrew the recognition of the appellant in respect of all courses.

7. Being dissatisfied with the said order, the appellant preferred the writ petition challenging the power of the Regional Committee to conduct inspection of any recognized institution after recognition is granted under the Act. It was contended before the learned Single Judge that the

Regional Committee does not have the power under Section 17 of the Act or under any other provision of the Act, Rules and Regulations to conduct an inspection once the recognition is granted by it. It was urged that the Regional Committee is a subordinate body which exercises limited powers under Sections 14, 15 and 17 of the Act being a nodal regulatory body of NCTE and, hence, could not have thought of inspecting the institution. The further stand was when there is an express conferment of power on the Council, the regional committee cannot assume the said power and inspect the institution for the reason that if a statute requires a particular thing to be done in a particular manner, the same shall be done in that manner or not done at all. It was also put forth that the doctrine of implied power does not get attracted while interpreting Section 17 of the Act.

8. A counter affidavit was filed by the respondents contending, inter alia, that the Regional Committees have been empowered to grant recognition and permissions to the institutions desirous of conducting teachers training courses and the power also rests with the Regional Committees to derecognize a particular institution under Section 17 of the Act which provides for contravention of the provisions of the Act and consequences thereof. The stand that there is no provision in Section 17 for causing inspection is totally devoid of substance inasmuch as the Regional Committee, on its own motion, or on any representation received from any person, on being satisfied that any institution has contravened any of the provisions of the Acts or the Rules, Regulations, Orders made or issued

thereunder, or any conditions subject to which recognition under sub-section (3) of Section 14 or permission under sub-section (3) of Section 15 was granted, may withdraw recognition of such recognized institution for reasons to be recorded in writing. The satisfaction can be arrived at by causing inspection of the institution by a team consisting of professionals / experts in the field who, after inspection, submit their report which is ultimately considered by the Regional Committee before proceeding further in terms of the procedures laid down under Section 17 of the Act. If the Regional Committee without inspection would arrive at a conclusion that the recognition granted is to be withdrawn, the said procedure can be termed as arbitrary. The inspection is caused in the interest of the institution and the purpose of inspection is for fair assessment and objective satisfaction.

9. It was contended that the writ petition had been preferred to preempt and prevent the NCTE and NRC from going ahead with the process of inspection in accordance with the provisions of the Act and Rules and Regulations framed thereunder. A recognized institution can neither deny nor obstruct the NRC from causing inspection for ascertaining as to whether the institution concerned is complying with the provisions of the Act and the Regulations framed thereunder. The assertion that causing of an inspection tantamounts to coercive action is devoid of any substance and, in fact, it is an Act of preemption from conducting an inspection. There is no right inhered as claimed in the writ

petition and, therefore, the question of infringement of the same does not arise. It is urged that when the Regional Committee intended to cause inspection, the institutions held a large demonstration outside the office of the NCTE Headquarters at New Delhi and about hundred persons barged into the room of the Chair Person of NCTE and started thumping the table and made wild gestures against him. They wanted an assurance that NCTE / NRC would not go ahead. The situation became very tense and the authorities were constrained to report the matter to the police authorities for lodging an FIR against the persons concerned. A copy of the complaint dated 16.6.2009 written by the Under Secretary to the SHO, I.P. Estate Police Station was brought on record as Annexure R-2. It was put forth that the institution had already been inspected by the expert committee constituted by the NRC on 2.7.2009 and submitted its report to the NRC and the NRC, after considering the reports, issued show cause notice on 4.8.2009 under Section 17 of the Act and the reply to the same was awaited.

10. It was the stand in the return that the power of withdrawal as engrafted under Section 17 of the Act empowers the NRC to initiate the process for ascertaining whether a particular institution is complying with the provisions of the Act and the provisions framed thereunder and the Regional Committee may initiate such a process either on its own motion or on a representation made by any person. It was also put forth that the same is done so that there is no infraction of the statutory provisions and

further to ensure that the provisions of the Act, the Rules, Regulations and the norms are appropriately followed.

11. It is pertinent to note that during the pendency of the writ petition, the NRC, in its 155th meeting held from 23rd to 25th January, 2010, decided to withdraw the recognition of the appellants in respect of all the three courses and pursuant to the said decision, the NRC passed a formal order of withdrawal of recognition of all the three courses vide Annexure A-13. A corrigendum was issued by the NRC on 26.2.2010 deciding to keep the order of withdrawal of recognition of the appellants in abeyance till the outcome of the writ petition which has been pending before the learned Single Judge.

12. At this juncture, we may reproduce the question posed by the learned Single Judge:

> "Whether under the National Council for Teacher Education Act, 1993, the Regional Committee has any power to inspect an Institution granted recognition under the said Act or whether the power of such inspection is only with the Council constitution under the said Act."

After posing the said question, the learned Single Judge referred to various provisions of the Act and certain decisions in the field and came to hold that the contentions of the writ petitioner did not deserve acceptance and the inspection by the Regional Committee could not be faulted because of lack of authority as the said Committee has the power to inspect the institution to which recognition has been granted.

13. We have heard Mr.Sanjay Sharawat, learned counsel for the appellant, and Mr. Mayank Manish with Mr.Amitesh Kumar, learned counsel for the respondents.

14. Mr. Sharawat, learned counsel for the appellant has raised the following contentions:

(a) When the language of the provision is clear and unambiguous, it was unwarranted on the part of the learned Single Judge to incorporate something which is not there in Section 17 and thereby entered into the field of legislation.

(b) Under the scheme of the NCTE Act, there are two statutory bodies, namely, the Central Council and the Regional Committee. The Council is the nodal regulatory body entrusted with vast functions and powers under Sections 12, 13, 18 and 32 of the Act which is the heart and soul of the statute and responsible for laying down the norms and standards and ensuring for their compliance and further the power to conduct inspection is conferred expressly upon the Council under Section 13 and this power is available to the Council alone and can be exercised after recognition has been granted to the institutions. There is no other provision in the Act which speaks of inspection and, hence, the post-recognition inspection would lie with the Central Council. The said legislative intent is clear, manifest and unambiguous and, hence, the learned Single Judge has clearly erred in his interpretation of Section 17 of the Act.

(c) Section 31 of the Act confers power on the Central Government to make rules to carry out the provisions of the Act and there is a specific provision in sub-section (e) under which the rules are required to be framed for the purpose of regulating the power of inspection under Section 13. Under Section 32 of the Act, NCTE is vested with the powers to frame regulations for the purpose of carrying out the provisions of the Act and none of the provisions confer any power on the Central Government or the NCTE to frame rules or regulations for conferment of power on the Regional Committee relating to post recognition inspection.

(d) When the power is absent in Section 17, the doctrine of implied power cannot be implanted into it inasmuch as the said doctrine can only be invoked in cases where when an Act confers jurisdiction to do a particular thing, it also confers, by implication, the power of doing all such acts or employing such means as are essentially necessary for its execution. The said doctrine can legitimately be invoked when it is found that the duty has been imposed or the power conferred on an authority by a statute and it is further found that the duty cannot be discharged or the power cannot be exercised unless some auxiliary or incidental power is presumed to exist. When the learned Single Judge has not opined that it is absolutely essential that the Regional Committee must possess power to conduct inspection of recognized institutions in order to effectively

discharge its statutory obligation, to implant such power in the language of Section 17 of the Act causes violence to the basic tenets of statutory interpretation.

(e) The learned Single Judge has erred in holding that a statutory body, i.e., regulatory in character, has to be given full play and, hence, to be held to be empowered to do all things necessary to enable it to effectively regulate what it has been constituted to regulate though the concept of invocation of inherent power by a statutory body is unknown to law.

(f) The NCTE Act is a self-contained code and expressly deals with all aspects for regulating teacher education system in the country and after grant of recognition, the Regional Committee does not have any power to conduct inspection in order to ascertain whether the said institution is complying with the provisions of the Act or not. The recognition of an institution can be withdrawn strictly in accordance with the express provisions of the Act which has been spelt out in Section 17 of the Act and the words used under Section 17 are capable of only singular interpretation and, hence, the interpretation placed by the learned Single Judge is absolutely unacceptable.

(g) The learned Single Judge by the order impugned made an effort to supply the statutory omission which is not permissible. The order of the learned Single Judge suffers from incurable infirmity as he has

endeavoured to perceive a conflict between two provisions in a statute and harmonise them to bring in consistency though there is no inconsistency in the provisions. That apart, when the provisions are absolutely plain, clear and unambiguous, the interpretation should have been placed regard being had to be language employed.

(h) The learned Single Judge misinterpretated Section 20(6) of the Act to come to the conclusion that the Central Council can assign certain powers to the Regional Committee in addition to the functions which are given under Sections 14, 15 and 17 but the statutory authorities are required to function within the statutory framework and there cannot be conferral of additional power which travels beyond the statutory parameters. That apart, when the legislature has vested the power with a superior body, the said power cannot be carried out by a subordinate body, that is, the Regional Committee.

The learned counsel for the appellant, to bolster the aforesaid contentions, has placed reliance on number of citations to a few of which we shall refer to while dwelling upon the fundamental issues.

15. Mr. Mayank Manish, learned counsel for the respondents, per-contra, has propounded the following contentions:

(i) The term 'Council' which has been defined in the dictionary clause Section 1(c) to mean National Council for Teacher Education as per Section 3(1) of the Act has to be read in a comprehensive manner to

cover Regional Committee as the Regional Committees are constituted and established by the Council. Section 2(i) defines recognized institution to mean an institution recognized by the Council under Section 14 and, therefore, the term 'Council' cannot be restricted to the Central Council as is contended by the learned counsel for the appellant.

(ii) Section 17 of the Act empowers the Regional Committee to withdraw the recognition if there is contravention of the provisions of the Act and, hence, it would be totally incompatible and absurd if it is interpreted that the inspection has to be done only by the National Council after the recognition is granted.

(iii) Sections 13, 14, 15 and 17 are to be read in a purposive manner to give effect to and to carry on the purposes of the Act and not to create impediments.

(iv) Section 20(6) empowers the Regional Committee to perform such other functions as may be determined by the Regulations and, therefore, to deny the said authority the power of inspection once it had granted recognition is wholly inconceivable and, therefore, the interpretation placed by the learned counsel for the appellant is unacceptable.

(v) Section 21 of the Act empowers the Council to terminate the Regional Committee and to reconstitute the Regional Committee and till the Committee is in existence, it is inappropriate to hold that

the said Committee, despite being its original character, cannot carry out an inspection and become a silent spectator.

(vi) The reliance on Section 31(e) is a procedural one and does not compete or cannot be allowed to compete with the substantive power conferred on the Regional Committee under Section 17 of the Act.

(vii) It is difficult to think of a situation wherein only the National Council can inspect and not the Regional Committee. On the contrary, it would be apposite to construe that despite inspection by the Regional Committee, the National Council can also proceed for inspection for the purpose of achieving planned and coordinated development of the teacher education system and may recommend for implementation of certain aspects or to take appropriate action as required. There may be a situation when the Regional Committees are disbanded or terminated, and then the Council can carry on the inspection.

16. To appreciate the rival submissions raised at the bar, it is necessary to scan the anatomy of the Act. Section 2(c) defines 'Council' as follows:

> "(c) "Council" means the National Council for Teacher Education established under sub-section (1) of section 3;"

17. Section 2(i) defines 'recognised institution' as follows:

> "(i) "recognised institution" means an institution recognised by the Council under section 14;"

18. Section 2(j) defines "Regional Committee" as follows:

> "(j) "Regional Committee" means a committee established under section 20;"

19. Section 3 which occurs in Chapter II deals with the establishment of the Council. Sub-section (1) of Section 3 reads as follows:

> "3 (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint there shall be established a Council to be called the National Council for Teacher Education."

20. Section 12 deals with the functions of the Council. The said provision, being relevant, is reproduced below:

> "12. **FUNCTIONS OF THE COUNCIL**
>
> It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may –
>
> (a) undertake surveys and studies relating to various aspects of teacher education and publish the result thereof;
>
> (b) make recommendations to the Central and State Government, Universities, University Grants Commission and recognised institutions in the matter of preparation of suitable plans and programmes in the field of teacher education;
>
> (c) co-ordinate and monitor teacher education and its development in the country;
>
> (d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions;
>
> (e) lay down norms for any specified category of courses or trainings in teacher education, including the minimum

eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

(f) lay down guidelines for compliance by recognised institutions, for starting new courses or training, and for providing physical and instructional facilities, staffing pattern and staff qualification;

(g) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;

(h) lay down guidelines regarding tuition fees and other fees chargeable by recognised institutions;

(i) promote and conduct innovation and research in various areas of teacher education and disseminate the results thereof;

(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council, and to suitably advise the recognised institution;

(k) evolve suitable performance appraisal system, norms and mechanism for enforcing accountability on recognised institutions;

(l) formulate schemes for various levels of teacher education and identify recognised institutions and set up new institutions for teacher development programmes;

(m) take all necessary steps to prevent commercialisation of teacher education; and

(n) perform such other functions as may be entrusted to it by the Central Government.

21. On a perusal of Section 12, it is clear as crystal that the statute casts a duty on the Council to take all such steps as it may think fit for ensuring planned and coordinated development of teacher education and for determination and maintenance of standards for teacher education. The

Council has been authorized by the Act to do certain things which are basically in the realm of policy decisions. It is also required to prevent commercialisation of teacher education and to carry out such functions as entrusted to it by the Central Government.

22. Section 13, which deals with inspection, reads as follows:

> "13. **INSPECTION**
> (1) For the purpose of ascertaining whether the recognised institutions are functioning in accordance with the provision of this Act, the Council may cause inspection of any such institution, to be made by such person as it may direct, and in such manner as may be prescribed.
>
> (2) The Council shall communicate to the institution the date on which inspection under sub-section (1) is to be made and the institution shall be entitled to be associated with the inspection in such manner as may be prescribed.
>
> (3) The Council shall communicate to the said institution, its views in regard to the results of any such inspection and may, after ascertaining the opinion of that institution, recommend to that institution the action to be taken as a result of such inspection.
>
> (4) All communications to the institution under this section shall be made to the executive authority thereof, and the executive authority of the institution shall report to the Council the action, if any, which is proposed to be taken for the purposes of implementing any such recommendation as is referred to in sub-section (3)."

23. The learned counsel for the appellant has laid emphasis on the aforesaid provision to highlight that the Council alone is empowered to cause an inspection for the purposes of ascertaining whether the recognized institutions are functioning in accordance with the provisions of the Act and, therefore, no other authority has the power to cause inspection after the

institution is recognized. Sub-sections (2), (3) and (4) to Section 13, submits the learned counsel for the appellant, basically deal with the role ascribed to the Council. The learned counsel for the respondent would contend that the Council can direct such an inspection to be caused by such person as it may direct and in such manner as it may prescribe. In this context, it is necessary to refer to Section 14 which deals with recognition of institutions offering course or training in teacher education. Sub-section (1) of Section 14 requires an institution offering or intending to offer to make an application to the Regional Committee concerned. Sub-section (3) deals with the things that shall be considered by the Regional Committee. The said provision reads as follows:

> "(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall-
>
> (a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or
>
> (b) if it is of the opinion that such institution does not fulfill the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing;
>
> Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation."

24. Sub-section (4) to Section 14 requires publication in the Gazette. It reads as follows:

> "(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government."

25. On a scanning of the anatomy of the aforesaid provisions, it is clear as day that an application has to be submitted in such a manner as may be determined by the Regulations and the application shall be considered by the Regional Committee which shall record its satisfaction that such an institution has adequate financial resources, accommodation, library, qualified staff, laboratory and it fulfills other such conditions required for the proper functioning of the institution to offer a course or training in teacher education as may be determined by the Regulations and thereafter pass an order granting recognition to such institution subject to such condition as may be determined by the Regulations. Sub-section (4) postulates that grant or refusal of the order shall be published in the official gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government. Sub-section (6) stipulates that on receipt of the order under sub-Section (4) the examining body shall grant affiliation to the institution where recognition has been granted.

26. Section 15 deals with permission for a new course or training by a recognized institution. Sub-section (1) stipulates that where any recognized institution intends to start any new course or training in teacher education, it may make an application to seek permission therefor to the Regional Committee concerned. Sub-section (3) deals with the role of the Regional Committee.

27. Section 16 requires the affiliating body to grant affiliation after recognition or permission by the Council. Section 17 deals with the contravention of the provisions of the Act and consequences thereof. For the sake of completeness, sub-sections (1) to (3), being relevant, are reproduced below:

> "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 recognised 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 recognised institution, for reasons to be recorded in writing;
>
> Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:
>
> Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the

academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1), -

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of the academic session next following the date of communication of the said order."

28. Section 32 deals with the power of the Council to make regulations. Sub-section (1) of the said Section is as follows:

"32. **Power to make regulations.**
(1) The Council may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, generally to carry out the provisions of this Act.

Sub-section (2)(n) of the said Section provides as follows:

"(n) additional functions to be performed by the Regional Committee under sub-section (6) of section 20"

29. At this juncture, we may refer with profit to the Rules, namely, the National Council for Teacher Education Rules, 1997 (for short 'the Rules')

which have been framed under Section 31 of the Act. Rule 8, which deals with inspection, reads as follows:

> "8. Inspection – (1) The Council may inspect the recognized institutions in the manner specified in sub-rules (2) to (8).
>
> (2) The Council shall approve a panel of names of experts in teacher education or educational administration who may be able to inspect the recognized institutions. The Chairman shall nominate at least two persons out of the panel of experts to a inspection team.
>
> (3) The Council shall give a notice of its intention to the institution alongwith a questionnaire in Form – 'IV' seeking information within fifteen days on all relevant matters relating to the institution.
>
> (4) On receipt of the completed questionnaire, the Council shall communicate the names of the members of inspection team and the date of inspection to the institution.
>
> (5) The institution to be inspected shall nominate its one officer or employee, to be associated with the inspection team.
>
> (6) The inspection team shall ascertain as to whether the institution is functioning in accordance with the provisions of the Act and the rules and regulations made thereunder.
>
> (7) The members of the inspection team may, if deem necessary, interact with the faculty members and other employees of the institution.
>
> (8) The inspection team shall submit its report to the Council within a period of fifteen days from the last day of the inspection.

30. At this stage, we may usefully state that a set of Regulations, namely, the National Council for Teacher Education (Recognition Norms and

Procedures) Regulations, 2009 has come into force on 31.8.2009. The relevant part of Regulation 7 is reproduced below:

> "7. **Processing of Applications.-**
>
> xxx xxx xxx
> xxx xxx xxx
> xxx xxx xxx
>
> (1-B) Furnishing any wrong information or concealment of facts in the application, which may have bearing on the decision making process or the decision pertaining to grant of recognition, shall result in withdrawal of recognition of the institution besides other legal action against its management; order of withdrawal of recognition shall be passed after affording reasonable opportunity of hearing through a show cause notice to the institution.
>
> xxx xxx xxx
> xxx xxx xxx
> xxx xxx xxx
>
> (4) ....After consideration of the recommendation of the State Government or on its own merits, the Regional Committee concerned shall decide that institution shall be inspected by a team of experts called visiting team with a view to assess the level of preparedness of the institution to commence the course. Inspection shall not be subject to the consent of the institution, rather the decision of the Regional Committee to cause the inspection shall be communicated to the institution with the direction that the inspection shall be caused on any day after 10 days from the date of communication by the Regional Office. The Regional Committee shall ensure that inspection is conducted ordinarily within 30 days from the date of this communication to the institution. The institution shall be required to provide details about the infrastructure etc. on the duly filled up proforma available on National Council for Teacher Education web-site to the visiting team, at the time of inspection along with building completion certificate issued by the competent civil authority, if not submitted earlier.
>
> The Regional Committee shall organise such inspections strictly in chronological order of the receipt of

application for the cases approved by the Regional Committee for Inspection.

The members of the visiting team for inspection shall be decided by the Regional Committee, out of the panel of experts approved by it, and in accordance with the visiting team policy of National Council for Teacher Education.

(5) At the time of the visit of the team of experts to an institution, the institution concerned shall arrange for the inspection to be videographed in a manner that all important infrastructural and instructional facilities are videographed along with interaction with the management and the faculty, if available at the time of such visit. The visiting teams, as far as possible, shall finalise and courier their reports alongwith the video tapes on the same day:-

Provided that the videography should clearly establish the outer view of the building, its surroundings, access road and important infrastructure including classrooms, labs, resource rooms, multipurpose hall, library etc. The visiting team shall ensure that the videography is done in a continuous manner, the final unedited copy of the videography is handed over to them immediately after its recording and its conversion to a CD should be done in the presence of visiting team members:-

Provided further that at the time of inspection for new courses or enhancement of intake of the existing course, the visiting team shall verify the facilities for existing teacher education courses accorded recognition by National Council for Teacher Education and would ascertain the fulfillment and maintenance of Regulations and Norms and Standards for the existing courses as well.

(6) The application and the report alongwith the video tapes or CDs etc of the visiting team shall be placed before the Regional Committee concerned for consideration and appropriate decision.

(7) The Regional Committee shall decide grant of recognition or permission to an institution only after satisfying itself that the institution fulfills all the conditions prescribed by the National Council for

> Teacher Education under the National Council for Teacher Education Act, Rules or Regulations, including, the norms and standards laid down for the relevant teacher education programme or course.
>
> [Emphasis supplied]

31. We have referred to the provisions of the Act, the Rules and the Regulations to understand the role of the Regional Committee under the scheme of things. The learned counsel for the appellants would submit that whatever the compass of powers of the Regional Committee may have, it only covers the period prior to recognition. Once the action of withdrawal on the prism of Section 17 of the Act is contemplated, it does not encompass the power of inspection by the Regional Committee after grant of recognition under Section 14 of the Act.

32. Regard being had to the scheme of the Act and the role ascribed to the Council and the Regional Committees which are constituted by the Council and the role played by the Regional Committee under the Act, it is necessary to understand and appreciate the purpose of the Act and to read the provisions harmoniously.

33. Mr. Sharawat, learned counsel for the appellants, has submitted with immense zeal and vehemence that Sections 13 and 17 operate in different spheres as Section 13 uses the word 'Council' whereas there is no such reference or mention in Section 17 of the Act. It is urged by him that if power of inspection is conferred on the Regional Committee after recognition is granted, it will entrench upon the power of the Council as

engrafted under Section 13 of the Act. If we understand the submission advanced by the learned counsel for the appellants, the provisions are absolutely distinct and different and cannot be reconciled. The learned counsel for the respondents would contend that there is basically no conflict and even if there is a conflict and discord, the principle of harmonious construction should be applied.

34. In this context, we may refer to certain authorities in the field. In *D. Sanjeevayya v. Election Tribunal, Andhra Pradesh and others*, AIR 1967 SC 1211, their Lordships have expressed thus:

> "(4) We are unable to accept the argument of the appellant as correct. In our opinion, the provisions of S.150 of the Act must be interpreted in the context of Sections 84 and 98(c) and other relevant provisions of Part III of the same Act. If the interpretation contended for by the appellant is accepted as correct the vacancy must be filled by a bye-election as soon as a member resigns his seat notwithstanding the pendency of an election petition challenging his election. If the candidate who filed the election petition eventually gets a declaration that the election of the member is void and that he himself had been duly elected there will be two candidates representing the same constituency at the same time, one of them declared to be duly elected at the General Election and the other declared to have been elected at the bye-election and an impossible situation would arise. It cannot be supposed that Parliament contemplated such a situation while enacting Section 150 of the Act. Parliament could not have intended that the provisions of Part VI of the Act pertaining to election petitions, should stand abrogated as soon as a member resigns his seat in the Legislature. It is a well-settled rule of construction that the provisions of a statute should be so read as to harmonise with one another and the provisions of one section cannot be used to defeat those of another unless it is impossible to effect reconciliation between them.

The principle stated in Crawford's Statutory Construction at p. 260 is as follows :

> "Hence, the Court should, when it seeks the legislative intent, construe all of the constituent parts of the statute together, and seek to ascertain the legislative intention from the whole Act, considering every provision thereof in the light of the general purpose and object of the Act itself, and endeavouring to make every part effective, harmonious, and sensible. This means, of course, that the Court should attempt to avoid absurd consequences in any part of the statute and refuse to regard any word, phrase, clause or sentence superfluous, unless such a result is clearly unavoidable."
>
> [Emphasis supplied]

35. In *State of Punjab and others v. Amar Singh and another*, (1974) 2 SCC 70, emphasis was laid on the conspectus of the legislative scheme and the duty of the court while interpreting a statute to promote the legislative intent.

36. In this context, we may refer with profit to *Krishan Kumar v. State of Rajasthan and others*, AIR 1992 SC 1789 wherein their Lordships noticed an apparent conflict between Sections 100(4) and 217 (2)(e) of the Motor Vehicles Act, 1939 and expressed thus:

> "11. It is settled principle of interpretation that where there appears to be inconsistency in two sections of the same Act, the principle of harmonious construction should be followed in avoiding a head on clash. It should not be lightly assumed that what the Parliament has given with one hand, it took away with the other. The provisions of one section of statute cannot be used to defeat those of another unless it is impossible to reconcile the same. In Venkataramana Devaru v. State of Mysore, AIR 1958 SC 225 at p.268, this Court observed:

> "The rule of construction is well settled that when there are in an enactment two provisions which cannot be reconciled with each other, they should be so interpreted that, if possible, effect should be given to both. This is what is known as the rule of harmonious construction."

> The essence of harmonious construction is to give effect to both the provisions. Bearing these principles in mind it is legitimate to hold that S. 100(4) prescribed period of limitation of one year in respect of the scheme proposed under the provisions of the new Act, while in the case of a scheme under S. 68-C of the old Act, pending on the date of enforcement of the new Act, namely, 1.7.1989, the period of one year as prescribed under S. 100(4) should be computed from the date of commencement of the new Act. This interpretation would give full effect to both the Sections-S. 100(4) and S. 217(2)(e) of the new Act."

[Emphasis added]

37. It is worth noting that Section 17 of the Act specifically confers power on the Regional Committee to withdraw the recognition if a recognized institution has contravened any of the provisions of the Act or Rules, Regulations or orders made or issued thereunder. If Section 13 is interpreted to mean that the Regional Committee cannot inspect the recognized institution and the Council alone is empowered to cause an inspection, such an interpretation would render the provisions of Section 17 nugatory. Sections 13 and 17 are to be read harmoniously in order to give effect to the provisions contained in Section 13 as well as Section 17 of the Act. In this context, we may refer with profit to a passage from *Sultana Begum v. Prem Chand Jain*, AIR 1997 SC 1006 wherein the Apex Court has opined thus:

"11. The statute has to be read as a whole to find out the real intention of the legislature.
12. In Canada Sugar Refining Co. v. R. (1898) AC 735, Lord Davy observed:-

> "Every clause of a statute should be construed with reference to the context and other clauses of the Act, so as, as far as possible, to make a consistent enactment of the whole statute or series of statutes relating to the subject-matter."

This Court has adopted the same rule in M. Pentiah v. Veeramallappa Muddala, AIR 1961 SC 1107; Gamman India Ltd. v. Union of India, AIR 1974 SC 960 : (1974) 1 SCC 596; Mysore State Road Transport Corporation v. Mirza Khasim Ali Beg, AIR 1977 SC 747; Vaddeboyina Tulsamme v. Vaddeboyina Sesha Reddi, AIR 1977 SC 1944 : (1977) 3 SCC 99; Punjab Beverages Pvt. Ltd. v. Suresh Chand, AIR 1978 SC 995; Commissioner of Income-tax v. National Taj Traders, AIR 1980 SC 485; Calcutta Gas Co. (Properietary) Ltd. v. State of West Bengal, AIR 1962 SC 1044 and J.K. Cotton Spinning and Weaving Mills v. State of U.P., AIR 1961 SC 1170.

This rule of construction which is also spoken of as "ex visceribus actus" helps in avoiding any inconsistency either within a Section or between two different Sections or provisions of the same statute.

On a conspectus of the case law indicated above, the following principles are clearly discernible:

(1) It is the duty of the courts to avoid a head on clash between two Sections of the Act and to construe the provisions which appear to be in conflict with each other in such a manner as to harmonise them.

(2) The provisions of one Section of a statute cannot be used to defeat the other provisions unless the court, in spite of its efforts, finds it impossible to effect reconciliation between them.

(3) It has to be borne in mind by all the courts all the time that when there are two conflicting provisions in an Act, which, cannot be reconciled with each other, they should be so interpreted that, if possible, effect

should be given to both. This is the essence of the rule of "harmonious construction".

(4) The courts have also to keep in mind that an interpretation which reduces one of the provisions as a "dead letter" or "useless lumber" is not harmonious construction.

(5) To harmonise is not to destroy any statutory provision or to render it otiose."

[Emphasis supplied]

38. In *Commissioner of Income Tax v. M/s. Hindustan Bulk Carriers,* AIR 2003 SC 3942, it has been ruled thus:

"24. A statute is designed to be workable and the interpretation thereof by a Court should be to secure that object unless crucial omission or clear direction makes that end unattainable. (See Whitney v. Commissioner of Inland Revenue (1926) AC 37 p. 52 referred to in Commissioner of Income Tax v. S. Teja Singh (AIR 1959 SC 352), Gursahai Saigal v. Commissioner of Income Tax, Punjab, (AIR 1963 SC 1062).

27. The statute must be read as a whole and one provision of the Act should be construed with reference to other provisions in the same Act so as to make a consistent enactment of the whole statute.

30. The provisions of one section of the statute cannot be used to defeat those of another unless it is impossible to effect reconciliation between them. Thus a construction that reduces one of the provisions to a "useless lumber" or 'dead letter' is not a harmonised construction. To harmonise is not to destroy."

[Emphasis added]

39. In *Kailash Chandra and another v. Mukundi Lal and others,* AIR 2002 SC 829, the said principle was reiterated.

40. In *Nandkishore Ganesh Joshi v. Commissioner, Municipal Corporation of Kalyan & Dombivali and others,* (2004) 11 SCC 417, it has been stated as follows:

> "16. A statute, as is well known, must be construed in such a manner whereby the intent and object of the Act can be given effect to. A literal meaning should also be avoided if it results in absurdity."

41. In *Balram Kumawat v. Union of India and others,* (2003) 7 SCC 628, it has been held thus:

> "25. A statute must be construed as a workable instrument. Ut res magis valeat quam pereat is a well-known principle of law. In Tinsukhia Electric Supply Co. Ltd. v. (1989) 3 SCC 709 this Court stated the law thus : (SCC p.754, paras 118-120)
>
> > "118. The courts strongly lean against any construction which tends to reduce a statute to a futility. The provision of a statute must be so construed as to make it effective and operative, on the principle 'ut res magis valeat quam pereat'. It is, no doubt, true that if a statute is absolutely vague and its language wholly intractable and absolutely meaningless, the statute could be declared void for vagueness. This is not in judicial review by testing the law for arbitrariness or unreasonableness under Article 14; but what a court of construction, dealing with the language of a statute, does in order to ascertain from, and accord to, the statute the meaning and purpose which the legislature intended for it. In Manchester Ship Canal Co. v. Manchester Racecourse Co. (1900) 2 Ch 352, Farwell J. said : (pp. 360-61)
> >
> > > 'Unless the words were so absolutely senseless that I could do nothing at all with them, I should be bound to find some meaning and not to declare them void for uncertainty.'

119. In Fawcett Properties Ltd. v. Buckingham County Council (1960) 3 All ER 503 Lord Denning approving the dictum of Farwell, J. said : (All ER p.516)

> 'But when a statute has some meaning, even though it is obscure, or several meanings, even though there is little to choose between them, the courts have to say what meaning the statute is to bear, rather than reject it as a nullity.'

120. It is, therefore, the court's duty to make what it can of the statute, knowing that the statutes are meant to be operative and not inept and that nothing short of impossibility should allow a court to declare a statute unworkable. In Whitney v. IRC 1926 AC 37 Lord Dunedin said : (AC p.52)

> 'A statute is designed to be workable, and the interpretation thereof by a court should be to secure that object, unless crucial omission or clear direction makes that end unattainable.'

26. The courts will therefore reject that construction which will defeat the plain intention of the legislature even though there may be some inexactitude in the language used. [See Salmon v. Duncombe (1886) 11 AC 627 (AC at p.634)]. Reducing the legislation futility shall be avoided and in a case where the intention of the legislature cannot be given effect to, the courts would accept the bolder construction for the purpose of bringing about an effective result. The courts, when rule of purposive construction is gaining momentum, should be very reluctant to hold that Parliament has achieved nothing by the language it used when it is tolerably plain what it seeks to achieve. [See BBC Enterprises v. Hi-Tech Xtravision Ltd., (1990) 2 All ER 118 (All ER at pp.122-23)]."

[Emphasis supplied]

42. In *Pratap Singh v. State of Jharkhand and another*, (2005) 3 SCC 551, S.B. Sinha. J, in his concurring opinion, has opined that a statute must

be construed having regard to the scheme and the ordinary state of affairs and consequences flowing therefrom. His Lordship restated the principle that the courts should lean strongly against any constructions which tend to reduce a statute to a futility. When two meanings, one making the statute absolutely vague, wholly intractable and absolutely meaningless and the other leading to certainty and a meaningful interpretation, are given, in such an event, the latter should be followed.

43. While interpreting the provision of a statute, it is obligatory on the part of the court to sustain the validity and place such meaning on the provision which advances the object sought to be achieved by the enactment. The Act, as we perceive, is meant to achieve planned and coordinated development of the teacher education system and to maintain norms and standards thereof. That apart, the Act intends to regulate imparting of such education. That being the object and purpose, the Court has a sacrosanct role while interpreting the provisions. In this context, it is apposite to reproduce a passage from *M/s. British Airways Plc. v. Union of India and others*, AIR 2002 SC 391:

> "7. ...The court cannot approach the enactment with a view to pick holes or to search for defects of drafting which make its working impossible. It is a cardinal principle of construction of a statute that effort should be made in construing the different provisions so that each provision will have its play and in the event of any conflict a harmonious construction should be given. <u>The well-known principle of harmonious construction is that effect shall be given to all the provisions and for that any provision of the statute should be construed</u>

> with reference to the other provisions so as to make it workable. A particular provision cannot be picked up and interpreted to defeat another provision made in that behalf under the statute. It is the duty of the court to make such construction of a statute which shall suppress the mischief and advance the remedy. While interpreting a statute the courts are required to keep in mind the consequences which are likely to flow upon the intended interpretation."
>
> [Underlining is ours]

44. Keeping in view the aforesaid enunciation of law relating to principles of interpretation, we have to scan and scrutinize the object, intent and purpose of the Act and especially the scheme of Section 17 of the Act. The Act has a basic and fundamental purpose. The Apex Court in *State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others*, (2006) 9 SCC 1 has held thus:

> "63. ...admittedly, Parliament has enacted the 1993 Act, which is in force. The preamble of the Act provides for establishment of National Council for Teacher Education (NCTE) with a view to achieving planned and coordinated development of the teacher-education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher-education system and for matters connected therewith..."

Again, in the said decision, at a later stage, it has been observed as follows:

> "74. ...NCTE, therefore, in our opinion, is expected to deal with applications for establishing new Bed colleges or allowing increase in intake capacity, keeping in view the 1993 Act and planned and coordinated development of teacher-education system in the country. It is neither open to the State

> Government nor to a university to consider the local conditions or apply "State policy" to refuse such permission..."

45. Recently, in *National Council for Teacher Education & Ors. v. Shri Shyam Shiksha Prashikshan Sansthan & Ors.*, (2011) 3 SCC 238, their Lordships, while dealing with the importance of NCTE Act, have expressed thus:

> "2. With a view to achieve the object of planned and coordinated development for the teacher education system throughout the country and for regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith, Parliament enacted the National Council for Teacher Education Act, 1993 (for short, "the Act"), which provides for the establishment of a Council to be called the National Council for Teacher Education (for short "the NCTE") with multifarious functions, powers and duties. Section 2(c) of the Act defines the term "council" to mean a council established under sub-section (1) of Section 3. Section 2(i) defines the term "recognised institution" to mean an institution recognised under Section 14. Section 2(j) defines the term "Regional Committee" to mean a committee established under Section 20. Section 3 provides for establishment of the Council which comprises of a Chairperson, a Vice-Chairperson, a Member-Secretary, various functionaries of the Government, thirteen persons possessing experience and knowledge in the field of education or teaching, nine members representing the States and Union Territories administration, three members of Parliament, three members to be appointed from amongst teachers of primary and secondary education and teachers of recognised institutions."

In the said case, their Lordships referred to the decision in *Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya* (supra) and eventually held thus:

> "41. In the light of the above discussion, we hold that the cut- off dates specified in clauses (4) and (5) of Regulation 5 of the 2007 Regulations as also the amendment made in Regulation 5(5) vide Notification dated 1-7-2008 are not violative of Article 14 of the Constitution and the learned Single Judge and the Division Bench of the High Court were not right in recording a contrary finding qua the date specified in Notification dated 1-7-2008. We further hold that the provisions contained in Section 14 and the Regulations framed for grant of recognition including the requirement of recommendation of the State Government/Union Territory Administration are mandatory and an institution is not entitled to recognition unless it fulfils the conditions specified in various clauses of the Regulations. The Council is directed to ensure that in future no institution is granted recognition unless it fulfils the conditions laid down in the Act and the Regulations and the time schedule fixed for processing the application by the Regional Committees and communication of the decision on the issue of recognition is strictly adhered to."

46. We have referred to the aforesaid authorities as in the said decisions, emphasis has been laid on the purpose of the Act, the role of the authorities under the Act and the need and the necessity of strict adherence to the Regulations framed under the Act. As we perceive, the fundamental object of the Act is to impart requisite education to the students in the institutions which have proper infrastructure and which follow the norms prescribed by the NCTE. Grant of recognition has its sacrosanctity. The sustenance of the standard of the institution has its

signification. The statute does not tolerate any deviation. A hierarchy of bodies has been created to look into the matter from many a spectrum. Apart from statutory provisions, detailed Regulations have been framed to require the institutions to do certain things so that there is no failure of standard. Norms have been set out relating to the appointment of faculty members, number of teaching days and various aspects. The purpose basically pertains to salubrious growth of training for those who are trained to teach. Any institution engaged in such imparting of training cannot afford to behave in a fanciful manner. The institutions cannot harbour the notion that they are engaged in any kind of trade. They must bear in mind that they are involved in the field of education. True it is, no authority can act beyond the statutory provisions but interpreting the compass and the prism of the statutory provisions, we are disposed to think, a narrow or a restricted view is not to be taken. In this backdrop, we have to understand the import of Section 17 of the Act as a colossal grievance has been made that for the purpose of withdrawal, an inspection is impermissible and further, the Regional Committee is denuded of the power of inspection once recognition is granted. It is worth noting that Section 17 confers specific power on the Regional Committee to take action in case there is any contravention of provisions of the Act on its own motion or on any representation received from any person. If the Regional Committee is satisfied that the recognized institution has contravened any of the provisions of the Act or the Rules, Regulations made or issued

therein 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 has the power to withdraw the recognition. The proviso stipulates that the recognized institution has to be afforded reasonable opportunity of making representation. The provision mandates to record a reasoned order. Thus, the principle of natural justice has to be adhered to. The term 'representation' is of wider connotation. One can take a hypothetical example. The NCTE has framed various norms and standards for B.Ed, M.Ed, B.PED courses, etc. At the time of inspection, they are found to be in order. Assuming an information is received by the Regional Committee that the faculty members and other staff are really not further engaged by the institution, it would require verification. There is a difference between a paper verification and a spot verification or inspection. If it is construed that there is no power of inspection with the Regional Committee while taking action under Section 17, it will lead to absurdity and a limb of the statute would be comatosed to a dead letter. That is not the intention of the legislature. An institution can also raise a complaint that had the institution been inspected, all aspects could have been revealed and truth would have come out. The submission of the learned counsel for the appellants is that if the power of inspection is allowed to the Regional Committee after recognition, it is likely to be abused. The aforesaid submission is only noted to be rejected. If an institution maintains its standard and follows the Act, Rules, Regulations

and the norms prescribed by the NCTE, there should be no such apprehension as regards the action of statutory committee. In fact, such apprehension is misconceived in law. That apart, a decision taken under Section 17 is appealable before the Council under Section 18 of the Act. While hearing the appeal, the Council can take recourse to inspection under Section 13. There is no prohibition. That apart, if the Council comes to know from any source that a recognized institution is not functioning in accordance with the provisions of the Act, it can cause an inspection and as provided in the Section, the result of inspection shall be intimated to the said institution and it would also recommend to the institution that action is to be taken as a result of such inspection. The inspection provided under Section 13 empowers the Council to ascertain whether the institution is properly guided by the Act, Rules, Regulations and the norms. It is meant for control and regulation. Thus understood, Sections 13 and 17 have to be read in a harmonious and purposive manner to give effect to both the Sections. If an interpretation is placed on Section 13 that once an institution is recognized there can be no inspection by the Regional Committee, it will make Section 17 of the Act absolutely nugatory and that is definitely not the legislative intendment.

47. At this juncture, we shall refer to certain authorities which have been cited by the learned counsel for the appellants. Mr. Saharawat, learned counsel, has commended to the decisions, namely, *Deewan Singh and others v. Rajendra Pd. Ardevi and others,* AIR 2007 SC 767, *M.P.*

Wakf Board v. Subhan Shah, (2006) 10 SCC 696 and *Kurmanchal Institute of Degree & Diploma and others v. Chancellor, M.J.P. Rohilkhand University and others,* (2007) 6 SCC 35 to buttress the stand that the Council and the Regional Committees have been created by the legislature under the Act and two bodies which enjoy statutory powers must do so in accordance with the procedure laid down in the Act.

48. In the case of *M.P. Wakf Board* (supra), the Apex Court was dealing with the powers of the tribunal constituted under the Wakf Act, 1995 and their Lordships dealt with the purpose of constitution of the tribunal under Section 83 of the 1995 Act and opined that it is an adjudicatory body but cannot usurp the jurisdiction of the Board as there is no provision which empowers the tribunal to frame a scheme. In the absence of any such power vested in the tribunal, it ought to have left the said function to the Board which is statutorily empowered therefor. In that context, the Apex Court opined that where a statute creates different authorities to exercise their respective functions thereunder, each of such authority must exercise the functions within the four corners of the statute. In the case at hand, the nature and purpose of the enactment is absolutely different and there is no strait jacket compartment and also cannot be so thought of. Thus, the said decision is distinguishable.

49. The decision in *Kurmanchal Institute of Degree & Diploma* (supra) dealt with a situation where study centers were recognized by the

University beyond the territorial limit. Their Lordships opined that a fortiori statutory authority is required to operate within the boundary of the territories within which it is to operate under the statute. The factual matrix and the context in which the decision was being delivered being different, in our considered opinion, the ratio laid down therein is inapplicable to the case at hand. That apart, it has been laid down that a statutory authority cannot act inconsistent with the provisions of the statute as the said action could make it void. Be it noted, the same was expressed in the context of the Rajasthan Public Trust Act, 1959 which stipulated various acts under various provisions and we are disposed to think that the said decision is totally distinguishable to the lis at hand.

50. The learned counsel for the appellants, to bolster the contention that as the Act provides inspection to be done by the Council, and hence, it cannot be done in any manner other than the Council itself, has invited our attention to the decision in *Bhavnagar University v. Palitana Sugar Mill (P) Ltd. and others*, (2003) 2 SCC 111. It is also his submission that the Regional Committee being subordinate to the Council and the legislature having vested the power in the superior body, the Committee cannot so exercise. To buttress the said contention, he has placed reliance on *Taylor v. Taylor*, (1875-76) L.R. 1 Ch.D 426, *Nazir Ahmad v. King Emperor*, AIR 1936 PC 253, *Patna Improvement Trust v. Shrimati Lakshmi Devi*, AIR 1963 SC 1077, *State of U.P. v. Singhara Singh*, AIR 1964 SC 358, *Ramchandra Keshav Adke v. Govind Joti Chavare*, (1975) 1 SCC 559,

Chandra Kishore Jha v. Mahavir Prasad, (1999) 8 SCC 266, *Surender Pal Singh Chauhan v. Bar Council of India*, 158 (2009) DLT 697 and Order dated 20th September, 2010 of the Division Bench of Madhya Pradesh High Court at Gwalior in W.P. No.4501/2010 *titled Shri Vaishnav Institute of Technology & Management v. National Council for Teacher Education*.

51. As both the submissions are interconnected, we shall deal with the applicability of the said authorities. In *Bhavnagar University* (supra), the Apex Court was considering with regard to the statutory interdiction under the Gujarat Town Planning and Urban Development Act, 1976. In that context, a three-Judge Bench stated thus:

> "40. The statutory interdict of use and enjoyment of the property must be strictly construed. It is well settled that when a statutory authority is required to do a thing in a particular manner, the same must be done in that manner or not at all. The State and other authorities while acting under the said Act are only creature of statute. They must act within the four corners thereof."

52. It is worth noting that in the said case, the appellant University under Section 20 of the said Act was under obligation to take steps for acquisition of land on receipt of the requisite notice in terms of sub-section (2) of Section 20 of the Act but as it failed to take steps for the reservation/de-designation in respect of the land, the notice lapsed. In that context, their Lordships opined that the power of the State enumerated under sub-section (1) of Section 20 does not become *ipso facto* applicable in the event of issuance of a revised plan as the said provision has been specifically

mentioned therein so that the State may use the same power in a changed situation. On a reading of the said decision and the lis involved therein, we are of the considered opinion that the reliance placed is absolutely misplaced.

53. The next line of decisions basically relate to the proposition that if a statute provides for a thing to be done in a particular manner, it has to be done in that manner and in no other manner. The learned counsel for the appellants would submit that when the National Council has been conferred the power of inspection under Section 13 of the Act, it has to be done by the said Council and not by the Regional Committee. It is also urged by him that the Council is a superior body and an act of a superior body cannot be performed by an inferior or subordinate body. As we understand the anatomy, the scheme and the purpose of the Act, we have no trace of doubt in our mind that the said principle is not applicable. The Regional Committee is created by the Central Council and a Regional Committee can be suspended by the Central Council but to import a strait jacket compartmentalized power under all circumstances would defeat the purposes of the Act. Quite apart from above, as we have stated earlier, there is no prohibition under Section 17 to inspect. On the contrary, it is a necessity. Hence, we distinguish the said line of decisions which have been commended to us by the learned counsel for the appellants.

54. The learned counsel for the appellants has also drawn inspiration from the decision in *Mohd. Sahabuddin v. State of Bihar and others,* (2010) 4 SCC 653 to highlight that the court cannot read anything into a statutory provision which is plain and unambiguous because the language employed in a statute is a determinative factor of the legislative intent. The said principle is not applicable to the case at hand as nothing is provided to Section 17 by applying the doctrine of causus omissus.

55. Mr.Sanjay Sharawat, learned counsel for the appellants has drawn immense inspiration from a Division Bench decision of the High Court of Madhya Pradesh on 20.9.2010 in W.P. No.4501/2010. In the said case, it has been held that the legislature has deliberately enacted Section 13 and the procedure has also been prescribed so that on being advised by the Council, the institution may remove the deficiency and, therefore, it was imperative on the part of the respondents to issue notice under Section 13 of the Act and thereafter to take action under Section 17 of the Act. We have perused the decision that has been brought on record. In the said case, notice for inspection was issued under Section 17 of the Act without conducting an inspection under Section 13 of the Act. The Bench was of the view that there has to be an inspection under Section 13 of the Act. With great respect, we are not persuaded to agree with the said view as we are not inclined to form an opinion that inspection by the Central Council under Section 13 is a condition precedent before steps for withdrawal are taken under Section 17 of the Act as the same would lead to an anomalous

and absurd situation. The basic concept of statutory interpretation, we are disposed to think, does not so permit.

56. The controversy can also be viewed from the spectrum whether the Regional Committee should be denuded of the power because the term inspection is not specifically mentioned in Section 17 of the Act. The learned counsel for the appellants would submit that in the absence of any power conferred, the said action cannot be taken recourse to. Per-contra, the learned counsel for the respondent would contend that to give effect to Section 17, the same is an imperative necessity. The learned counsel for the respondent would further submit that there is no prohibition for inspection and it is essential to inspect under certain circumstances to exercise the power of withdrawal as the said power is fundamentally an essential power for the proper discharge of the power conferred under the Act. In this context, we may refer with profit to the decision in *Sub-Divisional Officer, Sadar, Faizabad v. Shambhoo Narain Singh*, AIR 1970 SC 140 wherein it has been held thus:

> "8. It is well recognised that where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means as are essentially necessary to its execution. But before implying the existence of such a power the court must be satisfied that the existence of that power is absolutely essential for the discharge of the power conferred and not merely that it is convenient to have such a power."

57. Be it noted, the learned counsel for the appellants has also commended us to the said decision to highlight that a statutory body has

to work within its framework and in the absence of a power, the same cannot be taken recourse to. It is worth noting that their Lordships, in the said case, were dealing with the power of the State Government to suspend a 'Pradhan' of a Gaon Sabha under the U.P. Panchayat Raj Act (26 of 1947). Their Lordships in para 6 have stated thus:

> "6. The Gaon Sabha is the creature of a statute. Its powers and duties as well as the powers and duties of its officers are all regulated by the Act. Hence no question of any inherent power arises for consideration – see Sm. Hira Devi v. District Board, Shahjanpur, (1952) SCR 1122 = (AIR 1952 SC 362)."

58. In that context, their Lordships have stated that the power to place under suspension an officer is not absolutely essential for the proper exercise of the power conferred under Section 95(1)(g) of the Act. Their Lordships for the said purpose scanned the various provisions of the said Act, as aforesaid. If the ratio is properly understood, it conveys that where an Act confers a jurisdiction, it impliedly grants the power of doing of such acts for its execution but the court is required to be satisfied that the existence of that power is absolutely essential for the discharge of the power conferred. Their Lordships did not accept the theory of convenience. In the case at hand, as we perceive the language of Section 17, we have no scintilla of doubt in our mind that the power of inspection has to be ingrained for the exercise of the power of withdrawal.

59. In view of our aforesaid analysis, we concur with the view expressed by the learned Single Judge and consequently, the appeals are

dismissed. However, we direct that the letter / communication / order of withdrawal issued by the Regional Committee under Section 17 of the Act can be assailed under Section 18 before the appellate authority. If appeals are preferred within a period of four weeks, the appellate authority shall entertain and dispose them of in accordance with law within a period of 8 weeks therefrom. In the facts and circumstances of the case, the costs in each appeal is assessed at Rs.25,000/- (Rupees twenty five thousand only). The same shall be paid to the respondent within four weeks hence.

CHIEF JUSTICE

APRIL 20, 2011
dk/pk

SANJIV KHANNA, J.