

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

Date of decision: 28th February, 2011

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W.P.(C) No. 9670/2009

**KALPANA CHAWLA COLLEGE OF EDUCATION
FOR WOMEN & ORS.**

.....Petitioners

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

....Respondents

Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 9702/2009

**SHANTI NIKETAN COLLEGE OF EDUCATION
& ORS.**

.....Petitioners

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

....Respondents

Through: Mr. Amitesh Kumar, Advocate.

AND

*W.P.(C) No. 9670/2009, W.P.(C) No. 9702/2009, W.P.(C) No. 9703/2009, W.P.(C) No. 9705/2009, W.P.(C) No. 9741/2009,
W.P.(C) No. 9765/2009, W.P.(C) No. 9766/2009, W.P.(C) No. 812/2010, W.P.(C) No. 2017/2010, W.P.(C) No. 2019/2010,
W.P.(C) No. 4220/2010, W.P.(C) No. 4221/2010, W.P.(C) No. 4225/2010, W.P.(C) No. 4226/2010 & W.P.(C) No. 6409/2010*

W.P.(C) No. 9703/2009

**SARASWATI COLLEGE OF EDUCATION
& ORS.**

.....Petitioners

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

....Respondents

Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 9705/2009

**GANGA COLLEGE OF EDUCATION
& ORS.**

.....Petitioners

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

....Respondents

Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 9741/2009

**RAO UDMI RAM MEMORIAL COLLEGE OF
EDUCATION**

.....Petitioner

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

....Respondents

Through: Mr. Amitesh Kumar, Advocate.

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AND

W.P.(C) No. 9765/2009

HAPPY COLLEGE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.** Respondents
Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 9766/2009

**RASTRIYA VIDYA COLLEGE OF EDUCATION
& ANR.** Petitioners
Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.** Respondents
Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 812/2010

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

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.** Respondents
Through: Mr. Amitesh Kumar, Advocate.

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AND

W.P.(C) No. 2017/2010

**I.P.S. COLLEGE OF EDUCATION
RESEARCH & TECHNOLOGY**

.....Petitioner

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

.....Respondents

Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 2019/2010

I.P. COLLEGE OF EDUCATION

.....Petitioner

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

.....Respondents

Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 4220/2010

IPS SCHOOL OF MANAGEMENT & EDUCATION Petitioner

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

.....Respondents

Through: Mr. Amitesh Kumar, Advocate.

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AND

W.P.(C) No. 4221/2010

**I.B. WOMEN COLLEGE OF EDUCATION
& MANAGEMENT**

.....Petitioner

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

.....Respondents

Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 4225/2010

A.M. COLLEGE OF EDUCATION

.....Petitioner

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

.....Respondents

Through: Mr. Amitesh Kumar, Advocate.

AND

W.P.(C) No. 4226/2010

A.M. COLLEGE OF EDUCATION

.....Petitioner

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

.....Respondents

Through: Mr. Amitesh Kumar, Advocate.

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W.P.(C) No. 4220/2010, W.P.(C) No. 4221/2010, W.P.(C) No. 4225/2010, W.P.(C) No. 4226/2010 & W.P.(C) No. 6409/2010*

AND

W.P.(C) No. 6409/2010

LNT COLLEGE OF EDUCATION

.....Petitioner

Through: Mr. Sanjay Sharawat, Advocate.

Versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

.....Respondents

Through: Mr. V.K. Rao, Sr. Advocate with
Mr. Vaibhav Kalra, Advocates.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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

RAJIV SAHAI ENDLAW, J.

1. The petitions entail a common question of law which can be formulated as under:

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 constituted under the said Act.

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2. It is the contention of the petitioners that under the Act, the power to inspect is in the Council only and the Regional Committees have not been empowered to carry out inspection after recognition has been granted to an Institution. The respondents National Council for Teacher Education and the Northern Regional Committee being the respondents in each of the petitions, contend otherwise.

3. The petitioners contend:

A. That the Act provides for inspection only under Section 13 which is as under:-

“13. Inspection

(1) For the purpose of ascertaining whether the recognized institutions are functioning in accordance with the provisions of this Act, the Council may cause inspection of any such institution, to be made by such persons 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.

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- (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 purpose of implementing any such recommendation as is referred to in sub-section (3)."*

It is contended that Section 13 empowers only the Council to cause inspection and does not empower the Regional Committees to inspect or to cause inspection.

B. That none of the other provisions of the Act vest any power in the Regional Committees to inspect an Institution once recognition has been granted.

C. That even though Section 17 of the Act empowers the Regional Committees to withdraw recognition but the same also does not empower the Regional Committees to inspect or to cause

inspection of the Institution. For convenience, Section 17(1) relevant in this regard is set out herein as under:-

“(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.”

D. It is rather contended the power under Section 17 of the Act can be invoked only after the Regional Committee has satisfied itself that a recognized Institution has contravened any of the provisions of the Act or the rules, regulations, orders made thereunder or any condition subject to which recognition or permission was granted. It is urged that the initiation of proceedings for withdrawal of recognition being dependant on a satisfaction being first recorded, an inspection which is necessarily inquisitorial or to satisfy whether an Institution is complying with the Act, rules, conditions, etc. or not, cannot be a part of Section 17 in as much as the satisfaction on the basis of some material of contravention of the Act, rules, regulations, conditions etc. by the Institution is a precursor to the initiation of proceedings under Section 17 of the Act.

E. That two distinct Bodies/authorities i.e. the Council and the Regional Committee have been created by the legislature under

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the Act and these two Bodies must exercise statutory powers strictly in accordance with the procedure laid down in the Act. Reliance in this regard is placed on *Deewan Singh v. Rajendra Prasad Ardevi* AIR 2007 SC 767, *M.P. Wakf Board v. Subhan Shah* (2006) 10 SCC 696 and *Kurmanchal Institute of Degree and Diploma v. Chancellor, M.J.P. Rohilkhand University* (2007) 6 SCC 35.

- F. It is contended that once the Act provides inspection to be done by a particular Body, i.e. the Council, it cannot be permitted in any other manner or by any other person/Body other than the Council. Reliance in this regard is placed on *Bhavnagar University v. Palitana Sugar Mill (P) Ltd.* (2003) 2 SCC 111.
- G. That as per the provisions of the Act, the Regional Committees are subordinate to the Council and the legislature having vested the power of inspection in a superior Body, the said power cannot be inferred in a subordinate Body under the Act.

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H. Reliance is also placed on:-

- (i) ***Taylor v. Taylor*** (1875-76) L.R. 1 Ch.D 426 on the proposition that when a statutory power is conferred and the mode of exercising it is provided for, it means that no other mode is to be adopted;
- (ii) ***Nazir Ahmad v. King Emperor*** AIR 1936 PC 253 on the proposition that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and other methods of performance are necessarily forbidden;
- (iii) ***Patna Improvement Trust v. Shrimati Lakshmi Devi*** AIR 1963 SC 1077 also on the proposition that if the statute directs a thing to be done in a particular way, it shall be deemed to have prohibited the doing of that thing in any other way;
- (iv) ***State of U.P. v. Singhara Singh*** AIR 1964 SC 358 also on the same proposition;
- (v) ***Ramchandra Keshav Adke v. Govind Joti Chavare*** (1975) 1 SCC 559 on the same proposition;

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- (vi) ***Chandra Kishore Jha v. Mahavir Prasad*** (1999) 8 SCC 266 on the same proposition;
- (vii) ***Surender Pal Singh Chauhan v. Bar Council of India*** 158(2009) DLT 697 on the same proposition;
- (viii) Passages from the text book ***A Selection of Legal Maxims*** by Herbert Broom on the maxim *Expressio Unius Est Exclusio Alterius* i.e. the express mention of one thing implies the exclusion of another and from the text book ***Interpretation of Statutes*** by N.S. Bindra qua *Expressum Facit Cessare Tacitum* i.e. what is expressed makes what is implied to cease;
- (ix) Order dated 20th September, 2010 of the Division Bench of Madhya Pradesh High Court at Gwalior in WP No. 4501/2010 titled ***Shri Vaishnav Institute of Technology & Management v. National Council for Teacher Education*** directing that action by the Regional Committee under Section 17 of the Act can be taken only after inspection by the Council under Section 13 of the Act.

4. Per contra, the counsel for the respondents has argued:-
- A. That in an SLP preferred against the order of the Division Bench of the Madhya Pradesh High Court (supra), the operation thereof has been stayed.
 - B. That the Regional Committee is also one of the “Bodies of the Council” under Chapter V of the Act and hence would be covered by the word “Council” in Section 13 of the Act.
 - C. Alternatively, Section 13 of the Act empowers the Council to cause inspection to be made “by such person as it may direct” and the Regional Committee is a “person” and thus the Council can direct the Regional Committee to carry out the inspection. Reliance in this regard is placed on Section 3(42) of the General Clauses Act, 1897 whereunder an association or body of individuals is included within the meaning of “person”; it is urged that the Regional Committee is an association of persons.

- D. That Section 13 of the Act has to be viewed in the light of Section 12 of the Act dealing with the functions of the Council. Attention is invited to Section 12 (j), (m) & (n) in particular.
- E. Reference is made to Section 21 of the General Clauses Act whereunder power to issue includes power to rescind. It is urged that since the Regional Committee admittedly has the power to inspect before grant of recognition, it would also have the power to inspect before withdrawal of recognition.
- F. That Sections 13 & 17 have also to be viewed in the light of the respective Chapters under which they are placed.
- G. That the powers of the Regional Committees are not subservient to the Council and Regional Committees cannot be said to be subordinate to the Council.

H. That to deprive the Regional Committee of the power to inspect would interfere with its power to take a decision under Section 17 of the Act of withdrawal of recognition.

5. The counsel for the petitioners in rejoinder has contended that the NCTE Act being a special statute, the provisions of General Clauses Act would not apply. Reliance is placed on *State of Haryana v. Baldev Spinners Pvt. Ltd.* JT 2009 (5) SC 237 holding that the General Clauses Act merely embodies a rule of construction which can be displaced to the extent the provisions, the scheme and the object of any particular statute indicate a contrary intention and that the General Clauses Act is intended to apply only where the statute in question does not contain a specific provision governing or regulating the matter. It is further contended that Section 21 of the General Clauses Act does not apply where the statutory authority is required to act judicially or quasi-judicially, as the Regional Committees are required to act in exercise of function under Section 17 of the Act. Reliance in this regard is also placed on the passages in text book

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Principles of Statutory Interpretation by G.P. Singh. It is further contended that the Regional Committees are distinct from the Council. To buttress that the Regional Committee is subordinate to the Council, attention is invited to Section 18 of the Act whereunder the orders of the Regional Committee are appealable before the Council. It is contended that the power of inspection cannot be imputed in Section 17 in as much as Section 17 does not permit gathering/collection of material for withdrawal of recognition. On enquiry as to what is the prejudice which the Institutions would suffer if the inspection were to be permitted / done by the Regional Committees, it is contended that the Council is a superior, more mature Body manned by senior persons and if the Regional Committees were to be empowered to inspect, it would lead to misuse of power of inspection and to harassment to the Institutions. Reliance is also placed on *Bidi, Bidi Leaves' & Tobacco Merchants Association v. The State of Bombay* 1962 (Supp.) 1 SCR 381 on the proposition that if legislature enables something to be done, it gives power at the same time

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by necessary implication to do everything which is indispensable for the purpose of carrying out the purposes in view. Attention is also invited to Rule 7(2) of the NCTE Rules, 1997 to show that it is the Chairperson of the Council who determines the duties of the Regional Committee and exercises supervision and control over the Regional Committee.

6. I have considered the matter in the light of aforesaid submissions and otherwise. The preamble to the Act shows that the same was enacted with a view to achieving planned and coordinated development of the teacher education system and for regulation and proper maintenance of norms and standards in the teacher education system. Undoubtedly, the Act constitutes two distinct Bodies i.e. the Council established under Section 3 of the Act by the Central Government and the Regional Committees established under Section 20 of the Act by the Council. The functions of the Council in Section 12 of the Act are broadly the same as the reasons in the preamble. Though the Act requires all Institutions offering or intending to offer a course or training in teacher education to seek recognition under

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the Act but the power to grant such recognition has been vested in the Regional Committees (see Section 14) and not in the Council. The applications for recognition are required to be made to and dealt with by the Regional Committee only. It is the Regional Committee which has to satisfy itself that the applicant for recognition has adequate financial resources, accommodation, library, qualified staff, laboratory etc. and that it fulfills such other conditions required for imparting a course or training in teacher education as provided under the Act and the Regulations framed thereunder. The Regulations framed under the Act require the Regional Committee to cause the applicant Institution to be inspected by a team of experts called the Visiting Team, with a view to assess the level of preparedness of the Institution to commence the course. It is expressly provided in the Regulations that inspection shall not be subject to the consent of the Institution; rather the decision of the Regional Committee to cause the inspection is merely required to be communicated to the Institution (See Regulation 7(4) of the NCTE (Recognition Norms &

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Procedure) Regulations, 2009). The proviso to Regulation 7(5) of the said Regulations is significant in this regard-

“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.”

It shows that at least at the time of inspection for additional courses or for new courses, the inspection team constituted by the Regional Committee is empowered to ascertain the fulfillment and maintenance of regulations, norms and standards for the existing courses as well. It is thus not as if the Regional Committee after the grant of recognition has no power whatsoever of inspection. The Regulations contemplate inspection qua existing courses at least at the time of inspection for new courses/additional intake.

7. Similarly, the power to withdraw recognition is also vested only in the Regional Committee and not in the Council.

8. The question which thus arises is, whether the Act can be read in a manner suggested by the petitioners and which interpretation would take away from the Body entrusted with powers of grant and withdrawal of recognition, the power to ensure that the Institutions so recognized by it are complying with the Act, Rules, Regulations and the conditions of recognition. Acceptance of the contention of the petitioners would render the Regional Committee toothless and blind once it has granted the recognition. Such an interpretation would severely restrict the power of Regional Committee to regulate and ensure maintenance of norms and standards of teacher education system. The Supreme Court in *Carew & Co. Ltd. v. UOI* (1975) 2 SCC 791 held that minor definitional disability, divorced from the hard realities, if stressed as the sole touchstone, is sure to prove disastrous when special types of legislation are interpreted.

9. I also find that under Section 17 withdrawal of recognition by the Regional Committee can be not only on any representation received from any person but also by the Regional Committee on its own motion i.e. *suo moto*. If it were to be held that the Regional Committee cannot post-recognition inspect the Institutions, the same would severely curtail its power of taking *suo moto* action for withdrawal of recognition and such curtailment is not found to be serving the purpose which the Act was intended to serve.

10. A statute is to be read and interpreted purposively and to allow the object which it sought to achieve and the mischief which it sought to cure to be achieved/cured and not in a pedantic manner. It is the duty of the Courts of justice to try to get at the real intention of the legislature by carefully looking into the whole scope and intention of the legislature ascertained upon a review of the language, subject matter and importance of the provision in relation to the general object intended to be secured, the mischief to be prevented and the remedy intended to be provided by the

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Act. If the language used in a statute can be construed widely so as to salvage the remedial intendment, the Court must adopt it.

11. Faced with the aforesaid, the counsel for the petitioners would contend that it is not as if the legislature has not at all provided for inspection; the regulatory power of inspection has been vested in the Council.

12. However the Council has its seat at Delhi while the Regional Committees are closer in proximity to the Institutions granted recognition by them. Admittedly all records of the Institutions including of the videography as required to be prepared at the time of inspection by the Visiting Team prior to recognition are to be in the possession of the Regional Committee. The regulatory role under the Act can be better exercised by the Regional Committee than by the Council. It is the Regional Committee which can compare whether the infrastructure shown at the time of seeking recognition continues to exist or not. The counsel for the petitioners in response contends that the Council can prior to the

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inspection call for records from the Regional Committee, carry out the inspection and if finds any discrepancy, forward the material to the Regional Committee for initiating action under Section 17 of the Act. I fail to see any logic in following such circuitous procedure. I also fail to see any reason as to why, when the mandatory notice prior to withdrawal of recognition and hearing preceding withdrawal has to be given by the Regional Committee, why the Regional Committee cannot be said to be entitled to inspect the Institution to verify whether the defence of the Institution against the notice of withdrawal of recognition has any merit or not. There can be no substitute in such cases for ocular inspection.

13. Travelling across the country by road, one cannot but help notice a large number of buildings along the highways proclaiming themselves to be educational institutions and with no settlements, villages/towns in vicinity and in absolute wilderness; one often wonders as to who studies in such educational institutions. Cases are also not unknown and have come before this Court where the allegations are that the infrastructure shown to

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the Visiting Team prior to the grant of recognition was found to be no longer existing. The practice of obtaining recognition and thereafter issuing Degrees/Certificates without actually imparting training and which is essential for issuance of a Degree/Certificate, cannot thus be said to be unknown. I am of the opinion that it is the Body vested with the power to grant and withdraw the recognition which is best suited to carry out the inspection necessary for ensuring the continued compliance of laws, rules, regulations, norms and standards by the Institutions granted recognition. The regulatory power vested in the Regional Committee would be severely affected without such power to inspect. A regulatory body cannot be blindfolded. The Supreme Court in *State of Punjab v. Amar Singh* (1974) 2 SCC 70 held that the rule of law must run close to the rule of life and the Court must read into an enactment, language permitting, that meaning which promotes the benignant intent of the legislation in preference to the one which perverts the scheme of the statute – any interpretation unaware of the living aims, ideology and legal anatomy of an Act will miss its soul substance.

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14. As far as the arguments of law of the counsel for the petitioners are concerned, the power of inspection under Section 13 of the Act vested in the Council cannot as aforesaid undermine the inherent power of the Regional Committee vested with regulatory functions under the Act as well as under Section 17 of the Act, to satisfy itself that the Institution to which it has granted recognition is continuing to comply with the law, rules and regulations. I have also wondered whether in the absence of Section 13 of the Act it could have been urged that there was no inherent power of inspection in the Regional Committee. In my opinion, no.

15. The counsel for the petitioners has replied that the statutory Bodies as the Regional Committee have no inherent powers as in the Court and would have only such powers as are vested in them. Reliance in this regard is placed on *Birla Higher Secondary School v. Lt. Governor Delhi* ILR (1973) I Delhi 634. I am unable to agree. The same depends upon the nature of the statutory Body. A statutory Body regulatory in character has to be given full play and has to be held to be empowered to do all things

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necessary to enable it to effectively regulate what it has been constituted to regulate. Rather qua such Bodies, there has to be an express provision limiting the scope of its regulatory powers for it to be held that it is not empowered to in the course of regulatory function do a thing which is necessary for regulation. I am unable to find any restriction on the inherent power of Regional Committee as a regulatory Body to inspect. No such restrictions can be read in Section 13 of the Act also. Need for expressly vesting a power of inspection in the Council by incorporation of Section 13 of the Act arose because considering the functions of the Council and which are only as a Body making the policy and being not involved in grant or withdrawal of recognition save as an appellate body against the orders of the Regional Committee, it could not have had the power of inspection without the same being expressly conferred on it. However the said power is in addition to the powers of the Regional Committee and cannot be said to be in derogation thereof. The conferment of power of inspection on the Council also appears to have been deemed necessary for the Council to independently verify whether the recognitions granted by

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the Regional Committee are in accordance with law, rules and regulations or not. Section 21 of the Act empowers the Council to terminate a Regional Committee upon finding the Regional Committee to have abused the power and to reconstitute the Regional Committee. The Supreme Court recently in **SEBI v. Ajay Agarwal** (2010) 3 SCC 765 read the statute setting up another regulatory Body i.e. Securities & Exchange Board of India (SEBI) in a similar fashion i.e. to adopt an interpretation which furthers the purpose of law and if possible eschew the one which frustrates it. The said judgment was also followed by this Court in **Kimsuk Krishna Sinha v. SEBI** (2010) 100 SCL 197 (Delhi).

16. The contention of the petitioners that the power of inspection is negated in Section 17 of the Act owing to the satisfaction of contravention being precursor to Section 17, also cannot be accepted and is on a misreading of Section 17. Satisfaction (*prima facie*), under Section 17 is necessary for issuing notice to show cause as to why recognition be not withdrawn. However, such satisfaction (*prima facie*) can be either on its

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suo moto inspection or on a complaint or representation from any person. It cannot be said that because satisfaction is necessary for initiating proceedings under Section 17, inspection cannot precede such satisfaction. It is possible that on inspection no serious irregularity or contravention is found and in which case no ground for initiation for proceedings under Section 17 of the Act would be made out.

17. The arguments of the counsel for petitioners that the power of inspection if held vested in Regional Committees, is likely to be abused, is also not found acceptable. The Apex Court in ***Ajit Kumar Nag v. General Manager (PJ), Indian Oil Corporation Ltd., Haldia*** (2005) 7 SCC 764 has held that a provision which is otherwise legal, valid and *intra vires* cannot be declared unconstitutional or *ultra vires* merely on the ground that there is possibility of abuse or misuse of such power; if the provision is legal and valid, it will remain in the statute book. Moreover, there is no reason for this Court to hold that the provision of inspection is likely to be misused/abused by the Regional Committees.

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18. The counsel for the petitioners after the close of the hearing has filed copies of following judgments:

- a. *State through CBI v. Parmeshwaran Subramani* (2009) 9 SCC 729
- b. *Pallawi Resources Ltd. v. Protos Engineering Company Private Limited* (2010) 5 SCC 196
- c. *Satheedevi v. Prasanna* (2010) 5 SCC 622
- d. *State of Jharkhand v. Govind Singh* (2005) 10 SCC 437
- e. *Sultana Begum v. Prem Chand Jain* (1997) 1 SCC 373

on interpretation of statutes but which are neither found applicable/apposite nor detract me from taking the view aforesaid.

19. I, therefore, do not find any merit in the contentions of the petitioners. It is held that the Regional Committee has the power to inspect the Institutions to which recognition has been granted.

20. It is not deemed necessary to deal with the factual situation in which the question aforesaid had arisen. Suffice it is to state that while in some

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cases, the Council had directed the Regional Committee to carry out the inspection, in others, the direction for inspection by the Regional Committee was issued in the decision of the Appeal Committee of the Council exercising appellate power. Attention may however be invited to Section 20(6) and to Section 27 of the Act empowering the Council to assign/delegate any of its functions to the Regional Committee and the Regional Committee to perform functions of the Council so assigned/delegated to it. The orders of the Council to the Regional Committee cannot be faulted with for this reason also.

21. Before parting with the case, the preliminary objection of the counsel for the respondents as to the territorial jurisdiction may be noticed. It was contended that the grievance is against the action of the Regional Committee of inspection; that neither the petitioner Institutions nor the Regional Committee is situated within the jurisdiction of this Court and hence this Court would have no jurisdiction. The counsel for the petitioners has sought to invoke the territorial jurisdiction of this Court by

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contending that the direction for inspection had originated from the Council situated within the territorial jurisdiction of this Court.

22. The counsels having been heard fully on the merits, it is not deemed expedient to pronounce on the said objection, the question arisen for adjudication being even otherwise a pure question of law.

23. The petitions accordingly fail and are dismissed. Interim orders if any in any of the petitions are vacated.

No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

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