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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 5914/2012

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Judgment dated 19.09.2012

SHIKSHA PARISHAD KANYA GURUKUL, JULANA Petitioner

Through : Mr.Sanjay Sharwat, Adv.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION Respondent

Through : Mr.Amitesh Kumar and Mr.Mayank
Manish, Advs.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by petitioner under Article 226 of the Constitution of India seeking a writ, order or direction to quash the decision taken by the respondent in terms of its letters dated 13.7.2012 and 17.7.2012. The petitioner further seeks a direction to the respondent to issue a letter to the affiliating University of the petitioner, namely, Kurukshetra University, directing them to include the name of the petitioner in the counselling, and also permit the petitioner to take part in counselling to be conducted by Kurukshetra University, Kurukshetra, for admitting students against 100 seats in B.Ed (Additional) Course for the academic session 2012-13.
2. As per the petition, in the year 2007, the petitioner society had set up a college for imparting teacher training courses with a view to start B.Ed course for the session 2007-2008. Petitioner submitted an application with Northern Region Committee (hereinafter referred to as the NRC) for seeking recognition on 18.12.2006. On being satisfied about the

availability of infrastructure as per the NCTE norms and standards the NRC vide its communication dated 18.9.2007 granted recognition to the petitioner for conducting B.Ed course for one year's duration with an annual intake of 100 seats from 2007-2008 academic session. In the year 2008, petitioner submitted a fresh application with the NRC seeking permission to start a D.Ed course. Petitioner also submitted a fresh application seeking enhancement of intake of students in the B.Ed course for the Session 2008-2009, however the said application was not accepted by the NRC as the petitioner had not completed three academic sessions for the said course nor had obtained accreditation from the National Assessment and Accreditation Council (herein after referred to as NAAC). Aggrieved by the said decision of the NRC, the petitioner filed a writ petition, being W.P.(C) 1119/2008, which was listed before a Division Bench of this Court on 21.5.2008. Before the Division Bench learned counsel for the respondent appearing in the said writ petition had assured the Court that a physical inspection would be carried out and the matter was adjourned to 29.5.2008. On 29.5.2008, the Division Bench had directed the respondent that the inspection report be processed by the competent authority without insisting on two conditions mentioned in Clauses 3 and 4 of Regulation 8 of NCTE Regulation, 2007. The NRC vide communication dated 21.8.2008 granted permission to the petitioner to start the D.Ed course. Vide communication dated 2.9.2008 the NRC also granted permission to the petitioner for an additional intake of 100 seats in the B.Ed course. Accordingly the petitioner has 200 seats in B.Ed course and 50 seats in D.Ed course with effect from the 2008-2009 academic session.

3. Aggrieved by Clauses 4 and 5 of the NCTE Regulations, 2007, the petitioner along with other recognized institutions filed

W.P.(C)8433/2009 challenging the vires of the same, however, the said writ petition was dismissed. The SLP was filed in which notice is stated to have been issued on 08.07.2009. The NRC thereafter superseded its previous regulations and issued fresh regulations, which were notified in the official gazette on 31.08.2009. The said regulations required obtaining accreditation from NAAC and further it provided that the institutions, who had obtained additional intake in B.Ed course, were required to obtain Grade B from NAAC latest by 01.04.2010 failing which the additional intake granted would stand withdrawn w.e.f. academic session 2010-2011. The petitioner with a view to seek accreditation sought clarification about its eligibility from NAAC vide letter dated 20.11.2009. The petitioner thereafter on 20.11.2009 applied to NAAC for seeking accreditation. In response to the said application, vide communication dated 30.11.2009 NAAC advised the petitioner to submit LOI through on line and stated that after receipt of LOI a clarification would be given. On 17.12.2009 petitioner submitted the LOI on line, the application along with a fee of Rs. 2000/- was sent to NAAC vide covering letter dated 29.12.2009. By a communication dated 11.2.2010 the petitioner was informed by the NAAC that the NAAC did not find the petitioner eligible for processing the case for accreditation as per the policy and advised the petitioner to re-apply after six months by submitting LOI and IEQA on line along with the processing fee. The petitioner thereafter again applied for the LOI on 20.2.2010. By notification dated 30.03.2010 the NCTE amended Clause 8(5) NCTE Regulations, 2009, by extending the cut-off date from 01.04.2010 to 01.04.2011, as a result of which the institutions having additional seats would have to obtain Grade B from NAAC. The NAAC in response thereto vide communication dated 28.4.2011 called upon the petitioner to submit a copy of the affiliation certificate from the

affiliating University, certificate regarding completion of two batches of students from the petitioner institution and a copy of the latest certificate from the NCTE duly attested by the head of the institution to NAAC at the earliest. As these requirements were not fulfilled by the petitioner the petitioner again applied to NAAC.

4. Learned counsel for the petitioner submits that since the petitioner applied in the year 2009 the petitioner should be given benefit of communication dated 17.7.2012, operative portion of which reads as under:

“Sub. Instruction in respect of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations. 2009 in sub-clause (5) of clause 8 Regarding.

Sir,

In continuation of this office letter of even number dated 13.07.2012 on the above mentioned subject, the undersigned is directed to state that in light of the decision of the NCTE Committee of 9th July, 2012 in respect of all institutions which had applied for accreditation of NAAC prior to 1st April, 2012 including the Institutions listed in the enclosure to the above mentioned letter, action need not be taken for withdrawal of additional intake/recognition.

The regional committee shall ascertain the status of application for Accreditation of any institution directly from NAAC.”

5. Learned counsel for the petitioner further contends that as per the communication dated 17.7.2012 all those institutions, who had applied for accreditation of NAAC prior to cut of date i.e. 1st April, 2012, including those Institutions listed in the enclosure annexed to the said letter, no action was to be taken for withdrawal of additional intake/recognition. Counsel has further drawn the attention of the Court to the prospectus of June, 2012, to show that the additional 100 seats stand withdrawn by the

respondent.

6. Mr.Amitesh Kumar, Advocate, enters appearance on behalf of the respondent on an advance copy and submits that as the petitioner did not fulfill the requirements of the communication dated 17.7.2012, the application submitted by the petitioner was rejected. Counsel for the respondent has drawn the attention of the court to the communication dated 11.2.2010 whereby the petitioner was informed that the screening committee for IEQA did not find the petitioner eligible to proceed further for assessment and accreditation by NAAC and the petitioner was advised to re-apply for Assessment and Accreditation after six months, which the petitioner did not apply as it did not fulfill the requirements as called upon to do vide letter dated 28.4.2011. Thus no benefit can accrue in favour of the petitioner on the basis of communication dated 17.7.2012.
7. Learned counsel for the petitioner submits that the requirements could not be fulfilled on account of *inter se* disputes between the parties.
8. I have heard learned counsel for the parties, considered their rival contentions and also gone through various communications referred to by counsel for the parties, which have been filed by petitioner along with the writ petition. In view of fact that prior to April, 2012 no valid application of the petitioner was pending before the respondent, the petitioner cannot be given any benefit of communication dated 17.7.2012.
9. As far as the prayer made with respect to quashing of the communications dated 13.7.2012 and 17.7.2012 is concerned, the same is diametrically opposite to the first submission made by counsel for the petitioner. While on the one hand the petitioner seeks benefit of the communications dated 13.7.2012 and 17.7.2012 on the other hand petitioner has prayed that these communications should be quashed on the ground that they violate Articles 14 and 19 of the Constitution as the respondent has classified

those persons who had applied prior to 1.4.2012 and even those institutions will derive benefit who had applied on the same date. I find no infirmity in the classification, sought to be urged by counsel for the petitioner, as it is for the persons, who have formulated the policies, are the best judge to decide as to how the classification is to be made. There is nothing on record to show that the classification was either arbitrary or illegal.

10. Accordingly, in view of above, I find no ground to entertain the present petition and the same is accordingly dismissed.

CM12168/2012

11. Application stands dismissed in view of the order passed in the writ petition.

G.S.SISTANI, J

SEPTEMBER 19, 2012

msr/ssn